

Public Document Pack

9 February 2017	Our Ref	Standards Committee/20.2.18
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To: The Chairman and Members of the Standards Committee of North Hertfordshire District Council

District Councillors Councillor Mike Rice (Chairman), Councillor Steve Hemingway (Vice-Chairman), Councillor Judi Billing, Councillor Julian Cunningham, Councillor Jane Gray, Councillor David Levett, Councillor Bernard Lovewell, Councillor Ian Mantle, Councillor Paul Marment, Councillor Michael Muir, Councillor Frank Radcliffe and Councillor Terry Tyler.

(Substitutes: Councillors Councillor Clare Billing, Councillor Paul Clark, Councillor Nicola Harris, Councillor Ben Lewis, Councillor Sandra Lunn, Councillor Harry Spencer-Smith and Councillor Michael Weeks).

Parish Councillors Councillors Helena Gregory and Gary Hills (Co-opted non-voting Members).

Independent Persons Mr Nicholas Moss (Independent Person) and Mr Peter Chapman (Reserve Independent Person) – advisory roles

You are invited to attend a

MEETING OF THE STANDARDS COMMITTEE

to be held in the

**FOUNDATION HOUSE, ICKNIELD WAY, LETCHWORTH
GARDEN CITY**

On

TUESDAY, 20TH FEBRUARY, 2018 AT 7.30 PM

Yours sincerely,



David Miley
Democratic Services Manager

Agenda **Part I**

Item	Page
1. APOLOGIES FOR ABSENCE	
2. MINUTES - 10 OCTOBER 2017 To take as read and approve as a true record the minutes of the meeting of the Standards Committee held on 10 October 2017.	(Pages 1 - 6)
3. NOTIFICATION OF OTHER BUSINESS Members should notify the Chairman of other business which they wish to be discussed by the Committee at the end of the business set out in the agenda. They must state the circumstances which they consider justify the business being considered as a matter of urgency. The Chairman will decide whether any item(s) raised will be considered.	
4. CHAIRMAN'S ANNOUNCEMENTS Members are reminded that any declarations of interest in respect of any business set out in the agenda, should be declared as either a Disclosable Pecuniary Interest or Declarable Interest and are required to notify the Chairman of the nature of any interest declared at the commencement of the relevant item on the agenda. Members declaring a Disclosable Pecuniary Interest must withdraw from the meeting for the duration of the item. Members declaring a Declarable Interest which requires they leave the room under Paragraph 7.4 of the Code of Conduct, can speak on the item, but must leave the room before the debate and vote.	
5. PUBLIC PARTICIPATION To receive petitions, comments and questions from members of the public.	
6. STANDARDS MATTERS REPORT OF THE ACTING MONITORING OFFICER To update the Committee on standards issues generally.	(Pages 7 - 24)

Agenda Item 2

NORTH HERTFORDSHIRE DISTRICT COUNCIL

STANDARDS COMMITTEE

MEETING HELD IN THE LOWER HALL, ICKNIELD CENTRE, ICKNIELD WAY,
LETCWORTH GARDEN CITY ON TUESDAY, 10TH OCTOBER, 2017 AT 7.30 PM

MINUTES

Present: *Councillors Councillor Mike Rice (Chairman), Councillor Steve Hemingway (Vice-Chairman), Clare Billing (substitute), Judi Billing, Paul Clark (substitute), Julian Cunningham, Jane Gray, David Levett, Bernard Lovewell and Ian Mantle.*

Parish Councillor Helena Gregory (Co-opted non-voting Parish Council Representative).

Mr Nicholas Moss (Independent Person) and Mr Peter Chapman (Reserve Independent Person), non-voting advisory roles.

In Attendance:

Anthony Roche (Corporate Legal Manager and Monitoring Officer), Jeanette Thompson (Senior Lawyer and Deputy Monitoring Officer), James Ellis (Advisory and Litigation Lawyer) and Kiren Kalirai (PA to the Monitoring Officer).

Also Present:

1 APOLOGIES FOR ABSENCE

Apologies for absence were received from District Councillors Michael Muir, Frank Radcliffe and Terry Tyler and Parish Councillor Robert Logan. Councillor Clare Billing was substituting for Councillor Radcliffe and Councillor Paul Clark was substituting for Councillor Tyler.

2 MINUTES

RESOLVED: That the Minutes of the Meeting of the Committee held on 12 February 2017 be approved as a true record of the proceedings and be signed by the Chairman.

3 NOTIFICATION OF OTHER BUSINESS

No other items were presented for consideration.

4 CHAIRMAN'S ANNOUNCEMENTS

- (1) The Chairman reminded Member that, in line with Council Policy, the meeting was being recorded and requested that people announce their name prior to speaking;
- (2) The Chairman reminded Members that, in line with the Code of Conduct, any Declarations of Interest should be declared immediately prior to the item in question; and
- (3) The Chairman advised that this would be Anthony Roche's last meeting of the Committee following his recent appointment to the post of Deputy Chief Executive. As a consequence, Jeanette Thompson would become acting Monitoring Officer and Corporate Legal Manager. The Chairman congratulated Anthony on his appointment, and Anthony thanked Committee Members for their support over the years.

5 PUBLIC PARTICIPATION

There was no public participation.

6 STANDARDS MATTERS

The Monitoring Officer presented a report in respect of standards issues generally. The following appendix was submitted with the report:

Appendix A – DCLG Consultation Paper: Consultation on updating disqualification criteria for local authority members.

The Monitoring Officer advised that three complaints (two relating to Parish Councillors and one relating to a District Councillor) had been received since the last meeting of the Committee and none had been pursued.

The Monitoring Officer stated that, on 24 May 2017, training was offered to all Members on standards, finance and governance generally. Unfortunately, the date had proven to be difficult for some Members, due to diary clashes, and only seven Members had attended. Those who had attended engaged with the sessions and the training was generally well received. It was hoped to re-run the session at a convenient point in the civic calendar.

The Monitoring Officer commented that the Committee on Standards in Public Life (CSPL) would be undertaking a review of local government standards during 2017/18. The review would be based around a consultation to be launched in early 2018, with the findings and recommendations to be published later in 2018.

The Monitoring Officer advised that the review of the Protocol with Hertfordshire Police in relation of Disclosable Pecuniary Interests (DPI) offences had not yet been completed, but was hoped to conclude in the near future. The agreed changes would be reported to the next meeting of the Committee.

The Monitoring Officer explained that the Department of Communities and Local Government (DCLG) was currently consulting on proposals to update the criteria that barred individuals from becoming or being a local councillor or directly-elected mayor. Currently, individuals could not stand for, or hold, office as a local authority member if they had, within the previous five years or since their election, been convicted of an offence that carried a prison sentence of at least three months without a fine and whether suspended or not. The consultation paper is attached at Appendix A to the report.

The Monitoring Officer stated that the Government was proposing to amend the disqualification criteria so that anyone convicted of a serious crime, regardless of whether it came with a custodial sentence, would not be able to serve as a councillor. Individuals would be banned from standing for office if they were subject to:

- the notification requirements set out in the Sexual Offences Act 2003 (being on the sex offenders register);
- a civil injunction granted under s.1 of the Anti-Social Behaviour, Crime and Policing Act 2014 (the 2014 Act); or
- a Criminal Behaviour Order made under s.22 of the 2014 Act.

The new rules would apply to councillors and mayors in parish, district, county and unitary councils, London boroughs, combined authorities and the Greater London Assembly. The proposed changes would not be retrospective. The closing date for comments on the disqualification criteria was 8 December 2017.

The Committee considered the six questions set out in the consultation paper, and commented as follows:

Q1. Do you agree that an individual who is subject to the notification requirements set out in the Sexual Offences Act 2003 (i.e. is on the sex offenders register) should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?

Yes.

Q2. Do you agree that an individual who is subject to a Sexual Risk Order should not be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or the London Mayor?

No, the individual should be prohibited from standing for election or holding office.

Q3. Do you agree that an individual who has been issued with a Civil Injunction (made under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014) or a Criminal Behaviour Order (made under section 22 of the Anti-social Behaviour, Crime and Policing Act 2014) should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?

The majority of Committee Members agreed with the prohibition regarding Civil Injunctions, although it would be helpful to have greater guidance and the process needed to be better explained. All Committee Members agreed with the Criminal Behaviour Order prohibition.

Q4. Do you agree that being subject to a Civil Injunction or a Criminal Behaviour Order should be the only anti-social behaviour-related reasons why an individual should be prohibited from standing for election, or holding office, as a member of a local authority, mayor of a combined authority, member of the London Assembly or London Mayor?

No. Those individuals subject to Community Protection Notices should also be prohibited from standing for election or holding office. However, there should be no such prohibition for those subject to Dispersal Powers, Public Space Protection Orders and Closure Powers.

Q5. Do you consider that the proposals set out in this consultation paper will have an effect on local authorities discharging their Public Sector Equality Duties under the Equality Act 2010?

No equalities concerns were raised.

Q6. Do you have any further views about the proposals set out in this consultation paper?

- There was inconsistency with other types of offences, specifically dishonesty offences;
- Having clear timescales as to the length of time that was applied for various offences, particularly in relation to offences committed as a child;
- How was the regime expected to be monitored and enforced?;
- The three month in prison rule needed to be updated;
- Non-custodial sentences were not reflected in the legislation, but should be;
- The Standards regime should be re-strengthened to provide for more meaningful sanctions regarding breaches of the Code of Conduct ie. suspension/removal from office; and
- The Standards Board for England should be re-instated.

RESOLVED:

- (1) That the contents of the report be noted; and

- (2) That the Committee's comments outlined in the preamble to this Minute above form the substance of NHDC's response to the DCLG Consultation Paper on updating disqualification criteria for local authority members.

REASON FOR DECISION: To ensure good governance within the Council.

7 CODE OF CONDUCT AND REGISTRATION OF INTERESTS REVIEW

The Deputy Monitoring Officer presented a report requesting the Committee to review the proposed amendments to NHDC's Councillors' Code of Conduct and Register of Interests process and form. The following appendices were submitted with the report:

Appendix A - Clean version of the Code of Conduct with tracked changes accepted;
Appendix B - Code with tracked changes;
Appendix C - Clean version of the Councillors Register of Interests Form with tracked changes accepted; and
Appendix D - Former notification/declarations form with tracked changes.

In respect of the Code of Conduct, the Deputy Monitoring Officer reminded the Committee that there was no mandatory Code. The relevant legislation had not changed and hence the Code had not been reviewed since 2013. The proposed revisions to the Code were set out in the table under Paragraph 8.1 of the report, with Appendix A being a clean copy version of the Code, with Appendix B containing track changes in red and sections moved from one area to another in green. The proposed revisions had been discussed with the Independent Person and Reserve Independent Person.

In relation to the proposed new Register of Interests Form, the Deputy Monitoring Officer commented that should this be approved then the implementation date would be following the next District Council Elections in May 2018. Of the amendments detailed as Paragraph 8.1, the significant proposed changes to the Code were to paragraphs:

- 3.7(e): a new obligation to attend compulsory training. This was defined as being those designated as such by a Statutory Officer with the agreement of the Group Leaders or through a decision of Council, Cabinet or Committee; or if in relation to a standards complaint, as set out in the report;
- 4.7: a requirement to register two types of Declarable Interests on the proposed Register of Interest form, namely gifts and hospitality and membership/management etc on an outside body. It was reiterated that these were existing Declarable Interests, the former had to be registered already on a form, the latter were known and it would simplify the administrative process and aid transparency; and
- 6 and 7: that had been merged, and a new Councillor Speaking Right was proposed to deal with situations where a Councillor had a Declarable Interest and wanted to speak to an item before leaving the meeting.

The Deputy Monitoring Officer, assisted by the Monitoring Officer, answered a number of Members' questions on the various documents.

The Committee made some minor amendments to both the Code of Conduct and Register of Interests Form.

RECOMMENDED TO COUNCIL:

- (1) That the amendments to the NHDC Code of Conduct (shown as tracked changes to Appendix B of the report) be approved with effect from 4 May 2018, and include the following further amendment to Paragraph 2.2(e):

Tuesday, 10th October, 2017

Addition of the words “in respect of a criminal offence”, so that it reads “in respect of any criminal offence of which you have been convicted or for which you have accepted an out of court disposal in respect of a criminal offence during your term of office”;

- (2) That the Monitoring Officer be authorised to make any consequential amendments to the Constitution to incorporate the new Councillor Speaking Right; and
- (3) That the amended Councillor’s Register of Interest form (attached at Appendix C to the report) be adopted and be completed by Councillors from 4 May 2018, and include the following further amendment to Section 9:

Addition of the words “non-voting”, so that the Section reads:

“Outside bodies

Any body of which you are a member of in apposition of general control or management which:

- (i) you are appointed or nominated to by the authority; or
- (ii) exercises functions of a public nature; or
- (iii) is directed to charitable purposes; or
- (iv) includes as one of its principal purposes the influence of public opinion or policy (including any political party or trade union).

Detail: Date of appointment and position (ie. Director, Trustee, member/representative/non-voting observer.”

RESOLVED: That, subject to the approval of Recommendation to Council (1) above,

- (1) The Monitoring Officer be authorised to update the NHDC Code of Conduct Guide to reflect any adopted changes to the Code; and
- (2) That the requirement to advertise the adoption of any amended Councillor Code of Conduct be noted.

REASON FOR DECISION: To ensure good governance within the Council.

The meeting closed at 9.11 pm

Chairman at the meeting on
Tuesday, 10 October 2017

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STANDARDS COMMITTEE
20 FEBRUARY 2018

PART 1 – PUBLIC DOCUMENT	AGENDA ITEM No. 6
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TITLE OF REPORT: STANDARDS MATTERS
 REPORT OF THE ACTING MONITORING OFFICER
 COUNCIL PRIORITY: RESPONSIVE AND EFFICIENT

1. EXECUTIVE SUMMARY

1.1 The report updates Members of the Committee on standards issues generally, including a Committee on Standards in Public Life (CSPL) consultation on ethical standards.

2. RECOMMENDATIONS

That the Committee:

- 2.1 notes the content of the report; and
- 2.2 considers the CSPL consultation and provides a response, that will be relayed though the Acting Monitoring Officer.

3. REASONS FOR RECOMMENDATIONS

3.1 To ensure good governance within the Council.

4. ALTERNATIVE OPTIONS CONSIDERED

4.1 None.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

5.1 No consultation has been undertaken.

6. FORWARD PLAN

6.1 This report does not contain a recommendation on a key decision and has not been referred to in the Forward Plan.

7. BACKGROUND

7.1 Within its terms of reference the Standards Committee has a function of “to promote and maintain high standards of conduct by Members and Co-Opted Members of the authority”. The Committee will therefore receive update reports from the Monitoring Officer on matters that relate to, or assist to govern, Member conduct.

8. RELEVANT CONSIDERATIONS

Complaints/ issues update

8.1 The following complaints were considered since the last Committee meeting:-

- A complaint that a District Councillor had failed to provide a response to correspondence. The issue was dealt with informally.
- An email was passed on by planning concerning allegations about a District Councillor and a planning matter. The complainant was contacted and provided with complaint contact details. No complaint was received.
- An issue was raised concerning a District Councillor's Declarable Pecuniary Interest (ongoing).

8.2 Following an audit of Declarations (in preparation for these going on the Council's website), it has become apparent that a number of Parish Councillors' Declarations remain outstanding. Further enquiries are being undertaken with Clerks to ensure the Declarations are up to date. If these are not forthcoming then further action will have to be considered.

Member training

8.3 More training is to be provided on the new Councillor Code of Conduct adopted on 23 November 2017 once the Guide has been finalised. This is proposed for a date in April and post implementation (4 May) in May. Members will be kept informed of likely dates through the Member information Service/ by email as appropriate.

Protocol with Hertfordshire Police in relation to DPI offences

8.4 A final copy was signed on behalf of North Hertfordshire and is appended at B.

9. LEGAL IMPLICATIONS

9.1 The terms of reference of the Standards Committee include at paragraph 7.5.1 of the Constitution "to promote and maintain high standards of conduct by Members and Co-Opted Members of the authority".

9.2 There are no specific legal implications arising from the content of this report.

10. FINANCIAL IMPLICATIONS

10.1 There are no capital or revenue implications arising from the content of this report.

11. RISK IMPLICATIONS

11.1 Appropriate policy frameworks help to ensure good governance of the Council and therefore reduce risk of poor practice or unsafe decision making.

12. EQUALITIES IMPLICATIONS

- 12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. There are no direct equalities implications from this report.

13. SOCIAL VALUE IMPLICATIONS

- 13.1 The Social Value Act and “go local” policy do not apply to this report.

14. HUMAN RESOURCE IMPLICATIONS

- 14.1 None. The work outlined within the report is within the caseload of the Monitoring Officer and the legal team.

15. APPENDICES

- 15.1 Appendix A – Local government ethical standards: stakeholder consultation.
15.2 Appendix B – Protocol with Hertfordshire Constabulary.

16. CONTACT OFFICERS

- 16.1 Jeanette Thompson Acting Corporate Legal Manager and Monitoring Officer
jeanette.thompson@north-herts.gov.uk ext. 4370

17. BACKGROUND PAPERS

- 17.1 None.

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Review of Local Government Ethical Standards: Stakeholder Consultation

The Committee on Standards in Public Life is undertaking a review of local government ethical standards.

Robust standards arrangements are needed to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government.

As part of this review, the Committee is holding a public stakeholder consultation. The consultation is open from 12:00 on Monday 29 January 2018 and closes at 17:00 on Friday 18 May 2018.

Terms of reference

The terms of reference for the review are to:

1. Examine the structures, processes and practices in local government in England for:
 - a. Maintaining codes of conduct for local councillors;
 - b. Investigating alleged breaches fairly and with due process;
 - c. Enforcing codes and imposing sanctions for misconduct;
 - d. Declaring interests and managing conflicts of interest; and
 - e. Whistleblowing.
2. Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government;
3. Make any recommendations for how they can be improved; and
4. Note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation.

The review will consider all levels of local government in England, including town and parish councils, principal authorities, combined authorities (including Metro Mayors) and the Greater London Authority (including the Mayor of London).

Local government ethical standards are a devolved issue. The Committee's remit does not enable it to consider ethical standards issues in devolved nations in the UK except with the agreement of the relevant devolved administrations. However, we welcome any evidence relating to local government ethical standards in the devolved nations of the UK, particularly examples of best practice, for comparative purposes.

Submissions will be published online alongside our final report, with any contact information (for example, email addresses) removed.

Consultation questions

The Committee invites responses to the following consultation questions.

Please note that not all questions will be relevant to all respondents and that submissions do not need to respond to every question. Respondents may wish to give evidence about only one local authority, several local authorities, or local government in England as a whole.

Please do let us know whether your evidence is specific to one particular authority or is a more general comment on local government in England.

Whilst we understand submissions may be grounded in personal experience, please note that the review is not an opportunity to have specific grievances considered.

- a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.
- b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

Codes of conduct

- c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?
- d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

Investigations and decisions on allegations

- e. Are allegations of councillor misconduct investigated and decided fairly and with due process?
 - i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?
 - ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?
 - iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

Sanctions

- f. Are existing sanctions for councillor misconduct sufficient?
 - i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?
 - ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?

Declaring interests and conflicts of interest

- g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.
- i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?
 - ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

Whistleblowing

- h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

Improving standards

- i. What steps could *local authorities* take to improve local government ethical standards?
- j. What steps could *central government* take to improve local government ethical standards?

Intimidation of local councillors

- k. What is the nature, scale, and extent of intimidation towards local councillors?
- i. What measures could be put in place to prevent and address this intimidation?

Who can respond?

Anyone with an interest may make a submission. The Committee welcomes submissions from members of the public.

However, the consultation is aimed particularly at the following stakeholders, both individually and corporately:

- Local authorities and standards committees;
- Local authority members (for example, Parish Councillors, District Councillors);
- Local authority officials (for example, Monitoring Officers);
- Think tanks with an interest or expertise in local government;
- Academics with interest or expertise in local government; and
- Representative bodies or groups related to local government.

How to make a submission

Submissions can be sent either in electronic format or in hard copy.

Submissions must:

- State clearly who the submission is from, i.e. whether from yourself or sent on behalf of an organisation;
- Include a brief introduction about yourself/your organisation and your reason for submitting evidence;
- Be in doc, docx, rtf, txt, ooxml or odt format, not PDF;
- Be concise – we recommend no more than 2,000 words in length; and
- Contain a contact email address if you are submitting by email.

Submissions should:

- Have numbered paragraphs; and
- Comprise a single document. If there are any annexes or appendices, these should be included in the same document.

It would be helpful if your submission included any factual information you have to offer from which the Committee might be able to draw conclusions, and any recommendations for action which you would like the Committee to consider.

The Committee may choose not to accept a submission as evidence, or not to publish a submission even if it is accepted as evidence. This may occur where a submission is very long or contains material which is inappropriate.

Submissions sent to the Committee after the deadline of 17:00 on Friday 18 May 2018 may not be considered.

Submissions can be sent:

1. Via email to: public@public-standards.gov.uk
2. Via post to:
Review of Local Government Ethical Standards
Committee on Standards in Public Life
GC:07
1 Horse Guards Road
London
SW1A 2HQ

If you have any questions, please contact the Committee's Secretariat by email (public@public-standards.gov.uk) or phone (0207 271 2948).

**Protocol between Hertfordshire Monitoring Officers
and Hertfordshire Constabulary**

Date of Agreement:

Purpose

Under section 34 of the Localism Act 2011, the Government has introduced some new summary offences, relating to elected and co-opted Councillors' failure to disclose / register and participate in meeting where they have certain interests (termed Disclosable Pecuniary Interests – "DPI"). These are detailed in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 [no.1464].

Section 34 of the Localism Act 2011 came into force on 1 July 2012, following The Localism Act 2011 (Commencement Order no.6 and Transitional Savings and Transitory Provisions) Order 2012 [no.1463].

Prosecution of such offences is by the DPP (by virtue of s34(5)), therefore the parties have agreed a Protocol relating to the reporting / information sharing for potential criminal offences arising under section 34 Localism Act 2011. The relevant legislation is appended at A.

Definitions:

- 'Complainant' refers to the individual who submits the written complaint to a Local Authority's Monitoring Officer alleging a breach of the Members' Code of Conduct; and
 - 'Subject Member' refers to the Councillor who is the subject of the complaint.
- 1) In the event that the Monitoring Officer receives a complaint and there is credible evidence that a potential DPI offence may have been committed they will make immediate contact with the Police through the nominated single point of contact (see Appendix B for named Police contact). For the avoidance of doubt there is no requirement for the Monitoring Officer to refer cases to the Police where it appears there may have been a genuine error or oversight by the member concerned which has been acknowledged and no advantage has been secured by them or the Monitoring Officer otherwise considers that a reference to the police is not justified.
 - 2) Similarly if the Police receive a complaint from a member of the public they will inform the relevant Monitoring Officer of the receipt of that complaint (each Authority will be responsible for providing up to date contact details of their appointed Monitoring Officer from time to time – See Appendix B for named Monitoring Officer contact).
 - 3) Hertfordshire Constabulary will register the complaint and will advise the relevant Monitoring Officer. The Police will conduct an initial assessment of the complaint and may approach the relevant Monitoring Officer for background information on the complaint.
 - 4) After referral to the police, whether by a Monitoring Officer or a member of the public, the responsibility for any communication with the parties during the initial assessment will rest with Hertfordshire Constabulary. The relevant Monitoring Officer may confirm to the Complainant that the matter has been referred to the police but provide no further comment. It has been agreed that the details of the nominated single point of contact for the police may be provided to the Complainant upon request.

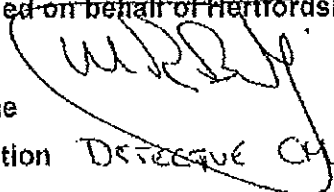
**Protocol between Hertfordshire Monitoring Officers
and Hertfordshire Constabulary**

- 5) Hertfordshire Constabulary will treat the Complainant as an informant of a potential DPI offence; the Complainant will not be entitled to receive any additional information or updates.
- 6) In some instances, it might not have become apparent until the Subject Member's response to a complaint has been received, that evidence exists of a serious potential DPI offence. In this situation, the Monitoring Officer may confirm to the Subject Member, that the matter has been referred to the police but provide no further comment. It has been agreed that the details of the nominated single point of contact for the police may be provided to the Subject Member upon request.
- 7) The Monitoring Officer will have no further involvement in the matter so referred unless requested by Hertfordshire Constabulary.
- 8) If Hertfordshire Constabulary, if appropriate, in consultation with the Crown Prosecution Service, decides not to prosecute in the public interest, they may consider other action, such as an informal warning or caution. Following consideration of the matter, the police shall confirm their decision and any action or prospective action on the matter to the relevant Monitoring Officer. Hertfordshire Constabulary and the relevant Monitoring Officer will agree any formal notification.
- 9) Hertfordshire Constabulary and Monitoring Officers shall keep this Protocol under review on a 2 yearly basis.

Signatories

Signed on behalf of Hertfordshire Constabulary

Name

Position  DETECTIVE CHIEF SUPERINTENDENT HEAD OF CRIME.

Signed on behalf of Broxbourne Borough Council

Name

Position

Signed on behalf of Dacorum Borough Council

Name

Position

Protocol between Hertfordshire Monitoring Officers
and Hertfordshire Constabulary

Signed on behalf of East Hertfordshire District Council

Name
Position

Signed on behalf of Hertfordshire County Council

Name *K P Pettitt*
Position CHIEF LEGAL OFFICER

Signed on behalf of Hertsmere Borough Council

Name
Position

Signed on behalf of North Hertfordshire District Council

Name *A J [Signature]*
Position MONITORING OFFICER

Signed on behalf of St Albans City and District Council

Name *C. S. [Signature]*
Position SOLICITOR TO THE COUNCIL
+ DEPUTY MONITORING OFFICER

Signed on behalf of Stevenage Borough Council

Name *May Cawcock*
Position MONITORING OFFICER

Signed on behalf of Three Rivers District Council

Name
Position

Protocol between Hertfordshire Monitoring Officers
and Hertfordshire Constabulary

Signed on behalf of Watford Borough Council

Name *Carol Chen*

Position *Head of Democracy & Governance*

Signed on behalf of Welwyn Hatfield Borough Council

Name

Position

Appendix A
Extract of Localism Act 2011

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.

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(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).

31 Pecuniary interests in matters considered at meetings or by a single member

(1) Subsections (2) to (4) apply if a member or co-opted member of a relevant authority—

(a) is present at a meeting of the authority or of any committee, sub-committee, joint committee or joint sub-committee of the authority,

(b) has a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting, and

(c) is aware that the condition in paragraph (b) is met.

(2) If the interest is not entered in the authority's register, the member or co-opted member must disclose the interest to the meeting, but this is subject to section 32(3).

(3) If the interest is not entered in the authority's register and is not the subject of a pending notification, the member or co-opted member must notify the authority's monitoring officer of the interest before the end of 28 days beginning with the date of the disclosure.

(4) The member or co-opted member may not—

(a) participate, or participate further, in any discussion of the matter at the meeting, or

(b) participate in any vote, or further vote, taken on the matter at the meeting,

but this is subject to section 33.

(5) In the case of a relevant authority to which Part 1A of the Local Government Act 2000 applies and which is operating executive arrangements, the reference in subsection (1)(a) to a committee of the authority includes a reference to the authority's executive and a reference to a committee of the executive.

(6) Subsections (7) and (8) apply if—

(a) a function of a relevant authority may be discharged by a member of the authority acting alone,

(b) the member has a disclosable pecuniary interest in any matter to be dealt with, or being dealt with, by the member in the course of discharging that function, and

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- (c) the member is aware that the condition in paragraph (b) is met.
- (7) If the interest is not entered in the authority's register and is not the subject of a pending notification, the member must notify the authority's monitoring officer of the interest before the end of 28 days beginning with the date when the member becomes aware that the condition in subsection (6)(b) is met in relation to the matter.
- (8) The member must not take any steps, or any further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by the member).
- (9) Where a member or co-opted member of a relevant authority gives a notification for the purposes of subsection (3) or (7), the authority's monitoring officer is to cause the interest notified to be entered in the authority's register (whether or not it is a disclosable pecuniary interest).
- (10) Standing orders of a relevant authority may provide for the exclusion of a member or co-opted member of the authority from a meeting while any discussion or vote takes place in which, as a result of the operation of subsection (4), the member or co-opted member may not participate.
- (11) For the purpose of this section, an interest is "subject to a pending notification" if—
- (a) under this section or section 30, the interest has been notified to a relevant authority's monitoring officer, but
 - (b) has not been entered in the authority's register in consequence of that notification.

32 Sensitive interests

- (1) Subsections (2) and (3) apply where—
- (a) a member or co-opted member of a relevant authority has an interest (whether or not a disclosable pecuniary interest), and
 - (b) the nature of the interest is 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.
- (2) If the interest is entered in the authority's register, copies of the register that are made available for inspection, and any published version of the register, must not include details of the interest (but may state that the member or co-opted member has an interest the details of which are withheld under this subsection).

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(3) If section 31(2) applies in relation to the interest, that provision is to be read as requiring the member or co-opted member to disclose not the interest but merely the fact that the member or co-opted member has a disclosable pecuniary interest in the matter concerned.

33 Dispensations from section 31(4)

(1) A relevant authority may, on a written request made to the proper officer of the authority by a member or co-opted member of the authority, grant a dispensation relieving the member or co-opted member from either or both of the restrictions in section 31(4) in cases described in the dispensation.

(2) A relevant authority may grant a dispensation under this section only if, after having had regard to all relevant circumstances, the authority—

(a) considers that without the dispensation the number of persons prohibited by section 31(4) 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,

(b) considers that 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,

(c) considers that granting the dispensation is in the interests of persons living in the authority's area,

(d) if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without the dispensation each member of the authority's executive would be prohibited by section 31(4) from participating in any particular business to be transacted by the authority's executive, or

(e) considers that it is otherwise appropriate to grant a dispensation.

(3) A dispensation under this section must specify the period for which it has effect, and the period specified may not exceed four years.

(4) Section 31(4) does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this section.

34 Offences

(1) A person commits an offence if, without reasonable excuse, the person—

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- (a) fails to comply with an obligation imposed on the person by section 30(1) or 31(2), (3) or (7),
 - (b) participates in any discussion or vote in contravention of section 31(4), or
 - (c) takes any steps in contravention of section 31(8).
- (2) A person commits an offence if under section 30(1) or 31(2), (3) or (7) the person provides information that is false or misleading and the person—
- (a) knows that the information is false or misleading, or
 - (b) is reckless as to whether the information is true and not misleading.
- (3) A person who is guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) A court dealing with a person for an offence under this section may (in addition to any other power exercisable in the person's case) by order disqualify the person, for a period not exceeding five years, for being or becoming (by election or otherwise) a member or co-opted member of the relevant authority in question or any other relevant authority.
- (5) A prosecution for an offence under this section is not to be instituted except by or on behalf of the Director of Public Prosecutions.
- (6) Proceedings for an offence under this section may be brought within a period of 12 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to the prosecutor's knowledge.
- (7) But no such proceedings may be brought more than three years—
- (a) after the commission of the offence, or
 - (b) in the case of a continuous contravention, after the last date on which the offence was committed.
- (8) A certificate signed by the prosecutor and stating the date on which such evidence came to the prosecutor's knowledge is conclusive evidence of that fact; and a certificate to that effect and purporting to be so signed is to be treated as being so signed unless the contrary is proved.
- (9) The Local Government Act 1972 is amended as follows.
- (10) In section 86(1)(b) (authority to declare vacancy where member becomes disqualified otherwise than in certain cases) after "2000" insert "or section 34 of the Localism Act 2011".

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- (11) In section 87(1)(ee) (date of casual vacancies)—
- (a) after "2000" insert "or section 34 of the Localism Act 2011 or", and
 - (b) after "decision" insert "or order".
- (12) The Greater London Authority Act 1999 is amended as follows.
- (13) In each of sections 7(b) and 14(b) (Authority to declare vacancy where Assembly member or Mayor becomes disqualified otherwise than in certain cases) after sub-paragraph (i) insert—
- "(ia) under section 34 of the Localism Act 2011,".
- (14) In section 9(1)(f) (date of casual vacancies)—
- (a) before "or by virtue of" insert "or section 34 of the Localism Act 2011", and
 - (b) after "that Act" insert "of 1998 or that section".

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