

Public Document Pack

NORTH LINCOLNSHIRE COUNCIL

STANDARDS COMMITTEE (HEARING PANEL)
--

25 March 2021

Chairman:

Venue: Via MS Teams

Time: 11.00 am

E-Mail Address:

AGENDA

1. Declarations of Disclosable Pecuniary Interests and Personal and Personal and Prejudicial (if any).

Please note: The Panel may consider any applications submitted for the exclusion of the public under 3(i) below, and then may decide to exclude the public from the meeting for consideration of the following item on the grounds that it involves the likely disclosure of exempt information as defined in appropriate paragraphs of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).

2. To consider a proposed change of procedure.
3. To consider the uncontested findings of the Investigating Officers into an allegation that a member of Garthorpe & Fockerby Parish Council breached the council's Code of Conduct. (Pages 1 - 62)
 - (i) Procedure at Hearing.
 - (ii) Monitoring Officer's Summary Report.
 - (iii) Report of the Investigating Officer.
 - (iv) Appendix 8 of the original complaint.
 - (v) Assessment Panel Decision Record
 - (vi) Standards Arrangements (including the Code of Conduct).

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STANDARDS COMMITTEE OUTLINE PROCEDURE FOR HEARINGS PANEL (UNCONTESTED)

Preliminary Procedural Issues

1. Introductions.
2. Declarations of Interest (if any).
3. To consider any request for the exclusion of Press and Public.

Breach of the Code of Conduct

4. Monitoring Officer (or his/her representative) to present summary report, including the findings of fact made by the Investigating Officer, and refer to outcome of pre-hearing process.
5. Views of the Independent Person sought.
6. Members of the Panel to raise/clarify issues.
7. The Panel will retire, along with the Monitoring Officer, to determine whether there has been a breach of the Code of Conduct. The Panel's decision will be reported back to the meeting by the Head of Democratic Services.

Action to be taken

8. Monitoring Officer (or his/her representative) to outline possible sanctions.
9. Investigating officer to make submissions on appropriate sanction, if any.
10. Member or (his/her representative) to present statement of, or provide oral, mitigation, including on what sanction, if any, should be imposed.
11. Views of the Independent Person sought.
12. Members of the panel to raise/clarify issues.
13. The Panel will retire, along with the Monitoring Officer, to consider what sanction, if any, should be imposed. The Panel's decision will be reported back to the meeting by the Head of Democratic Services.

Close of Hearing

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NORTH LINCOLNSHIRE COUNCIL
STANDARDS COMMITTEE HEARINGS PANEL

25 March 2021

A complaint alleging that Councillor John Smith, a member of Garthorpe and Fockerby Parish Council, breached Garthorpe and Fockerby Parish Council's Code of Conduct.

Monitoring Officer's Summary

1. The Complaint

The complainants, Mr Robert Ward, Mrs Tracey Ward, Mr Clive Snellgrove and Mr Warrick Buckman submitted a detailed complaint on 25 February 2020 alleging various breaches of the Code of Conduct. Such complaint was initially referred to Humberside Police for consideration in accordance with prescribed procedures before being considered by an Assessment Panel on 11 August 2020.

On the 11 August 2020 the Assessment Panel, after careful consideration and in consultation with Mr Wayne Harvie (Independent Person), directed that an investigation be undertaken against Cllr Smith to establish whether he had breached paragraph 3.4 of the Code of Conduct in the context of comments attributed to Cllr Smith concerning potential co-optees to the parish council who Cllr Smith is alleged to have referred to in an email as: "These people are trouble causers."

Samik Bhadra and Katy Hague were duly appointed as the Investigating Officers by the Monitoring Officer.

2. Investigating Officers Report

The Investigating Officers have completed their investigation and submitted their report.

The report established that Cllr Smith did send an email to the Parish Clerk on 18 June 2019 in which he referred to the potential co-optees as: "These people are trouble causers." (see attached). As a consequence the Investigating Officers found that Cllr Smith had breached paragraph 3.4 of the Code of Conduct: you must not conduct yourself in a manner which could reasonably be regarded as bringing the Authority or your office as a member of the Authority into disrepute.

The Investigating Officers have set out their rationale at sections 6 and 7 of their report.

3. Pre Hearing

In preparation for the hearing before the Hearings Panel both the complainants and Cllr Smith have been provided with a copy of the Investigating Officer's report. The matter was not considered appropriate for informal resolution.

Cllr Smith has confirmed that he does not wish to contest the findings of the Investigating Officers and accordingly the hearing of this matter will be dealt with in accordance with the Uncontested Hearings procedure detailed in the Council's Standards Arrangements.

4. Key Factors

Whether Cllr Smith in sending the email of 18 June 2019 and referring to the potential co-optees as: "These people are trouble causers." breached paragraph 3.4 of the Code of Conduct: you must not conduct yourself in a manner which could reasonably be regarded as bringing the Authority or your office as a member of the Authority into disrepute.

5. **Procedure**

The procedure to be followed by the Hearings Panel is enclosed with the agenda.

The Panel should note that its powers are purely recommendatory given that this matter concerns the conduct of a parish councillor.

Will Bell
Monitoring Officer
17 March 2021

STANDARDS REPORT

REFERENCE SC/20/01

1. INTRODUCTION

1.1 This report has been commissioned by North Lincolnshire Council's Monitoring Officer following a decision of North Lincolnshire Council's Standards Committee Assessment Panel. (*Please refer to Decision Record dated 11th August 2020 at Appendix 1*)

1.2 The complaint was initially received on 25th February 2020 and was based on three elements. These elements (in brief) were:-

1.2.1 **Element 1** - the appointment of two co-options on the Garthorpe and Fockerby Parish Council ("GFPC");

1.2.2 **Element 2** - the Conduct of Cllr John Smith;

1.2.3 **Element 3** - the Publication of Declarations of Interests specifically relating to Member Declarations.

1.3 The Assessment Panel met on 11th August 2020 to consider the complaint in relation to Cllr John Smith (hereafter referred to as 'Cllr Smith'). The Assessment Panel in conjunction with the Independent Person's report considered the complaint and it was recommended as follows (*extract from Decision record dated 11th August 2020*):-

- *"The Assessment Panel has considered very carefully the papers submitted under this complaint, including the views of the Independent Person, of which the panel is particularly mindful.*
- *The Panel is also mindful that the allegations concerning a failure to declare and or register the appropriate financial interests as well as other multiple allegations of financial impropriety were, in accordance with the Protocol governing such matters, referred to Humberside Police for consideration and after such consideration are to be subject to no further action by Humberside Police. Accordingly, these issue are now removed from our jurisdiction.*
- *That said, the Panel, mindful of the views of the Independent Person, considers it appropriate that a tightly focussed investigation be undertaken into the comments attributed to Cllr Smith concerning potential co-optees to the parish council who Cllr Smith it is alleged referred to in an email as: "These people are trouble causers". The investigation should focus on whether this amounts to a breach of paragraph 3.4 of the Code of Conduct.*
- *For the sake of completeness, the purpose of such investigation is not to investigate the procedure the parish council adopted in maintaining its website or filling the casual vacancies as this is a matter for the parish*

council as a decision making body and as such falls outside the remit of the Code of Conduct.”

- 1.4 As mentioned in Paragraph 1.3 above, the purpose of this report is to investigate the email only as other aspects of the complaint have already been addressed by the Independent Person and the Standards Assessment Panel. For the avoidance of doubt, the other parts of the complaint were set aside from the Council's jurisdiction and no further actions were taken in that regard.
- 1.5 This is a final report and will be sent to North Lincolnshire Council's Monitoring Officer and to North Lincolnshire Council's Standards Committee for consideration.
- 1.6 In preparing this report, The Monitoring Officer has commissioned us, Samik Bhadra and Katy Hague to complete this report including conducting interviews with the complainants and Cllr Smith himself.
- 1.7 We have contacted all the complainants via email which are:-
 - 1.7.1 Mr Robert Ward,
 - 1.7.2 Mrs Tracey Ward,
 - 1.7.3 Mr Clive Snellgrove and
 - 1.7.4 Mr Warrick Buckman.
 - 1.7.5 We have managed to interview all of the complainants except Mr Buckman. As Investigating Officers we made several attempts to contact Mr Buckman on 18th September 2020, 5th, 19th and 28th October 2020, however, we did not receive a reply from him to confirm whether he was willing to participate further in an interview regarding this investigation. Subsequently, Mr Buckman explained that he removed himself from the investigation due to a receiving a solicitors letter on behalf of Cllr Smith which he perceived as 'threatening'.
- 1.8 Prior to the interviews we explained to all interviewees that the purpose of the investigation was to only consider the email dated 18th June 2019 sent by Cllr Smith. There are background circumstances which lead to the context of the email. Therefore, background information from all the interviewees has been sought to understand the nature of this complaint.
- 1.9 The email in question (*dated 18th June 2019 at 11:36am*) was released to the complainants as part of a Freedom Of Information (FOI) request but the address fields were redacted so the sender of the email could not be identified. This is in accordance with normal data protection practice. An unredacted version of the email has been disclosed to us as investigating officers by the Parish Clerk for the purposes of this investigation. The email was a private communication between Cllr Smith and the Parish Clerk and it is confirmed by Cllr Smith during his subsequent interview that he sent the email.
- 1.10 The email reads as follows:-

'Something is going on here! These people are trouble cause[r]s. PLEASE DELETE.'

Throughout the rest of this report, we shall only refer to this specific email and not any other documentation.

2. NATURE OF COMPLAINT

2.1 The complainants submitted their complaint as a bundle which amounted to 31 pages. The complaints were identical and bundled together into one to prevent unnecessary triplication of effort. The complaint was made against Cllr Smith and concerned the alleged conduct of Cllr Smith. Cllr Smith is a councillor and the current Chair of Garthorpe and Fockerby Parish Council (GFPC).

2.2 In accordance with the direction of the Assessment Panel, the remit of this investigation is to only consider the email sent by Cllr Smith to the Parish Clerk. The other 2 elements (element 1 and 3 outlined above in paragraph 1.2 above) raised by the complainants in their original complaint have already been considered by the Assessment Panel and therefore not part of this investigation.

2.3 The only remaining part of the original complaint (element 2) is to consider the conduct of Cllr Smith sending the email dated 18th June 2019 to the Parish Clerk following the influx of the co-option applications on the Garthorpe and Fockerby Parish Council.

3. CODE OF CONDUCT

3.1 The Council's Code of Conduct and accompanying arrangements were drafted pursuant to the Localism Act 2011. The Standards Committee directed that we, as the investigating officers, consider a potential breach of paragraph 3.4 of the Code of Conduct, namely whether Cllr Smith conducted himself in a manner which could reasonably be regarded as bringing his office or Garthorpe and Fockerby Parish Council into disrepute.

4. METHODOLOGY AND INTERVIEWS CONDUCTED

4.1 We have interviewed Mr Robert Ward and Mrs Tracey Ward, Mr Clive Snellgrove and Cllr Smith. All interviews were conducted via video call through either Microsoft Teams or Skype. Prior to the interview, each interviewee was given documents. These documents were:

- a copy of the Code of Conduct
- a redacted copy of the email dated 18th June 2019 at 11:36am.

The interview notes were written and typed up by the investigating officers and sent to the interviewees for their confirmation.

4.2 In all interviews as part of this investigation, all participants were given the chance to respond via email to the typed-up notes of their interview. They were all given to opportunity to confirm the accuracy of the notes and make amendments if necessary. Cllr Smith declined to confirm the accuracy of the notes written by the investigating officers explaining that there were errors in the notes. We as the investigating officers emailed Cllr Smith asking him to confirm the notes or to offer any suggested amendments. We invited Cllr Smith to take part in a further interview to discuss these errors. Cllr Smith declined the opportunity to have a further interview or to sign/confirm the notes as they stand. We contacted Cllr Smith on two further separate occasions and no response was received. We as the investigating officers believe that the notes from the interviews are true and accurate and the unsigned notes of our interview are referenced within this report.

4.3 All of the complainants separately wish to make the point that they received correspondence from solicitors on behalf of Cllr Smith. In their own words, they found the letter to be 'threatening' and 'bullying' and caused 'considerable distress.' For the purposes of this report, these letters are a separate private matter between the parties concerned. Consequently, the letter forms no part of this investigation.

5. THE EVIDENCE

Mr Robert and Tracey Ward – interviewed 5th November 2020

5.1 Mr Robert Ward and Mrs Tracey Ward were both interviewed on 5th November 2020 at 10:40am. Mr and Mrs Ward are husband and wife and confirmed they were happy to be interviewed together for sake of ease. Mr and Mrs Ward conducted their interview via video call on Skype. They were both involved in the original complaint against Cllr Smith and we directed them to the decision record of the Assessment Panel of the Standards Committee.

5.2 We explained to Mr and Mrs Ward that our position was to only investigate the contents of the email by Cllr Smith. Mr and Mrs Ward did not have confirmation that the email dated 18th June 2019 was sent by Cllr Smith as they had only seen a redacted version of the email blocking the address of the sender. During the interview, it was confirmed to them that the email was sent by Cllr Smith.

5.3 Regarding the contents of the email, Mr and Mrs Ward both stated that "*they were alarmed at what was said about them from Cllr Smith.*" Mr and Mrs Ward said: "*we didn't understand why we would be labelled as 'trouble causers'.*" In their own words, they stated that "*a great deal of effort went into our application to apply to be co-opted onto the Parish Council and 2 others were co-opted on to the Parish Council without an interview.*"

5.4 Mrs Ward said; "*The deep burning question for us is why did Cllr Smith think they were trouble causers? In our view, all we did was apply to the Parish Council.*"

Mr and Mrs Ward further went on to say that *“the question for us is whether there is a deeper situation that anybody should be aware of?”* They stated that they felt this was Cllr Smith’s perception of them. They further stated that they *“felt that Cllr Smith was trying to influence the opinion of the Parish Council to ensure we were rejected.”*

5.5 Both Mr Ward and Mrs Ward stated in their own words that they felt: *“demeaned, belittled and extremely badly treated”* throughout the co-option process.

5.6 Mr Ward and Mrs Ward were of the view that by Cllr Smith sending that particular email he has breached the Code of Conduct, they were of the view that paragraphs 3.1,3.2,3.4 and 3.6 have been breached. They claim that Cllr Smith has failed to treat them with respect (paragraph 3.1), bullied and harassed others by asserting his opinion about them (paragraph 3.2), the conduct of sending the email has brought the council into disrepute (paragraph 3.4). Separately from the email, they expressed concerns stating that: *“he has used his position to gain work for his business and gain an advantage for himself.”* (paragraph 3.6).

5.7 Finally, Mr and Mrs Ward explained that, in general, they were aggrieved at the process of the co-option. They specifically pointed out that the words in the email say ‘PLEASE DELETE’. They stated that this makes them question whether many emails have been deleted and what emails have been sent to seek to influence others regarding themselves.

Mr Clive Snellgrove – Interviewed on 10th November 2020

5.8 We interviewed Mr Snellgrove on 10th November virtually via Microsoft Teams video call. Mr Snellgrove confirmed he was content to take part and understood purpose of the investigation in accordance with the direction of the Assessment Panel. We explained to Mr Snellgrove that the purpose of the interview was to only consider the contents of the email dated 18th June 2019. During the interview it was also confirmed to Mr Snellgrove that the sender of the email was Cllr Smith as he had only viewed the redacted version of the email.

5.9 Mr Snellgrove explained that he has always showed interest in Garthorpe as a village and he would sometimes read the minutes on the Parish Council website. In his view and in his words *‘As I was reading the minutes, I found things, in my view, not correct and the more I looked [into things] the more I found [matters] didn’t add up.’* He further explained that these were the reasons which prompted him to apply within the co-option process.

5.10 When two vacancies were advertised to apply to be on the Parish Council, he thought it would be a good opportunity to give back to the community and he hoped that he could put forward suggestions to the village. Mr Snellgrove expressed an interest in the position which he sent to the Parish Clerk via email.

- 5.11 Mr Snellgrove believed along with the complainants that they would be attending a face-to-face interview. The face-to-face interview didn't transpire and they were invited to a meeting where a further application form was filled in by all the applicants on separate desks in silence. Mr Snellgrove stated that this process was not how he thought it was going to be handled according to a previous statement made by Cllr Briggs (at a previous Parish Council meeting where the Ward Councillor attended) detailing how the process of the co-option was going to be followed.
- 5.12 In Mr Snellgrove's view, this was not how the co-option process was explained to be and more concerning to him, he was told that four people applied to be co-opted on the Parish Council and none of them were successful. Further down the line, the complainants received information that two people were suddenly co-opted onto the Parish Council. Mr Snellgrove explained that this is the reason which spurred him on to submit a Freedom of Information Request to the Parish Council.
- 5.13 At that point Mr Snellgrove received an FOI response with a redacted email stating: 'Something is going on here, these people are trouble causes. PLEASE DELETE'. Mr Snellgrove's stated that *"I feel hard done by and this email highlighted to me that procedures had not been followed and had been done incorrectly."* In Mr Snellgrove's words: *"someone down the line had done things back handed."*
- 5.14 Mr Snellgrove was of the view that the email was aimed at all four of the complainants. Mr Snellgrove stated in interview: *"I am not a trouble causer, I was wanting to do my best for the Parish Council and thought I was entitled to apply."* He was aware that there was a long standing feud between Cllr Smith and one of the complainants but he stated: *"this had nothing to do with me."*
- 5.15 Mr Snellgrove's view is that the sending of the email by Cllr Smith breached the Code of Conduct, in particular paragraphs 3.1,3.2 and 3.5. Mr Snellgrove was of the view that Cllr Smith had not treated them with respect and courtesy (paragraph 3.1). He was of the view the email could be seen as bullying the clerk into having an opinion about the complainants and therefore in his view breached paragraph 3.2. He stated he felt he was entitled to apply for the position on the Parish Council and the email sought to frustrate all 4 of the applicants getting on the Parish Council (paragraph 3.5). Therefore, his submission was that Cllr Smith has breached paragraph 3.4 as all the above brings the Parish Council into disrepute.
- 5.16 Mr Snellgrove is of the view that by sending that email, Cllr Smith has lost integrity by doing so. Mr Snellgrove further claimed that: *"In my opinion it is not being open and even though Mr Smith might think he is being honest in the email, I do not think he is."*

Councillor John Smith – Interviewed on 16th November 2020

- 5.17 We interviewed Cllr Smith on 16th November 2020 via Microsoft Teams. Cllr Smith was content to take part in the investigation although he expressed his concern as to how long the investigation was taking. Cllr Smith was keen to bring the investigation to a conclusion and he was content to take part. We referred to the email dated 18th June 2019 which was sent by him and we explained that the purpose of this investigation was to consider this point only.
- 5.18 Cllr Smith made it clear that he has never been asked whether he had sent the email on the 18th June 2019. Cllr Smith stated that: *“no-one has asked me I have sent the email but if they had asked me, I would have said yes.”* He explained that he has never denied sending the email and this was the first time he has discussed the email or this investigation with anybody.
- 5.19 Cllr Smith explained that he has served as the Chair on the Garthorpe and Fockerby Parish Council for twelve months and outside of his voluntary commitments he runs a private business called Marshfield Enterprises.
- 5.20 We discussed the background of the complaint with Cllr Smith and he referred to many points within the complaint. Cllr Smith in his interview explained that he has seen reasons why certain tasks have slowed things down for the Parish Council. He stated he has always tried to help and would *“try get things moving as quickly as possible.”* Cllr Smith expressed in interview that: *“someone is out to cause problems, not necessarily to prove something has been done wrong or criminally as otherwise I wouldn’t be here talking about it.”* He further stated: *“I was going the extra mile for the Parish Council and that people were trying to penalise me for it.”*
- 5.21 In relation to the email he sent, Cllr Smith claimed that there were an unusual amount of people applying for the co-option vacancies 48 hours before the initial meeting bearing in mind that the positions had been vacant for two years. Therefore, Cllr Smith thought this was strange and of concern to him was that one of the applicants did not exist on the electoral role and was not from the village.
- 5.22 He explained that he sent the email to advise and warn the Parish Clerk in his words that *“something was going on as it was not normal”* that many applications would come in so quickly within a short period of time.
- 5.23 Cllr Smith further explained that he has had a long dispute (of around 20 years) with one of the complainants. This particular complainant had instigated previous complaints about incidents in which they alleged Cllr Smith had taken

part. However, following investigations, Cllr Smith explained that these allegations have found to be non-existent.

- 5.24 When Cllr Smith was asked whether he regretted sending the email, he explained that he regretted sending it but he thought at the time things needed to be highlighted. He said that *"It was more to advise and warn the Parish Clerk that there was trouble ahead."* He further stated that *"In my industry if you see an issue you highlight it if you think it is going to become a danger."* He explained that he was trying to highlight these dangers/issues to the Parish Clerk but it has been taken as something else.
- 5.25 When clarifying with Cllr Smith regarding whether the email was aimed at a particular group of people, he explained that it was not aimed at a wider group. However, Cllr Smith stated that: *"I do not want to say too much as it would point directly to the person or the person(s) concerned."*
- 5.26 We asked Cllr Smith whether he feels the Code of Conduct has been breached by himself. He explained that: *"everybody interprets wording in a different way."* Cllr Smith further claimed: *"I did not do anything intentionally or knowingly to bring the Parish Council into disrepute."* He acknowledged, upon reflection, that: *"I may have made an error in adding on to the email PLEASE DELETE"* and therefore he accepted that those words would probably breach the Code of Conduct. He further commented that *"everyone reads things in different ways."*
- 5.27 Cllr Smith was of the view and submitted that he has been *"open and honest."* He was trying to highlight potential issues ahead and he stated that he acted with integrity by making the Parish Clerk aware of the information. Cllr Smith explained again that he has never denied sending the email and it was redacted by somebody else and so he felt in his words that *"this matter comes down to poor wording."*
- 5.28 In addition to the above, Cllr Smith explained that the role is unpaid and there is little training given for the role. He explained that he was not involved in the process of co-option and left this to the Parish Clerk to sort out. He did not take part in the voting process as he did not feel he should take part in the voting process due to the long-standing dispute with one the complainants. He also recalls that there was a letter signed by the complainants which was put forward indicating that Cllr Smith should not take part in the voting process for the co-option. Cllr Smith maintained that he was not involved in the process.
- 5.29 Cllr Smith explained that: *"none of us are perfect"*. He further stated that *"it seems strange that 4 people have to get together to put a complaint in with 3 separate complaints all worded the same. This seems very strange by any shadow of doubt."* Cllr Smith elaborated further regarding the email and explained that: *"one person can read a document which can then be interpreted differently to the next person."*

6. CONCLUSIONS RELATING TO THE COMPLAINTS MADE BY MR ROBERT WARD, MRS TRACEY WARD, MR CLIVE SNELGROVE AND MR WARRICK BUCKMAN.

6.1 We have considered the email dated 18th June 2019 sent from Cllr Smith to the Parish Clerk. The Parish Clerk was able to provide us with the unredacted version of the email. The Parish Clerk was the only intended recipient of that email as there were no other recipients in the address field. It is clear the email was a private communication which was never intended to be revealed to the wider public. We have reviewed original complaint submitted by the complainants including the supporting appendices to understand the background and the nature of the complaint. For the purposes of this narrow investigation and conclusion, we must only consider the contents of the email sent by Cllr Smith and whether this breached the Code of Conduct.

6.2 Specifically, we have endeavoured to steer the focus of the interviews to the 18th June 2019 email and whether this amounted to a breach of the Code of Conduct by Cllr Smith. This particular email is part of a much wider picture as the complainants were dissatisfied with how the co-option process was handled by the Parish Council. The email is related to the co-option process as it was written by Cllr Smith in response to a huge influx of applications expressing interest for the vacancies advertised by the Parish Council; just 48 hours before the meeting.

6.3 Cllr Smith by his own admission in interview felt it was important to advise the Parish Clerk that these complainants were 'trouble causers.' Cllr Smith explained he attempted to warn the Clerk that trouble was ahead and did not feel he was doing anything wrong. Whilst we may acknowledge this, the words 'PLEASE DELETE' were included in the email which implies that he did not want this email to be traced. We can conclude from these words that he felt uneasy about the contents of that email most probably believing that it was not appropriate to be sending this type of message/warning to the Parish Clerk.

6.4 Cllr Smith explained in his words: "*it wasn't done out of nastiness and I didn't intend to cause harm.*" Unfortunately, this did cause harm because it was released to the wider public as a result of an FOI request. In our view this email could have influenced the Parish Clerk's view of the complainants. The co-option process should be a neutral process, however, on the back of the expression of interest emails, Cllr Smith had given his opinion that these people were 'trouble cause[r]s' to the Parish Clerk. Additionally, although Cllr Smith in his interview explained that the co-option process was to be handled by the Clerk, However in our view, by sending this email, he was clearly involved to a certain degree. The opinion of Cllr Smith carries weight due to his official capacity as Chair of the Parish Council which means it has an impact.

6.5 In order to determine whether the email sent by Councillor Smith to the Parish Clerk constituted a breach of the Code of Conduct; the following points were considered:

6.5.1 In relation to the email, we considered that this could give the public perception that the Parish Council was not impartial in its processes. The email has a potential to cause harm to public perceptions in that the Parish Council was not impartial in its processes.

6.5.2 In relation to the email being seen by the complainants, it is clear from their interviews that this did cause some harm to them personally. The complainants expressed their concern there has been some prejudice towards them throughout this process and they felt an opinion has been made prior to beginning of the co-option process. We can support the view of the complainants as per their interviews.

6.5.3 The intention of the email sent by Cllr Smith was a warning to the Parish Clerk but in our view the email has undermined the integrity of the Parish Council and of himself. The applicants were applying for a vacancy which was available to any person within the community. The email does not appear to be objective and seeks to influence others of his opinion. Furthermore, we acknowledge that the email was sent from Cllr Smith's private email account rather than his Parish Council account, however, nevertheless it was an email in response to professional business relating to the Parish Council.

6.5.4 Cllr Smith is the current chair of the Parish Council and therefore in a senior role with levels of responsibility. In this role and as a public office holder, it is expected that the person satisfying the role is beyond reproach. The view of Cllr Smith and the Parish Council has been comprised as the complainants have seen Cllr Smith's views about them applying for the vacancy within that email.

6.5.5 In terms of mitigation for Cllr Smith, the following points have been considered:

6.5.5.1 Cllr Smith has only been found to send one email and no other email evidence has been brought to light which questions his conduct.

6.5.5.2 Cllr Smith regrets sending the email and never intended to cause harm to anyone by sending the email.

6.5.5.3 Cllr Smith has been honest about the sending the email throughout the process and has never denied sending it.

6.5.5.4 Emails can be interpreted in different ways as tone and emotion are removed within written communication. Therefore, it can always be subjective when interpreting an email solely on its own without the background.

6.6 We would like to thank everyone for their participation and co-operation in their interviews particularly in the light that this process has taken longer in the prevailing circumstances.

7. CONCLUSION

7.1 Therefore, we concluded that Councillor Smith should not have sent that email to the Parish Clerk and by doing so was in breach of the:

7.1.1 Code of Conduct paragraph 3.4; you must not conduct yourself in a manner which could reasonably be regarded as bringing the Authority, or your office as a Member of the Authority, into disrepute.

7.1.2 On account of the reasons stated, we do find that Councillor Smith breached paragraph 3.4 of the Code of Conduct mentioned above.

Samik Bhadra
Katy Hague
Investigating Officers
November 2020

Appendix 1

Decision Record - Reference SC/20/01

Garthorpe and Fockerby PC

From: [redacted]
Sent: 18 June 2019 11:36
To: Garthorpe and Fockerby PC
Subject: Re: Expression of interest (to join the Garthorpe and Fockerby Parish Council)

Something is going on here!

These people are trouble causes.

PLEASE DELETE

On Tuesday, 18 June 2019, 11:31:22 BST, Garthorpe and Fockerby PC <clerk@garthorpeandfockerbypc.org.uk> wrote:

The parish council currently has two vacancies. The parish council meeting is at 7.15 this evening and there will be a co option form for you to sign.

I should say that there has been interest from other parishioners re the vacancies.

See you this evening.

Many Thanks
 Nichola
 Clerk to the council

-----Original Message-----

From: [redacted]
Sent: 17 June 2019 21:14
To: Clerk@garthorpeandfockerbypc.org.uk
Subject: Expression of interest (to join the Garthorpe and Fockerby Parish Council)

Dear Mrs Ingleton,
 N
 4AD.

Please accept this correspondence as a formal expression of interest re: joining the Garthorpe and Fockerby Parish Council.

Please acknowledge receipt of my expression of interest and advise regarding next steps.

With Kind Regards,

Sent from my iPhone

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STANDARDS COMMITTEE

ASSESSMENT PANEL

COMPLAINT REFERENCE SC/20/01

Date of Complaint: 25 February 2020

Name of Complainant: Mr and Mrs Ward, Mr Buckman, Mr Snellgrove (Please note - three identical complaints were received but were bundled together into one to prevent unnecessary triplication of effort.)

Name of Subject Member/s: Cllr J Smith

Subject Member/s Council: Garthorpe & Fockerby Parish Council

Paragraphs of the Code of Conduct alleged to have been breached:-

- 3.4 You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council, or your office as a Member of the Council, into disrepute.
- 3.6 You must act solely in the public interest and not use or attempt to use your position as a Member improperly to confer or secure for yourself or any other person an advantage or disadvantage.
- 3.8 You must only use, or authorise the use of the Council's resources for proper purposes (regard being had to any applicable Local Authority Code of Publicity) and in accordance with the Council's procedural and policy requirements.
4. Interests. "...the member did not declare an interest, or declared the wrong type of interest."

Please note – Complaints were also submitted against former parish council clerk Mrs M Smith and current clerk Mrs N Ingleton. Neither Mrs Smith nor Mrs Ingleton are elected members and are therefore not bound by the Code of Conduct. As such, allegations against them are not considered as part of this assessment.

Summary of Complaint:

The complainants submitted a detailed dossier making a number of allegations of potential breaches of the Code of Conduct. The complainants requested an investigation into the awarding of a number of contracts for works in the area by the council to a company that Cllr Smith had a disclosable pecuniary interest in. These

allegations also suggested that Cllr Smith had not declared, or had declared the wrong interests, in meetings of the council.

The complainants also allege that Cllr Smith actively prevented them from being co-opted onto Garthorpe & Fockerby Parish Council in accordance with the procedures outlined in the local Casual Vacancy Guide, including by sending an email to the clerk with a derogatory description of the complainants.

The complainants submitted evidence that they believed would support these allegations.

Summary of subject member/s response:

Cllr Smith stated that, given the amount of information submitted, he would not be responding to the financial issues individually. However, the majority were routine payments to existing suppliers or non-controversial payments via the council's credit card.

Regarding the grass cutting work, Cllr Smith confirmed that they had declared all required interests and taken no part in the awarding of the contract. Cllr Smith had also used his company's plant equipment to deal with emergency issues in the parish, at a rate much lower than the commercial norm.

Cllr Smith asserts that he has acted wholly in a voluntary capacity for the good of the village, sitting in many unpaid meetings over the years, and had acted in good faith and with honesty throughout. Cllr Smith highlights that the externally audited accounts found no issues.

Views of the Independent Person:

The complaint relates to conduct of three individuals, Mr. John Smith (Chair of Garthorpe and Fockerby Parish Council, GFPC), Mrs. Mandy Smith (previously the clerk to GFPC), and Mrs. Nichola Ingleton (currently clerk to GFPC). It regards numerous activities over a protracted period of time concerning both financial management issues as well as democratic matters.

Whilst three individuals are cited as respondents to this complaint, two have to be immediately discounted as being beyond the remit of North Lincolnshire Council's (NLC) oversight, namely Mrs. Mandy Smith who no longer holds any position associated with GFPC, and Mrs. Nichola Ingleton being an employee of (GFPC) and is not bound by the Member Code of Conduct. As such my comments will relate solely to Mr. John Smith (JS).

Secondly the financial management of (GFPC) in respect of numerous transactions/contracts are matters which rightly have been referred to Humberside

Police with their final decision (27th. May 2020) noting “no further action will be taken against Mr. Smith and the investigation will be closed”. My comments therefore will be related to the actions of (GFPC) in it seeking new members to fill the two co-opted vacancies.

Summary: - 1) The appointment of two co-options

The heart of the complaint I see as being about the democratic process adopted by (GFPC) in filling the two vacancies it had in 2019, in which the complainants has an interest and note “we each as individuals sought to stand as co-opted members of the parish Council in the hope we could improve the transparency and compliance with Standing Orders, Code of Conduct and Legislation”. The vacancies were advertised on 17th. June 2019 and under the (NLC) Casual Vacancy Good Practice Guide (iii, Co-option) it advises the appointments be made “as soon as **practicable** after the expiry of 14 days”. The minutes of (GFPC) meeting of Tuesday 18th June 2019 record that they had been advertised and I trust, though I have no evidence of it, nor is it displayed on (GFPC) web site, when the actual closing date would be. However taking the 14 day ‘guide’, and to be generous in excluding the date of posting and the weekends, I would see the closing date as possibly 5th. July 2019.

It is reasonable therefore to expect that such applications would be considered after this date, and in anticipation of this at 18th. June 2019 meeting it was minuted that “The clerk was asked to arrange a meeting for the 9th, July 2019”, a meeting that “...should be held as an information gathering meeting. Each applicant will be asked the same questions with the interview lasting no more than 5 minutes for each resident. No members of the public should be present”. Effectively I see this as an interview situation, though with only 5 minutes allowed it could hardly be seen as a two way discourse. The complainants assert that a decision on appointment should have been made at this ‘informal’ meeting of (GFPC) on 9th. July 2019, with which I disagree, it is immaterial, (GFPC) only have to appoint as soon as **practicable**. As such I discount the complaint about timescales.

The claimants imply (dossier 3,(v)) that in some way they have been disadvantaged and suggest Mr. Smith and the clerk following the submissions by the claimants “after which it is *believed* two other individuals were invited to become Councillors” [my parenthesis]. These two individuals were successful in being co-opted but a complaint submitted in a ‘belief’ is hardly incriminating, and I have discounted this.

This arrangement had apparently been approved by (NLC) given the minutes record “The electoral office at NLC is aware of this unusual situation and the co-option decision will be recorded at the 20th. August 2019 meeting”. At that subsequent meeting of (GFPC) it was recorded (59/19/20) “The clerk issued secret ballot papers to the 5 councillors. Cllr Smith left the room as he did not wish to vote”, and the result being that a Mr. Brian Woolhouse and Mr. Robert Martinson “be co-opted onto the parish council”. Clearly none of the complainants were.

The question therefore raised is whether this process was in accord with accepted procedures. The (NLC) Casual Vacancy Good Practice Guide, is VERY clear in stating

about the appointment (iii, Co-option) it be made “as soon as practicable” and I see no reason that the *timescale* highlighted above could be considered unacceptable as is claimed by the complainants. In addition in this guidance is the stipulations that “the decision must be made by a majority of members who are present and voting”, given that those present with Mr. Smith having left the meeting, voted for the two successful applicants again cannot be questionable. Thus the timescale I see as ‘practicable’, and the majority voting by secret ballot accords numerically with (iii, Co-option).

However, of more concern contained in the same guidance it states “Members **must** vote by show of hands **unless** the council has standing orders that provide otherwise”. Without knowledge of, or the time to go through copious (GFPC) Orders and Regulations, I am assuming that such authorisation is NOT so recorded in any papers of government. This assumption, and it is an assumption, is because the minutes of the (GFPC) record these arrangements as “unusual”. Additionally a “show of hands” cannot be construed as equivalent to a secret ballot.

Secondly the guidance again at (iii Co-option) states that “The Parish Council’s debate and vote on the co-option **must be conducted in the public section of the meeting**”. This was certainly not the case as the minutes of 20th. August 2019 record (59/19/20) “Members of the public were requested to leave the meeting” This is a clear departure from the guidance.

Thirdly it stipulates that “It follows that the **candidates**, as members of the public, **will be entitled to be present during the proceedings**”. This is also a clear departure from the guidance. Certainly the wording above which stipulates “**must**” rather than “**should**”, would suggest compulsion. [my parenthesis throughout].

Accordingly, these arrangements and the decisions reached may, like the claimants are suggesting, be judged as ultra vires, in which case they are void.

The caveat to this is whether (NLC) in giving advice to (GFPC) about these “unusual” arrangements did so on the understanding that the (NLC) “Casual Vacancy Good Practice Guide” is just that, a ‘guide’ which cannot be considered mandatory.

Summary 2:- The conduct of Mr. Smith

Having had advice from (NLC) that the procedures outlined above were ‘acceptable’, Mr. Smith cannot be held to account having taken higher authority guidance, and thus cannot be seen in this respect to having breached any of the Member Code of Conduct; and in absenting himself from the actual decision making, even though the claimants allege he had to be prompted to do so, is not of concern. The claimants also allege (dossier pp.12-13) that Mr. Smith’s actions regarding his recusal was “disingenuous and defamatory”, and I cannot see any evidence to support this claim that he failed to act with “objectivity, openness and honesty” in respect of the process itself on the night in question.

However, the claimants include in their dossier an email allegedly sent by Mr. Smith to the Clerk on 18th. June 2019 @ 11:36 about the appointments which reads “Something is going on here! These people are trouble causes”. Though this information is in the

dossier (Appendix 8), it has the originator of the email blanked out, nor is it specific as to whether Mr. Smith, if it was he who sent it, had in mind the four persons comprising the complainants. Whilst the wording in the email is less than complementary, to whom it refers I know not, who sent it is redacted, and therefore I am unable to draw firm conclusions. If proven however as having been from Mr. Smith I would see not only the (NLC) Member Code of Conduct being breached, but in addition the Nolan principles.

The claimants take issue with the way (GFPC) record their minutes in suggesting that unless agenda items are recorded with both a proposer and seconder, any decisions are ultra vires. This is a matter I am minded to support, not by way of it being ultra vires, but merely that it is good practice to adopt. I see it as advisable that in future this method is incorporated, which at present the minutes show it is not.

Summary 3:- Publication of Declarations of Interest

The complainants raise the issue of the publication of (GFPC) Member declarations of interest, and cite the localism Act 2011 Section 29 (7) which states, "A parish council must, if it has a website, secure that its register is published on its website". I cannot see this to be the case, nor can I see that their website contains a link to (NLC's) website, or to the clerk as an alternative for access to the document. From examining a few other Town and Parish websites this same omission is apparent. This aspect needs addressing.

Conclusion

The complainants are to be credited by submitting such a detailed account of their grievances, though there is a suggestion from Mr. Smith that this fastidiousness may be because of a long-standing animosity from some of the complainants towards Mr. Smith it having been so "... for over 20 years with visits from the police and council officials".

Complaints pertaining to Mr. Smith and the appointment of co-options I also find unproven, in that they (GFPC) acted on higher authority (NLC) in implementing the "unusual" arrangements. However, this is on the proviso that the (NLC) Casual Vacancy Good Practice Guide is purely that, a 'guide', and is optional and not mandatory. If it is the former I see there is no case to answer, if it is the latter the appointments would in my view be ultra vires, and should be re-run.

Mr. Smith is said to be a "member of the SSE funding group he approves grant payments from SSE Keadby Windfarm to Garthorpe and Fockerby Parish Council" (Dossier, p. 10), and if true must be recorded on the (NLC) Member declarations, which it is not. Any and all appointments to outside bodies should be recorded.

Whilst the dossier contains extensive detail suggesting that (NLC) Member Code of Conduct provisions have been breached by Mr. Smith, I am less than convinced. Clearly having an interest in Marshfield Enterprises Ltd. and being called upon by (GFPC) to undertake work, it appears whenever needed declarations of interest are made, and I can see no evidence that the democratic procedures have been accidentally or intentionally breached.

Action Points

The outstanding issues in my mind are therefore threefold regarding a) the email sent to the Clerk of (GFPC) on 18th. June 2019 @ 11:36 and its contents, and b) the standing of the (NLC) Casual Vacancy Good practice Guide and c) the publication of the Member declaration of interest.

a) As to the email, this may indeed be a reference to the four unsuccessful applicants, and for a Chair of (GFPC) to refer to *any* constituents in this manner is less than creditable. Thus, irrespective as to whosoever the originator had in mind, if it was Mr. Smith who described these people as "These people are trouble causes" I would see this as possibly a breach of para. 3.4 of (NLC) Member Code of Conduct, and the Nolan principles. This aspect I would see as warranting investigation.

b) The "unusual" democratic procedure adopted by (GFPC), in making these last two appointments needs clarifying, and the status of (NLC) Casual Vacancy Good Practice Guide, whether discretionary or mandatory must be established, and made known to all Town and Parish Councils. The result of which may, or may not, require the appointment process to be re-run.

c) (GFPC) website and others should be updated to comply fully with the Localism Act 2011 regarding declarations of interest.

As to the alleged breach of para. 3.6, and 3.8, I cannot see clear evidence that this has been the case, and the recent appointment of a new clerk, who is unrelated to the Chair, helps distance professional advice away from any familial self-interest considerations.

Assessment Panel decision:

The Assessment Panel has considered very carefully the papers submitted under this complaint, including the views of the Independent Person, of which the panel is particularly mindful.

The Panel is also mindful that the allegations concerning a failure to declare and or register the appropriate financial interests as well as other multiple allegations of financial impropriety were, in accordance with the Protocol governing such matters, referred to Humberside Police for consideration and after such consideration are to be subject to no further action by Humberside Police. Accordingly, these issue are now removed from our jurisdiction.

That said, the Panel, mindful of the views of the Independent Person, considers it appropriate that a tightly focussed investigation be undertaken into the comments attributed to Cllr Smith concerning potential co-optees to the parish council who Cllr Smith it is alleged referred to in an email as: "These people are trouble causers". The investigation should focus on whether this amounts to a breach of paragraph 3.4 of the

Code of Conduct. For the sake of completeness, the purpose of such investigation is not to investigate the procedure the parish council adopted in maintaining its website or filling the casual vacancies as this is a matter for the parish council as a decision making body and as such falls outside the remit of the Code of Conduct.

Terms of Reference

The Localism Act 2011 introduced a requirement for councils to adopt a Code of Conduct and Arrangements* for dealing with complaints and alleged breaches of the Code. This complaint has been considered in accordance with the Arrangements adopted by North Lincolnshire Council and assessed against the criteria contained in those Arrangements.

.....
Monitoring Officer

Dated 11 August 2020

*These can be found on the council's website at
northlincs.gov.uk/yourcouncil/haveyousay/councillorsandmps/conductofmembers

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North Lincolnshire Council's 'Arrangements' for dealing with standards allegations under the Localism Act 2011

1 Context

These "Arrangements" set out how to make a complaint that an elected or co-opted Member of this Council or of a Parish or Town Council in the area has failed to comply with the Code of Conduct, and sets out how the Council will deal with allegations of a failure to comply with the Code of Conduct.

Under Sections 28(6) and (7) of the Localism Act 2011, the Council must have in place "arrangements" under which allegations that a Member or co-opted Member of the Council or of a Parish or Town Council in the area has failed to comply with the Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the Council to appoint at least one Independent Person whose views must be sought by the Council before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Council at any other stage, or by a Member or co-opted Member of a Parish or Town Council in the area against whom an allegation has been made.

2 The Code of Conduct

The Council has adopted a Code of Conduct for its Members, which is attached at Appendix 2 to these arrangements and is available for inspection on the Council's Website and on request from Reception at the Civic Offices.

Each Parish and Town Council is also required to adopt a Code of Conduct. (*The Parish and Town Councils within North Lincolnshire have all adopted the Council's Code of Conduct as at Appendix 2: to be determined*).

3 Making a complaint

If you wish to make a complaint, please complete the Model Complaint Form at Appendix 1 and send your completed form to:

"The Monitoring Officer"
North Lincolnshire Council
The Civic Centre
Ashby Road
SCUNTHORPE
DN16 1AB

Or -

standards@northlincs.gov.uk

The Monitoring Officer is a Senior Officer of the Council who has statutory responsibility for maintaining the Register of Members' Interests and is responsible for administering the system in respect of complaints of Member misconduct and is the Council's Proper Officer for such matters.

In order to ensure that we have all the relevant information which we need to be able to process your complaint, please complete the Model Complaint Form at Appendix 1, which can be downloaded from the Council's Website, next to the Code of Conduct, and is available on request from Reception at the Civic Offices. At this stage, we would ask that you confine your comments to the Model Complaint Form and limit the amount of supporting documents (if any) to those that are directly relevant and material to the complaint. If, on consideration of your complaint, further information/documentation is thought necessary, you will be asked to provide it and, if your complaint is the subject of investigation, the Investigating Officer will afford you the opportunity to provide further information/documentation in support of your complaint.

Please provide us with your name and a contact address or email address so we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this and the reason why, in the space provided on the Model Complaint Form.

As a matter of fairness and natural justice, a Member should usually be told who has complained about them. However, there may be exceptional circumstances where a complainant's identity should be withheld from disclosure such as where the complainant has reasonable grounds for believing they will be at risk of physical harm if their identity is disclosed or their employment may be placed at risk or there is a risk that any investigation may be impeded or interfered with. In such cases, the Monitoring Officer will refer the issue of disclosure to the Assessment Panel who, in reaching a decision on the issue, will carefully balance the public interest in ensuring that the Member complained of is aware of who has complained against them against the complainant's wish that their identity be withheld. The Council does not normally investigate anonymous complaints save where it considers the provisions in the Assessment Criteria at Appendix 3 on such complaints are met.

The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it. A full copy of your complaint will, subject to any ruling on disclosure, ordinarily be sent to the Member complained of inviting their written comments within 10 working days. Thereafter, arrangements will be made for your complaint to be assessed as soon as practicable in accordance with the procedures detailed in paragraph 4.

It should be noted that complaints which allege that Members may have committed a criminal offence in breaching the 'disclosable pecuniary interest' provisions under Section 34 of the Localism Act 2011, will be referred by the Monitoring Officer to Humberside Police for consideration, in accordance with the Protocol at Appendix 8.

4 Will your complaint be investigated?

For complaints concerning Members of Parish and Town Councils, where those Members are not also Members of North Lincolnshire Council, ordinarily the Monitoring Officer will assess such complaints against the Assessment Criteria at Appendix 3 and, after consultation with the Independent Person, take a decision as to whether a formal investigation is merited.

The Monitoring Officer may, however, in his discretion refer complaints to an Assessment Panel to assess where he feels it reasonable and appropriate to do so such as where the Monitoring Officer has had prior involvement in the complaint.

For complaints concerning Members of North Lincolnshire Council (or where the Monitoring Officer has exercised his discretion to refer a Parish and Town Council related complaint) either in their capacity as Parish or Town Council Members or as Members of the Council, an Assessment Panel will be convened to assess whether the complaint should be investigated. In considering the matter, the Assessment Panel shall consult and consider the views of the Independent Person and apply the Assessment Criteria.

Decisions on whether a complaint will be investigated will normally be taken within 28 days of receipt of the complaint. A formal notice of decision will be issued in each case. The decision of the Monitoring Officer or Assessment Panel is final and is not subject to a right of appeal.

Where the Monitoring Officer or the Assessment Panel requires additional information in order to come to a decision, you may be contacted to provide such further information, as may the Member against whom your complaint is directed.

Where your complaint relates to a Member of a Parish or Town Council, the Monitoring Officer may also inform the Clerk of the Parish or Town Council concerned of your complaint and seek the views of the Parish or Town Council before deciding whether the complaint merits formal investigation

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

5 How is the investigation conducted?

If the Monitoring Officer or Assessment Panel decides that a complaint merits formal investigation, the Monitoring Officer will appoint an Investigating Officer, who may be another Senior Officer of the Council, an Officer of another Council or an external investigator.

The Council has adopted a model procedure for the investigation of complaints, which is attached at Appendix 4 together with explanatory flowchart. Ordinarily the

Council would hope that investigations will take no more than 6 months to complete from the date the decision to investigate is taken. This will very much depend on the facts of each complaint and some investigations maybe concluded earlier and others may take longer.

It is vital to the timely completion of investigations that you, as the complainant, and the subject Member under investigation, comply with the reasonable requirements of the Investigating Officer in terms of interview attendance and supplying relevant documents. If you, as the complainant, do not the Investigating Officer may deem that you no longer wish to proceed with the complaint and refer the matter back to the Monitoring Officer or Assessment Panel for direction as to whether the investigation should be terminated. Similarly if the subject Member does not comply, the Investigating Officer will proceed to determine the investigation in the absence of their contribution and may draw an adverse inference from their non-cooperation.

The Investigating Officer will normally carry out the investigation in accordance with the model procedure detailed at Appendix 4 although may decide to depart from this if the circumstances of the complaint warrant it.

As an initial step, and subject to any ruling on disclosure, the Investigating Officer may write to the subject Member at the beginning of the investigation to see if the subject Member still wishes to contest the complaint. Subject to this the investigation will ordinarily follow the model procedure at Appendix 4.

At the end of the investigation, the Investigating Officer will produce a draft report and will send copies of the draft report, in confidence, to you and to the Member concerned to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

It should be noted that at any time during an investigation, the Investigating Officer may, following consultation with the Independent Person, refer the matter back to an Assessment Panel for re-consideration as to whether the investigation should proceed if the Investigating Officer considers that the Re-consideration Criteria in Appendix 3 are satisfied.

6 What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and consult with the Independent Person thereon. If having done so the Monitoring Officer is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the Member concerned and to the Parish or Town Council on which the Member serves, notifying you that he is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to re-consider his/her report.

7 What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and after consulting the Independent Person will consider whether Local Resolution should be attempted or the matter proceed direct to hearing before the Hearings Panel.

7.1 Local Resolution

The Monitoring Officer will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the Council. If the Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee and the Member's Council for information but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate or the Member concerned does not accept that the matter should be resolved in such a manner, the Monitoring Officer will refer the matter for a hearing before the Hearings Panel.

7.2 Hearings Panel

If the Monitoring Officer considers that Local Resolution is not appropriate or you are not satisfied by the proposed resolution, or the Member concerned does not accept that the matter should be resolved in such a manner, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a Hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the failure.

In readiness for the convening of the Hearings Panel, the Monitoring Officer will conduct a written "pre-hearing process", requiring the Member concerned to give their 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.

If, through the "pre-hearing process", the Member concerned accepts the Investigating Officer's report, they will be given the opportunity to provide a statement of mitigation which they may invite the Hearings Panel to consider in their absence. Alternatively, they may elect to attend a Hearings Panel to present their mitigation. In either case, the 'uncontested' hearing procedure will be followed as set out at Appendix 5.

Where, following the "pre-hearing process", the Investigating Officer's report remains in contention, the matter will be set down for a 'contested' hearing before the Hearings Panel. The 'contested' hearing procedure will be followed as set out at Appendix 6. In essence, at the Hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the Member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you, as the complainant, to attend and give evidence to the Hearings Panel. Unless called to do so by the Investigating Officer, you do not have the right to address the Hearings Panel of your own volition. The Member will then have an opportunity to give his/her

evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct. The Member may be represented legally or otherwise at the Hearings Panel.

The Hearings Panel, with the benefit of any advice from the Independent Person, may conclude that the Member did not fail to comply with the Code of Conduct and so dismiss the complaint. If the Hearings Panel concludes that the Member did fail to comply with the Code of Conduct, the Chair will inform the Member of this finding and the Hearings Panel will then consider what action, if any, the Hearings Panel should recommend as a result of the Member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the Member an opportunity to make representations to the Panel and will consult the Independent Person but will then decide what action, if any, to take in respect of the matter.

8 What action can the Hearings Panel take where a Member has failed to comply with the Code of Conduct?

The Council has delegated to the Hearings Panel such of its powers to take action in respect of individual Members as may be necessary to promote and maintain high standards of conduct. Accordingly, the Hearings Panel may -

- 8.1 Write to the Member over their conduct;
- 8.2 Publish its findings in the local media in respect of the Member's conduct;
- 8.3 Report its findings to the Council or to the Parish or Town Council concerned;
- 8.4 Recommend to the Member's Group Leader (or in the case of ungrouped Members, recommend to the Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 8.5 Recommend to the Leader of the Council that the Member be removed from the Cabinet or removed from particular Portfolio responsibilities;
- 8.6 Instruct the Monitoring Officer to, or recommend to the Parish or Town Council concerned that it, arrange training for the Member;
- 8.7 Recommend removal, or recommend to the Parish or Town Council concerned removal, of the Member from all outside appointments to which he/she has been appointed or nominated by the Council or the Parish or Town Council;
- 8.8 Withdraw, or recommend to the Parish or Town Council concerned that it withdraws, facilities provided to the Member by the Council, such as a computer, website and/or email and Internet access; or
- 8.9 Exclude, or recommend to the Parish or Town Council concerned that it excludes, the Member from the Council's Offices or other premises

with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee Meetings.

The Hearings Panel has no power to suspend or disqualify the Member or to withdraw a Member's basic allowance or any special responsibility allowances.

9 What happens at the end of the Hearing?

At the end of the Hearing, the Chair will state the decision of the Hearings Panel as to whether the Member has failed to comply with the Code of Conduct and as to any action which the Hearings Panel resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel and send a copy to you, to the Member and to any Parish and Town Council concerned and make such decision notice available for public inspection and report the decision to the next convenient Meeting of the Standards Committee.

The decision of the Hearings Panel is final and is not subject to a right of appeal.

10 Who are the Assessment and Hearings Panel?

The Assessment Panel and the Hearings Panel are Sub-Committees of the Council's Standards Committee. The Standards Committee has decided that each of those Panels will comprise a maximum of 3 elected Members of the Council's Standards Committee drawn from at least 2 different political Parties. Subject to those requirements, they are appointed on the nomination of Party Group Leaders in proportion to the strengths of each Party Group on the Council. Co-opted, non-voting Members of the Standards Committee may be asked to sit on such Panels.

The Independent Person is invited to attend all Meetings of the Assessment Panel and the Hearings Panel and his/her views are sought and taken into consideration before the Monitoring Officer or Assessment Panel takes any decision on whether a complaint should be investigated. The Hearings Panel will seek the Independent Person's views on whether a Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

11 Who is the Independent Person?

The Independent Person is a person who has applied for the Post following advertisement of a vacancy for the Post and is then appointed by a positive vote from a majority of all the Members of the Council.

A person cannot be “independent” if he/she -

- 11.1 Is, or has been within the past 5 years, a Member, co-opted Member or Officer of the Council;
- 11.2 Is, or has been within the past 5 years, a Member, co-opted Member or Officer of a Parish or Town Council within the Council's area; or
- 11.3 Is a relative or close friend of a person defined at paragraph 11.1 or 11.2 above. For this purpose, “relative” means –
 - 11.1.1 Spouse or civil partner;
 - 11.1.2 Living with the other person as husband and wife or as if they were civil partners;
 - 11.1.3 Grandparent of the other person;
 - 11.1.4 A lineal descendent of a grandparent of the other person;
 - 11.1.5 A parent, sibling or child of a person defined at paragraphs 11.3.1 or 11.3.2;
 - 11.1.6 A spouse or civil partner of a person defined at paragraphs 11.3.3, 11.3.4 or 11.3.5; or
 - 11.1.7 Living with a person defined at paragraphs 11.3.3, 11.3.4 or 11.3.5 as husband and wife or as if they were civil partners.

12 Revision of these arrangements

The Standards Committee may amend these arrangements.

The Chair of any Assessment Panel or Hearings Panel may, following consultation with the Independent Person, depart from the procedures detailed herein where he/she considers it is expedient to do so in order to secure the effective and fair consideration of any matter, including the convention of an external panel where Members are conflicted.

For the avoidance of doubt, Members who have sat on an Assessment Panel are not precluded from sitting on a subsequent Hearings Panel called to determine the same complaint as considered by the Assessment Panel.

If the Monitoring Officer considers that he may be conflicted in the discharge of these arrangements, he may delegate such matters to a Deputy Monitoring Officer to discharge.

13 Appeals

There is no right of appeal for you as complainant or for the Member against a decision of the Monitoring Officer, the Assessment Panel or the Hearings Panel.

If you feel that the Council has failed to deal with your complaint in accordance with these arrangements, you may make a complaint to the Local Government Ombudsman.

Appendix 1	Model Complaint Form
Appendix 2	The Council's Code of Conduct
Appendix 3	Assessment Criteria
Appendix 4	Procedure for Investigations
Appendix 5	'Uncontested' hearing procedure
Appendix 6	'Contested' hearing procedure
Appendix 7	Overview of process
Appendix 8*	Protocol reporting potential criminal offences

Will Bell
Monitoring Officer
April 2012

* as amended on 27 March 2013 by the Standards Committee

**COMPLAINT FORM
MEMBER(S) CONDUCT**

Your details

1. Please provide us with your name and contact details:

Title:	
First name:	
Last name:	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile telephone:	
Email address:	

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

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

- the member(s) you are complaining about
- the monitoring officer of the authority
- the parish or town clerk (if applicable)
- the council's Independent Person (if required)
- members of the Assessment Panel or Hearings Panel convened to consider your complaint
- **officers involved in mediation (if applicable)**

We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate to be able to deal with it. If you have serious concerns about your name and a summary, or details of your complaint being released, please complete section 5 of this form.

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

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

Making your complaint

Once your complaint has been received a decision will be taken in accordance with the council’s published arrangements as to what action, if any, should be taken on it. You will not have the opportunity to attend a meeting at this stage. It is important that you provide information that you want taken into account as part of your complaint.

Please refer to the council’s published arrangements under the heading “Making a complaint” which explains how your complaint will be dealt with.

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

Title	First name	Last name	Council or authority name

It is important that you provide a summary of the information you wish to have taken into account (within the space provided below) so a decision can be made, in accordance with the published arrangements, whether to take any action on your complaint. For example:

- You should be specific, wherever possible, about exactly what you are alleging the member said or did. For instance, instead of writing that the member insulted you, you should state what it was they said.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.

Please indicate which paragraphs of the Code of Conduct you consider the member(s) to have breached by ticking the appropriate box(es).

- 3.1** “ You must treat others with respect and courtesy”
- 3.2** “You must not bully or intimidate any person”.
- 3.3** “You must not do anything which may cause the Council to breach any equality laws.”
- 3.4** “You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council, or your office as a Member of the Council, into disrepute. “
- 3.5** “You must not knowingly prevent, or attempt to prevent, another person from gaining access to information to which they are entitled by law”.
- 3.6** “You must act solely in the public interest and not use or attempt to use your position as a Member improperly to confer or secure for yourself or any other person an advantage or disadvantage”.
- 3.7** “You must not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council”.
- 3.8** “You must only use, or authorise the use of the Council’s resources for proper purposes (regard being had to any applicable Local Authority Code of Publicity) and in accordance with the Council’s procedural and policy requirements”.
- 3.9** “You must not disclose information which is given to you in confidence, or information which you believe, or ought to be aware, is of a confidential nature, except where:

- a) You have the consent of the person authorised to give it;
- b) You are required to do so by law;
- c) The disclosure is made to a third party for the purpose of obtaining professional legal advice provided that third party agrees not to disclose the information to any other person;
- d) The disclosure is reasonable in the public interest, made in good faith, and that you have consulted the Monitoring Officer.”

Interests. Tick this box if you believe that the member(s) either did not declare an interest, or has declared the wrong type of interest. (Interest requirements re Personal, Prejudicial or Disclosable Pecuniary Interests are outlined in paragraphs 4, 6 and 7 of the Code of Conduct). If you are unsure, please tick the box, adding an explanation in section 4 below.

4. Please explain in this section what the member has done that you believe breaches the Code of Conduct. Please enclose any supporting documents but limit these to those that are directly relevant and material to the complaint (see paragraph 3 of the Arrangements).

If you are complaining about more than one member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

Please provide us with details of your complaint (within the space provided)

Please explain what steps, if any, you have taken to resolve this complaint directly with the member concerned?

Would you be prepared to engage in mediation with the member concerned, if considered appropriate, to try and resolve the complaint?

Yes

No

If you answered no please state reason why below:

Just call the hotline number for your language. This connects you to an interpreter who will speak to the council for you and tell you what they say.

No English?

For information please call:

08000 193530 للحصول على المزيد من المعلومات اتصل بـ: (Arabic)

তথ্যগুলি বাংলায় জানতে হলে এই নম্বরে ফোন করুন: 08000 193531 (Bengali)

欲知粵語版的信息, 請致電: 08000 193532 (Cantonese)

हिन्दी में जानकारी के लिये 08000 193533 पर फोन करें (Hindi)

08000 193537 به کوردی سۆزانی تەلهفۆن بۆ ژماره (Kurdish Sorani)

Para mais informação em português contacte-nos através do telefone 08000 193538 (Portuguese)

ਪੰਜਾਬੀ ਵਿਚ ਜਾਣਕਾਰੀ ਲਈ 08000 193539 'ਤੇ ਫੋਨ ਕਰੋ (Punjabi)

"Warbixinta oo af Soomaali ah wac 08000 193540" (Somali)

08000 193541 اردو میں انفارمیشن کے لیے اس ٹیلیفون نمبر پر رابطہ کریں۔ (Urdu)

For information in large print, audio, Braille or to request a signer to speak to us please contact 01724 296296

If you call in person at Local Links, libraries and leisure venues, staff can also contact a network of interpreters available 24 hours a day, seven days a week. They will also be able to arrange for translation of documents, publications and other information.

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

North Lincolnshire Council is committed to treating everyone equally irrespective of gender, age, responsibility for dependants, creed, race, religion or ethnic origins, sexuality or disability.

NORTH LINCOLNSHIRE COUNCIL

CODE OF CONDUCT

1. INTRODUCTION

- 1.1 This Code of Conduct ('Code') has been adopted by North Lincolnshire Council ('Authority') as required by Section 27 of the Localism Act 2011 ('Act').
- 1.2 The Authority has a statutory duty under the Act to promote and maintain high standards of conduct by its Members.
- 1.3 This Code is not intended to be an exhaustive list of all the obligations that are placed on Members. It is the responsibility of individual Members to comply with the provisions of the Code as well as such other legal obligations as may apply from time to time. Members should also comply with the following "Nolan" principles:

Selflessness
Integrity
Objectivity
Accountability
Openness
Honesty
Leadership

2. WHO DOES THIS CODE APPLY TO AND WHEN DOES IT APPLY?

- 2.1 This Code applies to all Members of the Authority and to all co-opted Members of any committee, sub-committee or joint committee of the Authority.
- 2.2 This Code applies whenever a person is acting in his/her official capacity as a Member of the Authority or co-opted Member in the conduct of the Authority's business, or acting as a representative of the Authority, including -
- 2.2.1 at meetings of the Authority, its Committees and Sub-Committees, its Cabinet and Cabinet Committees;
- 2.2.2 when acting as a representative of the Authority;
- 2.2.3 in discharging their functions as a ward Councillor or as a member of the Executive;
- 2.2.4 at briefing meetings with officers; and
- 2.2.5 at site visits.

2.3 Any allegation received by the Authority that a Member has failed to comply with this Code will be dealt with under the Arrangements which the Authority has adopted for such purposes.

3. WHAT STANDARDS OF CONDUCT ARE MEMBERS EXPECTED TO OBSERVE?

3.1 You must treat others with respect and courtesy.

3.2 You must not bully or harass any person, as further defined in Appendix 2.

3.3 You must not do anything which may cause the Authority to breach any equality laws.

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

3.5 You must not knowingly prevent, or attempt to prevent, another person from gaining access to information to which they are entitled by law.

3.6 You must act solely in the public interest and not use, or attempt to use, your position as a Member improperly to confer or secure for yourself or any other person an advantage or disadvantage.

3.7 You must not do anything which compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, the Authority.

3.8 You must only use, or authorise the use of, the Authority's resources for proper purposes (non political with regard being had to any applicable Local Authority Code of Publicity) and in accordance with the Authority's procedural and policy requirements.

3.9 You must not disclose information which is given to you in confidence, or information which you believe, or ought to be aware, is of a confidential nature, except where:

3.9.1 you have the consent of the person authorised to give it;

3.9.2 you are required to do so by law;

3.9.3 the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or

3.9.4 the disclosure is reasonable in the public interest, made in good faith, and that you have consulted the Monitoring Officer.

4. DISCLOSABLE PECUNIARY INTERESTS ('DPI')

- 4.1 You have a Disclosable Pecuniary Interest (DPI) in any business of the Authority if that interest falls under any of the descriptions at Appendix 1 of this Code.

Disclosure Requirement

- 4.2 You must, within 28 days of 1st July 2012 or of taking office as a Member or co-opted Member (where that is later), notify the Authority's Monitoring Officer of any DPI as defined in Regulations made by the Secretary of State and set out in Appendix 1 of this Code, where the DPI is yours or your partner's (which means spouse or civil partner, a person with whom you are living with as husband or wife or a person with whom you are living with as civil partners). You must also notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of your DPIs.
- 4.3 You must make verbal declaration of the existence and nature of any DPI at any meeting of the Authority at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent. Where the interest is deemed a "sensitive interest" (see paragraph 4.5), you need only declare the existence of the DPI but not the detail.
- 4.4 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 DPI in any matter to be considered or being considered at the meeting, unless a dispensation has been granted,
- 4.4.1 you must not participate in any discussion of the matter at the meeting.
- 4.4.2 you must not participate in any vote taken on the matter at the meeting.
- 4.4.3 you must withdraw from the room or chamber whilst the matter is being discussed and voted on.
- 4.4.4 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.

Sensitive Interest

- 4.5 Where you consider that disclosure of the details of a DPI 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 DPI, the details of which are withheld under Section 32(2) of the Act.

5. CRIMINAL SANCTIONS RELATING TO DISCLOSABLE PECUNIARY INTERESTS

- 5.1 A Member commits a criminal offence if, without reasonable excuse, you -
- 5.1.1 fail to notify the Monitoring Officer of any DPI within 28 days of election;
 - 5.1.2 fail to disclose a DPI at a meeting if it is not on the register;
 - 5.1.3 fail to notify the Monitoring Officer within 28 days of a DPI that is not on the register that you have disclosed to a meeting;
 - 5.1.3 participate in any discussion or vote on a matter in which you have a DPI (including taking a decision as an Executive Member acting alone);
 - 5.1.4 as an executive Member discharging a function acting alone, and having a DPI in such a matter, fail to notify the Monitoring Officer within 28 days of the interest; and
 - 5.1.5 knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a DPI or in disclosing such interest to a meeting.
- 5.2 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 a maximum of 5 years.

6. PERSONAL INTERESTS

- 6.1 You have a personal interest in any business of the Authority where either it relates to or is likely to affect -
- 6.1.1 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 the Authority;
 - 6.1.2 any body -
 - exercising functions of a public nature;
 - directed to charitable purposes; or
 - 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.
 - 6.1.3 the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25.
- 6.2 You have a personal interest in any business of the 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 division or ward, as the case may be, affected by the decision, or relates to or is likely to affect any interests you have registered as a DPI.

6.3 *A relevant person is -*

6.3.1 a member of your family or any person with whom you have a close association; or

6.3.2 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;

6.3.3 any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or

6.3.4 any body of a type described in sub-paragraphs 6.1.1 and 6.1.2.

Disclosure Requirement

6.4 If you have a personal interest as defined in paragraph 6.1, you must, within 28 days of 1st July 2012 or of taking office as a Member or co-opted Member (where that is later), notify the Authority's Monitoring Officer in writing of such interest. You must also notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of your personal interests defined in paragraph 6.1.

6.5 Subject to paragraph 6.6, you must make a verbal declaration of the existence and nature of any personal interest you have under this paragraph, at any meeting of the Authority at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent. Where the interest is deemed a "sensitive interest" (see paragraph 4.5), you need only declare the existence of the interest but not the detail.

6.6 Where you have a personal interest in any business of the Authority which relates to or is likely to affect a body defined in paragraphs 6.1.1 and 6.1.2 you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

6.7 Having disclosed a personal interest and providing it is not a prejudicial interest, you may still continue to participate and vote on the matter at that meeting.

6.8 Where you have a personal interest in any business of the 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.

7. PREJUDICIAL INTERESTS

7.1 Where you have a personal interest in any business of the Authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest (unless the matter falls within one of the exempt categories detailed in paragraph 8) and where that business -

7.1.1 affects your financial position or the financial position of a person or body described in paragraph 6.3; or

7.1.2 relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 6.3.

Disclosure Requirement

7.2 Subject to paragraph 7.3, where you have a prejudicial interest in any business of the Authority, you must make verbal declaration of the existence and nature of such interest at any meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent and, unless a dispensation has been granted, -

7.2.1 you must not participate in any discussion of the matter at the meeting.

7.2.2 you must not participate in any vote taken on the matter at the meeting.

7.2.3 you must, unless paragraph 7.3 applies, withdraw from the room or chamber whilst the matter is being discussed and voted on.

7.3 Where you have a prejudicial 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 or chamber where the meeting is held immediately after making representations, answering questions or giving evidence.

7.4 Where, as an executive member, you may discharge a function alone, and you become aware of a prejudicial 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.

8. EXEMPT CATEGORIES

8.1 Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a prejudicial interest that relates to the functions of the Authority in respect of -

- 8.1.1 housing, where you are a tenant of the Authority provided that those functions do not relate particularly to your tenancy or lease;
- 8.1.2 school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
- 8.1.3 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;
- 8.1.4 an allowance, payment or indemnity given to Members;
- 8.1.5 any ceremonial honour given to Members; and
- 8.1.6 setting council tax or a precept under the Local Government Finance Act 1992.

9. **OVERVIEW AND SCRUTINY COMMITTEES**

- 9.1 In any business before an overview and scrutiny committee of the Authority (or of a sub-committee of such a committee) where –
 - 9.1.1 that business relates to a decision made (whether implemented or not) or action taken by an executive or another of the Authority's committees, sub committees, joint committees or joint sub-committees; and
 - 9.1.2 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 9.1.1 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 answering questions or giving evidence relating to the business, and you must leave the room or chamber where the meeting is held immediately after making representations, answering questions or giving evidence.

10. **REGISTER OF INTERESTS**

- 10.1 Any interests notified to the Monitoring Officer will be included in the register of members' interests. A copy of this register will be available for public inspection and will be published on the Authority's website.
- 10.2 For the purposes of this Code a DPI is the subject of a 'pending notification' where it has been notified to the Authority's Monitoring Officer but has not yet been entered in the register of members' interests in consequence of that notification.

11. **EXPECTATION OF CO-OPERATION**

11.1 There is an expectation that all councillors will comply with requests from the Standards Committee (and its sub-committees) and the Monitoring Officer regarding allegations of breach of this Code of Conduct, including responding to allegations, preliminary evidence gathering before assessment or investigation, and formal standards investigations. Failure to do so may be regarded as a breach of this Code of Conduct for which sanctions may be applied.

APPENDIX 1

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:

Interest	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the 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" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

"M" means a member of a relevant authority;

"member" includes a co-opted member;

"relevant authority" means the authority of which M is a member;

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

"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.

APPENDIX 2

Bullying and Harassment

The following should be read in conjunction with the paragraph 3.2 of this Code.

Bullying maybe characterised as: offensive, intimidating, malicious or insulting behaviour; or an abuse or misuse of power in a way that intends to undermine, humiliate, denigrate or injure the recipient.

Harassment maybe characterised as: unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.

Bullying and harassment is not necessarily face to face, it may occur through written communications, visual images or by email and phone. It may be obvious or it may be insidious. Whatever form it takes, it is unwarranted and unwelcome to the individual.

Some examples of bullying and harassment include:

- Spreading malicious rumours, or insulting someone by word or behaviour
- Exclusion or victimisation
- Ridiculing or demeaning someone
- Unfair treatment
- Deliberately undermining the competence of an employee by constant criticism.
- Unwanted sexual advances
- Threats to a person's wellbeing, reputation or employment.

These examples are not exhaustive and due regard will be had to any guidance issued by ACAS, from time to time, on the definition of bullying and harassment in the application of paragraph 3.2 of this Code.

ASSESSMENT CRITERIA

Stage 1 Criteria

Before the assessment of a complaint begins, the Monitoring Officer or Assessment Panel must be satisfied that the complaint meets the following requirements:

- (i) It is a complaint against one or more named Members of the Council or a Parish or Town Council within the area;
- (ii) The named Member or Members were in Office at the time of the alleged conduct and acting in their official capacity; and
- (iii) The complaint, if proven, would be a breach of the Council's Code of Conduct in force at the relevant time.

If the complaint fails any one of these tests, it cannot be investigated as a breach of the Council's Code of Conduct and the complainant must be informed that no further action can be taken in relation to the complaint. If it passes all three tests then it can be assessed according to the criteria set out below.

Stage 2 Criteria

The Monitoring Officer or Assessment Panel is/are unlikely to refer a complaint for investigation where it falls into any of the following categories:-

- (a) The complaint appears to be vexatious, malicious, politically motivated, relatively minor, insufficiently serious, tit-for-tat, or there are other reasons why an investigation may not be in the public interest.
- (b) The same, or substantially similar, complaint has already been the subject of assessment or investigation and there is nothing more to be gained by further action being taken.
- (c) It appears that the complaint concerns or is really about dissatisfaction with a Council decision or policy rather than a breach of the Code of Conduct.
- (d) There is not enough information currently available to justify a decision to refer the matter for investigation.
- (e) The complaint is about someone who has died, resigned, is seriously ill or is no longer a Member of the Council concerned and therefore it is not in the public interest to pursue.

- (f) Where the allegation is anonymous, unless it includes documentary or photographic evidence indicating an exceptionally serious or significant matter and it is considered in the public interest that it be investigated.
- (g) Where the event/s or incident/s took place more than 6 months prior to the date of complaint being received or where those involved are unlikely to remember the event/s or incident/s clearly enough to provide credible evidence.
- (h) The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter and where independent evidence is likely to be difficult or impossible to obtain.
- (i) If it is considered that the subject Member has **offered** a satisfactory remedy to the complainant (for example by apologising) or the complaint is capable of other informal resolution **such as mediation** and the Member complained of is amenable to such approach.
- (j) If it is satisfied that having regard to the nature of the complaint and the level of its potential seriousness, the public interest in conducting an investigation does not justify the cost of such an investigation.
- (k) Where the allegation discloses a potential breach of the Code of Conduct but it is considered that the complaint is not serious enough to warrant any further action and:
 - the Member and Officer resource needed to investigate and determine the complaint is wholly disproportionate to the matter complained about; or
 - **in** all the circumstances there is no overriding public benefit or interest in carrying out an investigation.

RE-CONSIDERATION CRITERIA

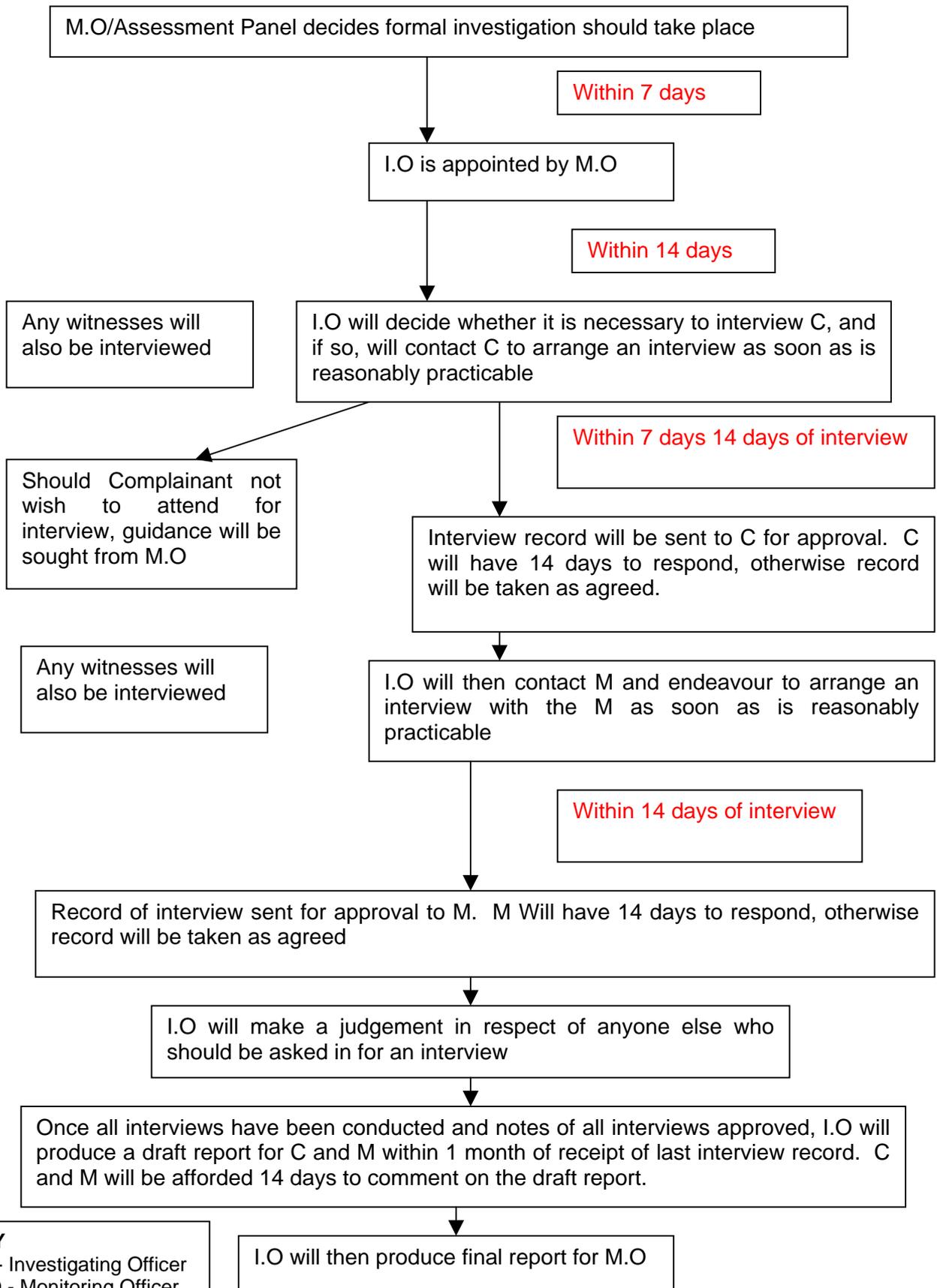
The Investigating Officer may, following consultation with the Independent Person, refer an investigation to an Assessment Panel for re-consideration as to whether the investigation should proceed where:

- As a result of new evidence or information, the Investigating Officer is of the opinion that the matter is materially less serious than may have seemed apparent to the Monitoring Officer or Assessment Panel when the decision was made to refer the complaint for investigation, and a different decision may have been made had either the Monitoring Officer or Assessment Panel been aware of the new evidence or information;

- The Member who is the subject of the allegation has died, is seriously ill or has resigned from the Council concerned and in the circumstances the Investigating Officer is of the opinion that it is no longer appropriate to proceed with the investigation; or

- Other circumstances arise, which in the reasonable opinion of the Investigating Officer, render it appropriate for the investigation to be referred to an Assessment Panel for re-consideration.

PROCEDURE FOR INVESTIGATIONS



KEY
 I.O - Investigating Officer
 M.O - Monitoring Officer
 C - Complainant
 M - Member

**STANDARDS COMMITTEE
OUTLINE PROCEDURE FOR HEARINGS PANEL (UNCONTESTED)**

Preliminary Procedural Issues

1. Introductions.
2. Declarations of Interest (if any).
3. To consider any request for the exclusion of Press and Public.

Breach of the Code of Conduct

4. Monitoring Officer (or his/her representative) to present summary report, including the findings of fact made by the Investigating Officer, and refer to outcome of pre-hearing process.
5. Views of the Independent Person sought.
6. Members of the Panel to raise/clarify issues.
7. The Panel will retire, along with the Monitoring Officer, to determine whether there has been a breach of the Code of Conduct. The Panel's decision will be reported back to the meeting by the Head of Democratic Services.

Action to be taken

8. Monitoring Officer (or his/her representative) to outline possible sanctions.
9. Investigating officer to make submissions on appropriate sanction, if any.
10. Member or (his/her representative) to present statement of, or provide oral, mitigation, including on what sanction, if any, should be imposed.
11. Views of the Independent Person sought.
12. Members of the panel to raise/clarify issues.
13. The Panel will retire, along with the Monitoring Officer, to consider what sanction, if any, should be imposed. The Panel's decision will be reported back to the meeting by the Head of Democratic Services.

Close of Hearing

**STANDARDS COMMITTEE
OUTLINE PROCEDURE FOR HEARINGS PANEL (CONTESTED)**

Preliminary Procedural Issues

1. Introductions.
2. Declarations of Interest (if any).
3. To consider any request for the exclusion of Press and Public.

Findings of Fact

4. Monitoring Officer (or his/her representative) to present summary report and refer to outcome of pre-hearing process.
5. Investigating Officer to present report and call such witnesses as he/she considers necessary to substantiate his/her conclusion(s) within the report.
6. Member (or his/her representative) to raise/clarify issues with the Investigating Officer, including the questioning of the Investigating Officer's witnesses.
7. Members of the Panel to raise/clarify issues with the Investigating Officer, including the questioning of the Investigating Officer's witnesses.
8. Member (or his/her representative) to present their case and call such witnesses as he/she considers necessary.
9. Investigating Officer to raise/clarify issues with the Member (or his/her representative), including the questioning of the Member's witnesses.
10. Members of the Panel to raise/clarify issues with the Member (or his/her representative), including the questioning of the Member's witnesses.
11. Views of the Independent Person sought.
12. Members of the Panel to raise/clarify issues with the Independent Person.
13. The Panel will retire, along with the Monitoring Officer, to determine its findings of fact. The Panel's decision will be reported back to the meeting by the Head of Democratic Services.

Breach of the Code of Conduct

14. The Panel will need to consider whether or not, based on the facts it has found, the Member has breached the Code of Conduct.

15. Investigating Officer to address the Panel on whether the facts found constitute a breach of the Code of Conduct.
16. Member (or his/her representative) to address the Panel as to why the facts found do not constitute a breach of the Code of Conduct.
17. Views of the Independent Person sought.
18. Members of the Panel to raise/clarify issues.
19. The Panel will retire, along with the Monitoring Officer, to determine whether there has been a breach of the Code of Conduct. The Panel's decision will be reported back to the meeting by the Head of Democratic Services.

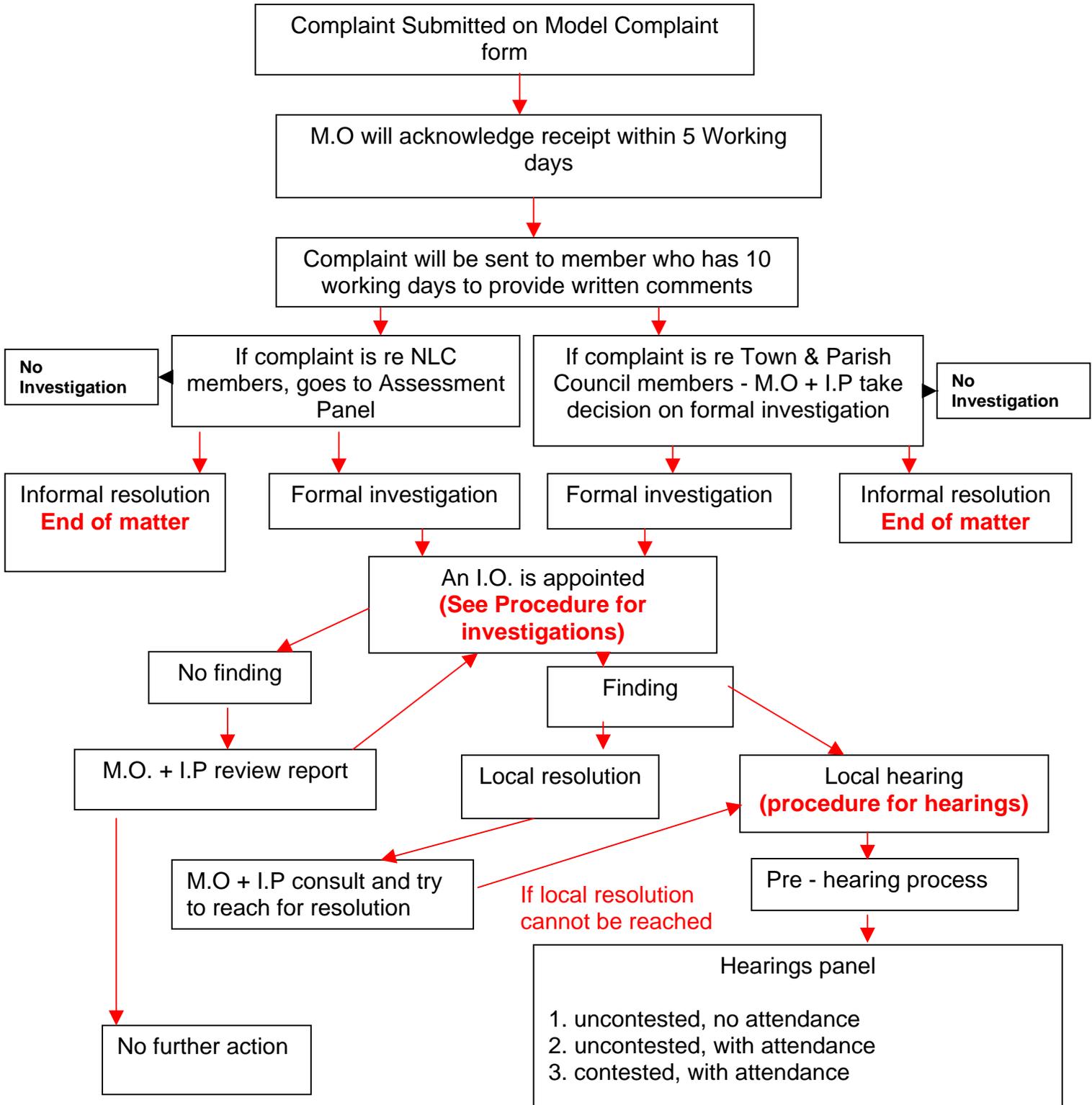
(If the Panel determine that there has been no breach of the Code of Conduct, the complaint will be dismissed. If, however, the Panel determine that there has been a breach of the Code of Conduct, the procedure at paragraph 20 will apply).

Action to be taken

20. The Panel will need to determine what sanction, if any, should be imposed as a result of the Member's breach of the Code of Conduct.
21. Monitoring Officer (or his/her representative) to outline possible sanctions.
22. Investigating officer to make submissions on appropriate sanction, if any.
23. Member (or his/her representative) to make submissions on whether any sanction should be imposed.
24. Views of the Independent Person sought.
25. Members of the panel to raise /clarify issues.
26. The Panel will retire, along with the Monitoring Officer, to consider what sanction, if any, should be imposed. The Panel's decision will be reported back to the meeting by the Head of Democratic Services.

Close of Hearing

OVERVIEW OF NLC PROCESS



PROTOCOL

BETWEEN

**NORTH LINCOLNSHIRE AND NORTH EAST LINCOLNSHIRE COUNCIL
MONITORING OFFICERS**

AND

HUMBERSIDE POLICE

Purpose - To agree a protocol for the reporting of potential criminal offences arising under Section 34 of the Localism Act 2011 concerning the registration and/or disclosure of Disclosable Pecuniary Interests (DPIs) (as defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012).

1. In the event that a Monitoring Officer receives a complaint regarding a potential DPI offence they will make immediate contact with Humberside Police through the nominated single point of contact.
2. Similarly if Humberside Police receives a complaint they will inform the relevant Monitoring Officer (each authority will be responsible for providing up to date contact details of their appointed Monitoring Officer from time to time).
3. Humberside Police will register the complaint and conduct an initial assessment of the complaint but may approach the relevant Monitoring Officer for background information on the complaint.
4. If Humberside Police decide not to prosecute the matter they will normally pass the relevant evidence to the relevant Monitoring Officer so that consideration can be given to a Code of Conduct breach being pursued. In the event that the relevant Council decides to pursue a Code of Conduct breach they will inform Humberside Police of their decision.
5. Both the relevant Monitoring Officer and Humberside Police will endeavour to keep complainants regularly updated as to the progress of complaints.