



## NOTICE OF MEETING

<b>Meeting:</b>	<b>Standards Committee</b>
<b>Date and Time:</b>	<b>Wednesday, 6 March 2019 at 7pm</b>
<b>Place:</b>	<b>Committee Room 1, Civic Offices, Fleet</b>
<b>Telephone Enquiries to:</b>	<b>01252 774141 (Mrs Gill Chapman)</b> <a href="mailto:committeeservices@hart.gov.uk">committeeservices@hart.gov.uk</a>
<b>Members:</b>	<b>Councillors Ambler, Clarke, Crisp, Kennett, Southern</b> <b>Independent Member: Peter Kern</b> <b>Parish Representatives: David Argent, Alastair Clark, John Keane</b>

Joint Chief Executive

CIVIC OFFICES, HARLINGTON WAY  
FLEET, HAMPSHIRE GU51 4AE

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## AGENDA

**COPIES OF THIS AGENDA ARE AVAILABLE IN LARGE PRINT  
AND BRAILLE ON REQUEST**

- 1 At the start of the meeting, the Lead Officer will confirm the Fire Evacuation Procedure.**
- 2 The Chairman will announce that this meeting may be recorded and that anyone remaining at the meeting has provided their consent to any such recording – please see our protocol on [Attending and Reporting Meetings](#)**

**1 ELECTION OF CHAIRMAN AND VICE CHAIRMAN**

**2 MINUTES OF PREVIOUS MEETING**

The Minutes of the meeting of 20 August 2015 are attached to be confirmed and signed as a correct record. **Paper A**

**3 APOLOGIES FOR ABSENCE**

**4 CHAIRMAN'S ANNOUNCEMENTS**

**5 DECLARATIONS OF INTEREST**

To declare disclosable pecuniary or any other interests.

**6 UPDATE - COMPLAINTS AGAINST COUNCILLORS**

To note the decisions on recent complaints. **Paper B**

**RECOMMENDATION**

That the information be noted.

**7 REVIEW OF CODE OF CONDUCT COMPLAINTS FORM AND GUIDANCE**

To review the Code of Conduct Complaints form and guidance. **Paper C**

**RECOMMENDATION**

That the Committee considers the form and guidance and offers suggestions for its update/improvement.

**8 MEMBERS' CODE OF CONDUCT UPDATE**

To consider and approve the updated Members' Code of Conduct. **Paper D**

**RECOMMENDATION**

That the updated Members' Code of Conduct be approved.

**Date of Despatch: 26 February 2019**

## **STANDARDS COMMITTEE**

**Date and Time:** Thursday, 20 August 2015 at 4pm

**Place:** Committee Room 1, Civic Offices

**Present:**

### **COUNCILLORS**

Ambler, Bailey (substitute for Crisp), Crookes, Kennett, Radley JR

**In attendance:** Oliver, Parker, Radley JE

**Independent Members:** Peter Kern (Chairman), Mike Hirst

**Parish Representatives:** Alastair Clark

**Officers Present:** Daryl Phillips, Monitoring Officer  
Gill Chapman, Committee Services

### **1 ELECTION OF VICE CHAIRMAN**

Councillor Ambler was elected Vice Chairman.

### **2 MINUTES OF PREVIOUS MEETING**

Councillor Radley pointed out that she had not attended the meeting and with this amendment the Minutes of the meeting of 18 March 2015 were confirmed and signed as a correct record.

### **3 APOLOGIES FOR ABSENCE**

Apologies had been received from Councillor Crisp, substituted by Councillor Bailey, John Keane and David Argent.

### **4 CHAIRMAN'S ANNOUNCEMENTS**

None.

### **5 DECLARATIONS OF INTEREST**

None declared.

## 6 HART DISTRICT COUNCIL CONSTITUTION: PROPOSED PRACTICE NOTE FOR APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES, AND PROPOSED SCHEMES FOR PUBLIC QUESTION TIME, AND PETITIONS

Members considered a proposed Practice Note for appointment of substitute members of committees and sub-committees, and proposed Schemes for public question time and petitions, and the recommendation to Council of their adoption.

The Monitoring Officer introduced the item, confirming that in researching other authorities' schemes he had found no consistency. Schemes ranged from no questions, through 1 minute allowed and no supplementary, though to complete discretion of the Chairman as to whether and what type of questions were allowed. He referred to the emails that had been circulated and suggested some adjustments to the wording. In particular one substantial change to the existing 'Resign and Replace' arrangement, which had no arrangement to deal with the substitution of a Standards Member. He proposed the following wording to the proposed '**Appointment of Substitute Members of Committees and Sub-Committees**' at Appendix 1b.

### **"Standards Committee**

*Substitutes may be allowed for one meeting only and for parish representatives the substitute shall be drawn from a pool of two "reserve" parish representatives who shall have been nominated by the Hart District Association of Parish and Town Councils to the Annual Council meeting. A "reserve" Independent Member shall be appointed annually by the Council.*

Members agreed to this amendment. After further discussion on notification of substitution it was agreed to add a note on good practice to ensure clarity for Members and Officers.

Members considered the Scheme for Public Questions in depth, with discussion centring around the time and content of questions without losing the public engagement element. The following points were agreed:

- Questions must not exceed 100 words (which would equate approximately to 2 minutes) and would be read and answered at the Council meeting.
- Supplementary questions must not exceed 1 minute
- The Constitution already allowed for 20 minutes of questions at the meeting, which could be extended at the Chairman's discretion
- If the Chairman considers that the business of the meeting must proceed before all the notified questions have been asked and answered, then questions would be answered in writing after the meeting (within 10 working days)
- More technical questions may require a written answer under an agreed timescale (eg 10 working days)
- Questions would be answered in rotation, eg one from the first questioner, then one from the second etc. This would require an adjustment to the Constitution (para 12.2)

- Those questions asked and answered at the meeting would be included in the Minutes, those not answered would be posted on the website with responses.

In considering the Petitions Scheme, Members agreed that point 5 should be adjusted in light of the earlier discussions, and that points 6 to 11 should stand.

It was agreed the Monitoring Officer would circulate updated Schemes to Members for their comments and agreement. The updated Schemes and Guidance would be appended to the Minutes as the recommendation to Council.

### **RECOMMENDATION to Council**

- 1 To ADOPT the proposed as attached:
  - 1.1 Practice Note - Appointment of Substitute Members of Committees and Sub-Committees.
  - 1.2 Council's Scheme for Public Questions.
  - 1.3 Petitions Scheme.
- 2 That the Constitution be changed to reflect that questions be asked and answered in rotation, as attached.  
*NB Para 25.1 of the the Constitution states that 'Any motion to change the Constitution will, when proposed and seconded, be referred without discussion to the next ordinary meeting of the Council.'*

The meeting closed at 1800

**STANDARDS COMMITTEE**

**DATE: 6 MARCH 2019**

**TITLE OF REPORT UPDATE - COMPLAINTS AGAINST COUNCILLORS**

**Report of: Monitoring Officer**

**1 PURPOSE OF REPORT**

To inform members of the cases relating to the Members' Code of Conduct considered by the Monitoring Officer in 2017/18, attached at Appendix I.

**2 OFFICER RECOMMENDATION**

That the information at Appendix I be noted.

**3 BACKGROUND**

- 3.1 The Monitoring Officer, in consultation with the Independent Persons, considered complaints against Hart District Councillors and Parish/Town Councillors.
- 3.2 It should be noted, the Localism Act gives the Monitoring Officer no direct authority over the actions of a Parish or Town Council, with no remit to pass comment on the manner in which the Town or Parish Council chooses to conduct its business. The remit of the Monitoring Officer extends solely in dealing with complaints associated with allegations that individual members have breached the Town or Parish Council's adopted Code of Conduct, and in the case of the Councillors, make recommendation to the Parish or Town Council on how it might choose to proceed in light of any recommendations.

**4 CONCLUSION**

That the information be noted.

**Contact:** Daryl Phillips, x4143, [daryl.phillips@hart.gov.uk](mailto:daryl.phillips@hart.gov.uk)

**APPENDIX**

**Appendix I - Summary of Complaints**

**Appendix I**

<b>Date</b>	<b>Councillor / Parish</b>	<b>Complaint Summary &amp; Findings</b>
March 2017	Cllr Murr, Yateley TC	Complaint regarding conduct in a personal setting. Disputed facts. Finding - no Code of Conduct breach as not acting in official capacity.
July 17	Cllrs Hale and Warboys, Odiham PC	Internal staff related grievance issue. Finding - no Code of Conduct breach.
Nov 2018 (2 complaints)	Cllrs Oliver and Schofield, Fleet TC	Complaint regarding conduct at a Fleet Town Council meeting towards another FTC Councillor. Finding - inappropriate behaviour by Councillor Oliver. Apologies had been made.
Nov 2018	Cllr Delaney, HDC	Complaint regarding failure to disclose pecuniary interest. Finding - no action as the matter subject to the complaint fell outside the proper arrangements for dealing with complaints

**STANDARDS COMMITTEE**

**DATE:** 6 MARCH 2019

**TITLE OF REPORT** REVIEW OF CODE OF CONDUCT COMPLAINTS  
FORM AND GUIDANCE

**Report of:** Monitoring Officer

**Cabinet Member:** Councillor David Neighbour, Leader

**1 PURPOSE OF REPORT**

To review the Code of Conduct Complaints form and guidance.

**2 OFFICER RECOMMENDATION**

That the Committee considers the form and guidance and offers suggestions for its update/improvement.

**3 BACKGROUND**

3.1 The Code of Complaint Form and Guidance has been available on the Hart website since the new Standards regime was introduced in 2012. It has been amended intermittently to reflect operational changes but has not been fully reviewed as to its format and guidance.

**4 CONCLUSION**

4.1 Members are asked to reflect on the format and guidance of the form and offer their suggested changes and improvements for its use.

4.2 Members have been asked to convey suggested updates to the Monitoring Officer prior to the meeting to aid collation and discussion at the meeting.

**Contact:** Daryl Phillips, x 4143, [daryl.phillips@hart.gov.uk](mailto:daryl.phillips@hart.gov.uk)

**APPENDIX**

**Appendix 1** - Code of Conduct Complaint Form

**Appendix 2** - Arrangements for Dealing with Allegations



## **CODE OF CONDUCT COMPLAINT FORM**

Your complaint must be about a named councillor(s) and the conduct that you are complaining about must, if proven, be a breach of the Code of Conduct. **Please note that anonymous complaints will not be investigated.**

**This complaint form should not be used to make a complaint about an alleged failure of a Councillor to declare a Disclosable Pecuniary Interest (DPI). A failure to declare a DPI is not a breach of the Code of Conduct. Where such allegations are made a complaint should be made direct to the Police.**

### **I. Please give us with your name and contact details**

<b>Title:</b>	
<b>First name:</b>	
<b>Last name:</b>	
<b>Address:</b>	
<b>Daytime telephone:</b>	
<b>Evening telephone:</b>	
<b>Mobile telephone:</b>	
<b>Email address:</b>	

In the interests of fairness and natural justice, we believe councillors who are complained about have a right to know who has made the complaint. We will therefore, tell the following people that you have made this complaint:

- the councillor(s) you are complaining about
- the parish or town clerk (if applicable)

We will tell them only your name and give them a copy of your complaint.

All the complaint details, including your name (but not your address, telephone number or email details), will be made public once a decision is reached on your complaint. We will publish the decision on the Council's web site at <https://www.hart.gov.uk/Councillor-help-advice>

**2 Please give us with the name of the councillor(s) you believe have breached the Code of Conduct and the name of the Council that they represent:**

Title	First name	Last name	Council name

**3 Please explain in this section (or on separate sheets) what the councillor has done that you believe breaches the Code of Conduct. If you are complaining about more than one councillor you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.**

It is important that you provide all the information you wish to have taken into account. For example:

- *You should be specific, wherever possible, about exactly what you are alleging the councillor said or did. For instance, instead of writing that the councillor insulted you, you should state what it was they actually 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. If you are relying upon witnesses you must make sure that they have agreed to be named in your complaint and they should be asked to submit a statement to accompany your complaint. It is your responsibility to do this.*
- *You must provide all relevant background information. Your complaint will not be investigated further if it is not supported at the outset by detailed and verifiable supporting evidence.*

Please note that your complaint will initially be assessed only on the supporting information that you submit with your complaint. We will not normally enter into further dialogue with you unless we feel that we need you to clarify any aspect of your complaint.

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

**4 What outcome are you hoping to achieve?**

Please explain what outcome you would wish to see - refer to the Guidance Notes attached to see possible outcomes

**5 Complaints must be submitted in writing. This includes fax and electronic submissions.**

If you need any help in completing this form, please let the Monitoring Officer know as soon as possible.

Signed .....  
(Signature not required if submitted electronically)

Date .....

Submit to:

Daryl Phillips  
The Monitoring Officer  
Hart District Council  
Civic Offices  
Harlington Way  
Fleet  
GU51 4AE

Or email to [enquiries@hart.gov.uk](mailto:enquiries@hart.gov.uk)

## **Guidance Notes**

### **ARE YOU USING THE CORRECT FORM?**

#### **Failure to Declare Disclosable Pecuniary Interest:**

This complaint form should not be used to make a complaint about an alleged failure of a Councillor to declare a Disclosable Pecuniary Interest (DPI). A failure to declare a DPI is not a breach of the Code of Conduct. Where such allegations are made a complaint should be made direct to the Police.

The points listed below will help you decide whether this is the correct form to use when making your complaint.

- Your complaint must be about conduct that occurred while the councillor(s) complained about were in office. Conduct of an individual before they were elected, co-opted or appointed to the authority, or after they have resigned or otherwise ceased to be a councillor, will not be considered
- The Code of Conduct came into effect on 29 November 2012, although some parish and town councils adopted their respective Code of Conduct earlier.
- Your complaint must be about one or more named councillors of the following authorities:

#### **Hart District Council**

<http://www.hart.gov.uk>

#### **Blackwater & Hawley Town**

**Council** <http://www.blackwaterandhawleytowncouncil.gov.uk>

#### **Bramshill**

#### **Church Crookham**

<http://communities.hants.gov.uk/churchcrookham-index.htm>

#### **Crandall**

<http://www.crandall-pc.gov.uk/>

#### **Crookham Village**

[www.crookhamvillage-pc.org.uk](http://www.crookhamvillage-pc.org.uk)

#### **Dogmersfield**

<http://www.dogmersfieldparish.co.uk/>

#### **Elvetham Heath**

<http://communities.hants.gov.uk/elvetham-index.htm>

#### **Eversley**

[www.eversleyparishcouncil.co.uk](http://www.eversleyparishcouncil.co.uk)

#### **Ewshot**

[www.ewshotpc.com](http://www.ewshotpc.com)

**Fleet Town Council**

<http://communities.hants.gov.uk/fleet-index.htm>

**Greywell**

<http://communities.hants.gov.uk/greywell-index>

**Hartley Wintney**

[www.hartleywintney.org.uk](http://www.hartleywintney.org.uk)

**Heckfield**

<http://www.heckfield.hampshire.org.uk/>

**Hook**

[www.hook.gov.uk](http://www.hook.gov.uk)

**Long Sutton**

<http://www.longsutton.org/>

**Mattingley**

<http://www.mattingleypc.hampshire.org.uk/>

**Odiham**

<http://www.odiam.org.uk/>

**Rotherwick**

**South Warnborough**

<http://www.southwarnborough.net>

**Winchfield**

<http://communities.hants.gov.uk/winchfield-index>

**Yateley Town Council**

[www.yateley-tc.gov.uk](http://www.yateley-tc.gov.uk)

- Your complaint must be about a named councillor(s) and the conduct that you are complaining about must, if proven, be a breach of the Code of Conduct.
- Complaints about dissatisfaction with a decision or action of the authority or one of its committees, a service provided by the authority or the authority's procedures do not fall within the jurisdiction of this complaints system. Complaints about the actions of people employed by the authority also do not fall within the jurisdiction of the complaints system.
- Your complaint must be in writing. If a disability prevents you from making your complaint in writing you may contact the Monitoring Officer for assistance.

**INITIAL ACTION UPON RECEIPT OF A COMPLAINT**

On receiving the complaint Hart District Council's it will not be investigated if:

- (i) insufficient information has been submitted at the outset to demonstrate that there has been a prima facie breach of the Code; or
- (ii) the complaint is based essentially on hearsay evidence and is not supported at the outset by detailed and verifiable supporting evidence; or

- (iii) the complaint does not relate to behaviour in the member's official capacity as a councillor; or
- (iv) the matter complained about is so trivial that it would not be in the public interest to pursue it further; or
- (v) the person complained about is no longer a member of the relevant local authority; or
- (vi) the matter being complained about happened more than 12 months before the complaint was received; or
- (vii) the matter or issue being complained about came to the complainant's notice more than 6 months before the complaint was received.

Where the complaint is made by a parish/town Council or a parish/town councillor against a councillor of the same authority, unless a matter of overriding public interest is identified, the complaint will be referred to the respective parish/town council to be dealt with as an internal matter of dispute within the parish/town council. It will not then be investigated further as a formal complaint.

### **DECISION OPTIONS AT INITIAL ASSESSMENT**

The initial options are to:

- take no action
- try to resolve the matter informally
- arrange a hearing before a panel of councillors drawn from Hart District Council's Standards Committee
- in more complex cases, ask for a formal investigation into whether there has been a breach of the code

**NO ACTION** will be taken where any of the following apply:

- a) there is no prima facie evidence that the Code has been breached;
- b) taking into account the nature of the allegation using public funds to examine the matter further would be disproportionate;
- c) the complaint appears to be vexatious, politically motivated, tit-for-tat or made by a persistent complainant;
- d) the conduct complained about has already been the subject of investigation or enquiry by another public body;
- e) the same, or substantially the same, issue has been the subject of a previous Code of Conduct allegation;
- f) there is not enough information to take the matter further;
- g) the complaint was made anonymously;
- h) the councillor has already apologised for the action that was the subject of the complaint;
- i) the complaint is essentially against the action of the Council as a whole and cannot properly be directed against an individual councillor(s).

**OPTIONS OPEN TO THE HART DISTRICT COUNCIL'S STANDARDS COMMITTEE:**

If it is found that the Councillor had not complied with the Code of Conduct the following action can be taken:

A. No action – reasons will be given;

Or

B. The Councillor should be censured; and one or more of the following:

- a) The findings be reported to Council [*or to the Parish/Town Council*] for information;
- b) Recommendation be made to the councillor's Group Leader that he/she be removed from any or all Committees or Sub-Committees of the Council;
- c) Recommendation be made to the Leader of the Council that the councillor be removed from Cabinet, or removed from particular Portfolio responsibilities;
- d) Recommendation be made to the Monitoring Officer [*or recommend that the Parish/Town Council*] that training be arranged for the councillor;
- e) Recommendation be made to Council [*or recommend to the Parish/Town Council*] that the councillor be removed from all outside appointments to which he/she has been appointed or nominated by the authority [*or by the Parish/Town Council*];
- f) Recommendation be made to Council [*or recommend to the Parish/Town Council*] that it withdraws facilities provided to the councillor by the Council, such as a computer, website and/or email and Internet access; or
- g) Recommendation be made to Council [*or recommend that the Parish/Town Council*] that it exclude the councillor from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

**MARCH 2014**

**LOCALISM ACT 2011 SECTION 28 – CODE OF CONDUCT**

**ARRANGEMENTS FOR DEALING WITH ALLEGATIONS**

**I. MAKING COMPLAINTS**

Any complaint that a member has failed to comply with the Code of Conduct should be addressed to:

The Monitoring Officer  
Hart District Council  
Harlington Way  
Fleet  
Hants GU15 4AE

A form for making complaints is available. Its use is encouraged, but is not essential providing the complaint includes all the necessary information.

The Council will not however, investigate any complaint about the failure of a councillor to declare a Disclosable Pecuniary Interest (DPI). The failure to declare a DPI could amount to a criminal offence. When such allegations are made the complainant should make the complaint direct to the Police.

**2. INITIAL ACTION BY THE MONITORING OFFICER**

On receiving the complaint the Monitoring Officer may dismiss it without further action where:

- A. The Monitoring Officer, in consultation with an Independent Person appointed under Section 28 of the Localism Act 2011 (IP) and the Chairman of Standards Committee considers that:
- i. insufficient information has been submitted at the outset to demonstrate that there has been a prima facie breach of the Code;  
or
  - ii. the complaint is based essentially on hearsay evidence and is not supported at the outset by detailed and verifiable supporting evidence;  
or
  - iii. the complaint does not relate to behaviour in the member's official capacity as a councillor  
or
  - iv. the matter complained about is so trivial that it would not be in the public interest to pursue it further;
- or
- B. The person complained about is no longer a member of the relevant local authority; or

- C. The matter being complained about happened more than 12 months before the complaint was received; or
- D. The matter or issue being complained about came to the complainant's notice more than 6 months before the complaint was received.

The Monitoring Officer will inform the complainant and the member accordingly.

Where the Complaint is made by a District Councillor or an Officer employed by the District Council, the complaint will be dealt with as an internal grievance as set out in the District Council's Constitution, and will not be dealt with further under this process.

Where the complaint is made by a Parish/Town Council or a parish/town councillor against a councillor of the same authority, unless a matter of overriding public interest is identified, the Monitoring Officer shall use his discretion and may refer the complaint to the respective parish/town council to be dealt with as an internal matter of dispute within the parish/town council. It will not then be investigated further by the Monitoring Officer as a formal complaint.

If the Monitoring Officer does not dismiss the complaint on any of the above grounds, he/she will acknowledge it and inform the complainant of the procedure to be followed. The Monitoring Officer may ask the complainant for further information or clarification.

The Monitoring Officer will (except in exceptional circumstances where he/she considers that it is in the public interest not to do so) send the member complained about a copy of the complaint, and invite the member to submit initial written comments within 10 working days.

The Monitoring Officer will also ask the member any specific questions the Monitoring Officer considers will assist the initial assessment of the complaint.

### **3. INITIAL ASSESSMENT OF THE COMPLAINT**

Initial assessment will, if practicable, take place within 20 working days of receipt of the member's written comments under section 2 above.

The decision on the initial assessment will be made by the Monitoring Officer, in consultation with an IP and the Chairman of Standards Committee.

Before the Monitoring Officer considers the complaint, the Monitoring Officer will send the IP and the Chairman of Standards Committee

- a. A copy of the complaint
- b. A copy of the member's comments in response to the complaint
- c. Any other information in the Monitoring Officer's possession that he/she considers relevant.

The Monitoring Officer's decision on the initial assessment, with reasons, will be given in writing to the member, the complainant, and the Clerk to the Parish/Town Council (if the complaint was about a Parish/Town councillor) within 20 working days.

There will be no right of appeal.

The decision will be published on the District Council's web page.

#### **4. DECISION OPTIONS AT INITIAL ASSESSMENT**

The Monitoring Officer, in consultation with the IP and the Chairman of Standards Committee, may decide to take one of the following options:

- a. To take no action (Appendix A); or
- b. To attempt to resolve the matter informally between the complainant and member, either in writing, by face-to-face meeting, or by any other method the Monitoring Officer considers appropriate. In this case there will be no formal decision as to whether or not there was a breach of the Code of Conduct. If an attempt to resolve the matter in this way is not achieved, options A, C and D will remain open; or
- c. To arrange a hearing before a Panel of 3 members drawn from the Standards Committee and the IP, at which the member and complainant can state their case and, if appropriate, call witnesses. Where the complaint relates to a Parish councillor a Parish Member on Standards Committee must be present at the Hearing Panel. Procedures are set out at Appendix B. The hearing will form a recommendation as to whether the member breached the Code of Conduct and the Monitoring Officer may act upon any such recommendation; or
- d. If the complaint is potentially complex, to arrange for a formal investigation to be undertaken, including interview of appropriate witnesses, and to seek the view of the investigator as to whether there has been a breach of the Code of Conduct. If the investigator considers there has been a breach of the Code, a hearing will be arranged as in (C). If the investigator considers that there has not been a breach of the Code, the Monitoring Officer will issue a formal finding to that effect.

**APPENDIX A**

**NO ACTION** will be taken where any of the following apply:

- a. the Monitoring Officer, in consultation with the IP and the Chairman of Standards Committee, considers that there is no prima facie evidence that the Code has been breached;
- b. taking into account the nature of the allegation, the Monitoring Officer, in consultation with the IP and the Chairman of Standards Committee, considers that using public funds to examine the matter further would be disproportionate;
- c. the Monitoring Officer, in consultation with the IP and the Chairman of Standards Committee, considers that the complaint appears to be vexatious, politically motivated, tit-for-tat or made by a persistent complainant;
- d. the conduct complained about has already been the subject of investigation or enquiry by another public body;
- e. the same, or substantially the same, issue has been the subject of a previous Code of Conduct allegation, and the Monitoring Officer, in consultation with the IP and the Chairman of Standards Committee, considers that there is nothing further to be gained;
- f. the Monitoring Officer, in consultation with the IP and Chairman of Standards Committee considers that there is not enough information to take the matter further;
- g. the complaint was made anonymously;
- h. the complainant has requested that their identity as complainant be withheld from the member, and the Monitoring Officer, in consultation with the IP and Chairman of Standards Committee considers that the matter cannot reasonably be taken further in these circumstances;
- i. the member has already apologised for the action that was the subject of the complaint, and the Monitoring Officer, in consultation with the IP and the Chairman of Standards Committee, considers that this is sufficient to dispose of the complaint;
- j. the Monitoring Officer, in consultation with the IP and Chairman of Standards Committee considers that the complaint is essentially against the action of the Council as a whole and cannot properly be directed against an individual member(s).

## **PROCEDURE FOR HEARINGS**

### **GENERAL:**

Hearings will where possible be held within 2 months of the initial assessment decision where there is no prior investigation and within 2 months of receipt by the Monitoring Officer of the investigator's report where there has been a prior investigation.

The hearing will be before a Panel of 3 members drawn from the Standards Committee. One of the members will be elected Chairman.

An Independent Person [IP] appointed under Section 28 of the Localism Act 2011 may also be present. His/her views will be requested and taken into account by the Panel, but by law he/she cannot vote.

The Monitoring Officer or deputy Monitoring Officer will be present as advisor to the Panel. There will normally be no requirement to have a separate legal representative present unless the matter is peculiarly complex. It will be for the Monitoring Officer to determine if a legal representative is either appropriate or necessary.

14 days notice will be given and both the member and complainant will be invited to appear. They may present their own case or they may be represented.

They may bring witnesses (of a number the Panel considers is reasonable), in which case written statements from the witnesses must be lodged with the Monitoring Officer at least 10 working days before the hearing. "Character witnesses" who cannot provide evidence on the matter complained about will not be permitted. The cost of any attendance/representation must be borne by the parties concerned.

All written evidence will be circulated to the Panel, the IP, the member and the complainant at least 5 working days before the hearing.

Written statements will not be read out at the hearing as it will be assumed all those present are already familiar with their contents.

The Monitoring Officer can speak at any time to advise the Panel on technical matters or ask questions of any party.

### **PROCEEDINGS:**

1. The complainant can address the Panel and call witnesses (if any).
2. The member can ask the complainant and witnesses questions.
3. The Panel and IP can ask the complainant and witnesses questions.
4. The member can address the Panel and call witnesses (if any)
5. The complainant can ask the member and witnesses questions.
6. The Panel and IP can ask the member and witnesses questions.
7. The complainant can make a closing statement.
8. The member can make a closing statement.

The Panel, the Monitoring Officer, the IP, any legal advisor if present, and Clerk, will leave the room to another separate room in order to deliberate and formulate their recommendations at hearings.

The Panel's recommendations will be announced orally as soon as possible.

A written report of the hearing and recommendations, with reasons, will be prepared, usually within 10 working days. A copy will be sent to all those present at the hearing and to the Clerk of the Parish/Town Council if the complaint was about a Parish/Town Councillor.

The written report will be published on the District Council's web page at [http://www.hart.gov.uk/index/your\\_council/councillors\\_members\\_of\\_the\\_council\\_elected\\_representatives/complaints\\_against\\_councillors.htm](http://www.hart.gov.uk/index/your_council/councillors_members_of_the_council_elected_representatives/complaints_against_councillors.htm)

### **OPTIONS OPEN TO THE PANEL:**

To conclude whether:

- I The member did comply with the Code of Conduct;  
or whether
- 2 The member failed to comply with the Code of Conduct, and that:
  - I. No action need be taken – reasons to be given;  
or
  - II. The member should be censured; and one or more of the following:
    - a. The findings of the Hearing be reported to Full Council [*or to the Parish/Town Council*] for information;
    - b. Recommendation be made to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
    - c. Recommendation be made to the Leader of the Council that the member be removed from Cabinet, or removed from particular Portfolio responsibilities;
    - d. Recommendation be made to the Monitoring Officer [*or recommend that the Parish/Town Council*] that training be arranged for the member;
    - e. Recommendation be made to Council [*or recommend to the Parish/Town Council*] that the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority [*or by the Parish/Town Council*];
    - f. Recommendation be made to Council [*or recommend to the Parish/Town Council*] that it withdraws facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
    - g. Recommendation be made to Council [*or recommend that the Parish/Town Council*] that it exclude 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 Panel may also make any recommendations it considers appropriate to the Council concerned on procedural amendments that might assist members generally to follow the Code of Conduct and promoting standards.

**STANDARDS COMMITTEE**

**DATE:** 6 MARCH 2019

**TITLE OF REPORT** MEMBERS' CODE OF CONDUCT – UPDATE

**Report of:** Monitoring Officer

**Cabinet Member:** Councillor David Neighbour, Leader

**1 PURPOSE OF REPORT**

To present for consideration the updated Members' Code of Conduct.

**2 OFFICER RECOMMENDATION**

2.1 That the updated Members' Code of Conduct be approved.

**3 BACKGROUND**

3.1 The Members' Code of Conduct, included in the Constitution at Part 8, was introduced in December 2012 after the Standards regime change, and has been amended slightly since to reflect organisational changes, including a complete review of the Constitution undertaken in 2015.

3.2 The Members' Code of Conduct took note of the updated Standards guidance regarding Complaints against Councillors and Members' conduct, particularly in relation to the requirements of Declarations of Pecuniary Interests and the Monitoring Officers role.

3.3 The updated Code of Conduct at Appendix I, has been expanded to better clarify the expectations of Councillors' conduct. Consultation has taken place with the Independent Persons, who aid the Monitoring Officer with issues relating to Members' Conduct.

**4 CONCLUSION**

4.1 Standards Committee is asked to approve the updated Code of Conduct to be included in the Constitution.

**Contact:** Daryl Phillips, Monitoring Officer, x4143, [daryl.phillips@hart.gov.uk](mailto:daryl.phillips@hart.gov.uk)

**APPENDIX**

**Appendix I** - updated Members' Code of Conduct

# **HART DISTRICT COUNCIL MEMBERS' CODE OF CONDUCT 2019**

# HART DISTRICT COUNCIL MEMBERS' CODE OF CONDUCT 2019

## INTRODUCTION

This Code of Conduct (the Code) applies to every elected member and co-opted member<sup>1</sup> of Hart District Council<sup>2</sup>. As a Councillor, it is your responsibility to make sure that you are familiar with, and that your actions comply with, its provisions.

The Code does not apply to the actions of the authority as a whole, nor to the conduct of its officers and employees. It also does not cover matters under the Localism Act 2011 where criminal sanctions will apply.

The Code is not intended to be an exhaustive list of all the obligations that are placed on Members. Councillors hold public office under the law and must observe the rules of conduct stemming from the law, this Code, and the rules, standing orders and regulations of the Council. It is your personal responsibility to comply with these and review regularly, at least annually, particularly when your circumstances change. You must not, at any time, advocate or encourage any action contrary to the Code.

A very clear line however, must be drawn between this Code's requirements of respect for others, including those with opposing views, and the freedom to disagree with the views and opinion of others. In a democracy, members of public bodies should be able to express disagreement publicly with each other. Nothing within this Code seeks to stifle free speech.

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<sup>1</sup> Co-opted member is a person who is not an elected Member of the Council but who is either a member of any committee or sub-committee of the Council, or a member of, and represents the Council on any joint committee or joint sub-committee of the Council and who is entitled to vote on any question that falls to be decided at that meeting of that committee or sub-committee

<sup>2</sup> This means it applies when you are carrying out your official duties, for example when you are acting on, considering or discussing council business

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MEMBERS' CODE OF CONDUCT 2019**

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# HART DISTRICT COUNCIL MEMBERS' CODE OF CONDUCT 2019

## KEY PRINCIPLES OF THE CODE OF CONDUCT

The general principles upon which this Code of Conduct is based<sup>3</sup> should be used for guidance and interpretation only. They define the standards that members should uphold and serve as a reminder of the purposes of the Code of Conduct. These principles accompany, but do not form part of, the Code of Conduct itself. However, a failure to act in accordance with these general principles may in itself amount to a breach of the Code of Conduct.

**Duty** - You have a duty to uphold the law and act in accordance with the law and the public trust placed in you. You have a duty to act in the interests of the Council as a whole and all the communities served by it and a duty to be accessible to all the people of the area for which you have been elected to serve, and to represent their interests conscientiously.

**Selflessness** - You must serve only the public interest and must never improperly confer an advantage or disadvantage on any person including yourself.

**Objectivity** - In carrying out public business you must make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

**Accountability** - You are accountable to the public for your decisions and actions and must submit yourself to the scrutiny necessary to ensure this. You have a duty to consider issues on their merits, taking account of the views of others, and you must ensure that the Council uses its resources prudently and in accordance with the law.

**Openness** - Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

**Honesty and integrity** - You must be truthful and you must not place yourself in situations where your honesty and integrity may be questioned. You must not behave improperly and must on all occasions avoid the appearance of such behaviour.

**Leadership** - You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example in a way that secures or preserves public confidence.

**Respect** - You must respect all other councillors and all Council employees and the role they play. Similarly, you must respect members of the public when performing duties as a Councillor.

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<sup>3</sup> Article 28 of the Localism Act 2011.

# HART DISTRICT COUNCIL MEMBERS' CODE OF CONDUCT 2019

## GENERAL PRINCIPLES

The rules of good conduct apply to you whenever you act in your official capacity. This includes whenever you conduct business of the Council or act, claim to act, or give the impression or reasonable perception that you are acting in your official capacity as representative of the Council which includes when using social media.

You may also act as a representative of the Council on another body, for example where you have been appointed by the Council to an outside body. When acting for that other body, you must comply with the Hart Code of Conduct, unless it conflicts with lawful obligations of the other body.

### 1. Do not treat others with disrespect

You should follow the principles of mutual respect in all your dealings and be prepared to accept that others may have equally strong views in good faith that differ from your own.

You should always treat colleagues with respect and not engage in any behaviour towards other members or staff which might reasonably be interpreted as discriminatory, bullying or harassment.

In politics, rival groupings are however, common, either in formal political parties or more informal alliances. It is expected that each will campaign for their ideas, and they may also seek to discredit the policies and actions of their opponents. Criticism of ideas and opinion is part of democratic debate and does not in itself amount to bullying or failing to treat someone with respect.

In particular you must be careful not to act in a way which may amount to any of the prohibited form of discrimination, or do anything that hinders the Council's fulfillment of its positive duties under equality laws. Such conduct may cause the Council to breach the law, and you may find yourself subject to complaint that you have breached the Code of Conduct.

It is not disrespectful to question political opinions or to have a different point of view to somebody. It is disrespectful however, to use offensive language or to accuse them of dishonesty, wrongdoing or incompetence without producing any specific evidence, thereby seeking to damage their reputation.

While of course it is legitimate for Councillors to express concern about the way in which a

service is run or policy is being implemented by Officers, Councillors should avoid undermining, or making detrimental remarks about, individual named Officers at meetings, or in any public forum, including on social media. This would be damaging both to effective working relationships and to the public respect for the Council. It is also unfair as in general, staff are unable to defend themselves against criticism in a public forum.

Chairman of meetings are expected to apply the rules of debate and procedure rules or standing orders to prevent abusive or disorderly conduct.

### 2. Do not bully or intimidate another person

Bullying is offensive, intimidating, malicious, insulting or humiliating behaviour which attempts to undermine, hurt or humiliate an individual or group. It can have a damaging effect on a victim's confidence, capability and health. Intimidation is another form of bullying. It is the act of frightening someone into doing something. This usually involves threats that make the person who is subjected to intimidation feel threatened or afraid.

Bullying and intimidatory conduct can involve behaving in an abusive or threatening way, or making allegations about people in public, in the company of any of their colleagues, through the press or social media. It may happen once or be part of a pattern of behaviours, although minor isolated incidents are unlikely to be considered bullying.

### 3. Do not compromise the impartiality of anyone who works for, or on behalf, of the Council

You should not approach or pressure anyone who works for, or on behalf of, the Council to carry out their duties in a biased or partisan way. They must be neutral and should not be coerced or persuaded to act in a way that would undermine their neutrality.

Although you can robustly question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

# HART DISTRICT COUNCIL MEMBERS' CODE OF CONDUCT 2019

## 4. Do not disclose confidential information and you must always comply with data protection principles

There will be times when you will be required to treat discussions, documents or other information relating to or held by the Council in a confidential manner, in which case you must observe such requirements for confidentiality.

Legislation also gives you certain rights to obtain information not otherwise available to the public and you are entitled to exercise these rights where the information is necessary to carry out your Council duties. Such information is, however, for your use as a councillor and must not be disclosed or in any way used for personal or party political advantage or in such a way as to discredit the Council. This will also apply in instances where you hold the personal view that such information should be publicly available.

Personal data is confidential and is protected by the *General Data Protection Regulations (GDPR)*. Never share information with family or friends or allow access to personal data disclosed to you in your role as a Councillor.

When conducting Council business you must only use the email account provided by the Council. **Any personal email address that you may have must not be used.**

## 5. Do not prevent anyone getting information that they are entitled to by law

You must not prevent any person from accessing information which they are entitled to by law. This includes information under the *Freedom of Information Act*.

## 6. Do not use, or attempt to use, your position improperly to the advantage or disadvantage of yourself or anyone else

You should not use, or attempt to use, your public office either for your or anybody else's personal gain or loss. For example, your behaviour would be improper if you sought to further your own private interests through your position as a member.

## 7. Do not misuse Council resources

You should never use the Council's resources of facilities for your own private or business purposes. It is also not appropriate to use, or authorise others to use, the Council's facilities or resources for political purposes, including party political purposes. When using the authority's resources, you must have regard, if applicable, to any Local Authority Code of Publicity made under the *Local Government Act (1986) or similar Act*.

## 8. Do have regard to advice from the Monitoring Officer or S151 Chief Finance Officer

If you seek advice, or advice is offered to you, for example, on whether or not you should register an interest, you should have regard to this advice before you make your mind up.

You must also give reasons for all decisions in accordance with statutory requirements and any reasonable requirements imposed by the Council. Giving reasons for decisions is particularly important in relation to regulatory decisions and decisions where people's rights are affected.

Where you disagree with officer recommendations in making a decision, you will need to take particular care in giving clear reasons for the decision.

## OTHER MATTERS

The following do not in themselves comprise part of the Code of Conduct. However, you should be aware that a failure to act in accordance with the advice as set out below will be taken into account in any allegation that there has been a breach of the Code of Conduct.

### Conduct at Meetings

You must respect the Chairman, your colleagues, Council employees and any members of the public present during meetings of the Council, its Committees or Sub-Committees or of any Public Bodies where you have been appointed by, or represent, the Council. You must comply with rulings from the Chairman in the conduct of the business of these meetings.

# HART DISTRICT COUNCIL MEMBERS' CODE OF CONDUCT 2019

## Remuneration, Allowances and Expenses

You must comply with the rules for the payment to councillors of remuneration, allowances and expenses.

## Appointments to Partner Organisations

You may be appointed or nominated by the Council as a member of another body or organisation. If so, you will be bound by the rules of conduct of these organisations and your responsibility for any actions taken by you as a member of such an organisation will be to the organisation in question. You must also continue to observe the rules of this Code in carrying out the duties of that body.

If you become a director of a company as a nominee of the Council you will assume personal responsibilities under the Companies Acts. It is possible that a conflict of interest may arise for you between the company and the Council. In such cases it is your responsibility to take advice on your responsibilities to the Council and to the company. This will include questions of declarations of interest. The same applies if you assume other responsibilities such as becoming a director of a charitable trust.

## Dealings with the Council

You will inevitably have dealings on a personal level with the Council of which you are a member - for example as a Council taxpayer, tenant, or recipient of a Council service or applicant for a licence or consent granted by the Council. You must not seek preferential treatment for yourself, your family, friends, colleagues or employees because of your position as a councillor or as a member of a body to which you are appointed by the Council and you must avoid any action which could lead members of the public to believe that preferential treatment is being sought.

## Responsibilities to the Council as a Member of the Public

The law makes specific provision that if a councillor is in **two months** arrears with payment of Council tax that councillor may not participate in certain decisions concerning Council tax issues.

If you owe a debt to the Council, you must put in place at the earliest opportunity

arrangements for repayment. You must avoid being in a situation which might lead the public to believe that preferential treatment is being sought. You must not participate in any decision which may create suspicion of a conflict of interest.

## Communications

You must be clear when communicating with the media or speaking in public, and particularly if you are using social media, that you do not give the impression you are acting in an official capacity when you are acting in a personal capacity.

Since the judgment of whether you are perceived to be acting as a councillor will be taken by someone else, it's safest to assume that any online activity can be linked to your official role.

## Training

You must attend mandatory training provided by the Council and receive, attend and consider updates when required.

## INTERESTS

A failure to comply with the following provisions does not amount to a breach of the Code of Conduct but may result in a criminal offence being committed.

## General Principles

The key principles of the Code, especially those which specify integrity, honesty and openness are given further practical effect by the requirement for you to declare interests at all meetings that you attend and that your attendance, even as an observer, does not give rise to any suggestion that your presence could influence the outcome of the meeting. The rules which require registration of interests, along with the rules on declaration of interest, are intended to produce transparency in regard to interests which might influence, or be thought to influence, your actions as a councillor.

## Mandatory Registration of Disclosable Pecuniary Interests

A person's pecuniary interests are their business interests (for example their employment, trade, profession, contracts, or any company with which they are associated)

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and wider financial interests they might have (for example trust funds, investments, and assets including land and property). They are called "Disclosable Pecuniary Interests" (DPIs)

Regulations made by the Secretary of State describe the detail and timescale for registering DPIs.

You have a DPI if you, or your spouse or civil partner, have a pecuniary interest listed in the national rules (see Annex I attached).

You must, within **28 days of taking office**, notify the Monitoring Officer of any DPI where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

You must also, within **28 days of becoming aware of any new DPI**, or change thereto, notify the Monitoring Officer of such new or changed interest.

It is your personal responsibility to comply with these regulations, and you should review regularly and at least once a year your personal circumstances to ensure that your registration of interests is up to date.

## Criminal Sanctions

It is a criminal offence if, without a reasonable excuse, you fail to tell the Monitoring Officer about your DPIs.

It is also a criminal offence to knowingly or recklessly provide false or misleading information, or to participate in the business of the Council where that business involves a DPI.

## Gifts and Hospitality

You must not accept any offer by way of gift or hospitality which could give rise to real or substantive personal gain or a reasonable suspicion of influence on your part to show favour or disadvantage to any individual or organisation. You should also consider whether there may be any reasonable perception that any gift received by your spouse or cohabitee or by any company in which you have a controlling interest, or by a partnership of which you are a partner, can or would influence your judgement. The term "gift" includes benefits such as relief from indebtedness, loan concessions, or provision of services at a cost below that generally charged to members of the public.

You must never ask for gifts or hospitality.

You are personally responsible for all decisions connected with the acceptance of gifts or hospitality offered to you and for avoiding the risk of damage to public confidence in the Council and in local government. As a general guide, it is usually appropriate to refuse offers except:

- isolated gifts of a trivial character, the value of which must not exceed £25
- normal hospitality associated with your duties and which would reasonably be regarded as appropriate; or
- civic gifts received on behalf of the Council.

The receipt of these gifts must be registered with the Council within 28 days. This includes a requirement to disclose the name of the person who is believed to be the source of the gift or hospitality.

You must not accept any offer of a gift or hospitality from any individual or organisation who is an applicant awaiting a decision from the Council or who is seeking to do business or to continue to do business with the Council. If you are making a visit to inspect equipment, vehicles, land or property, then as a general rule you should ensure that the Council pays for the cost of these visits.

You must only accept offers to attend social or sporting events where these are clearly part of the life of the community or where the Council would be expected to be represented.

You must not accept repeated hospitality or repeated gifts from the same source.

If the Council seeks sponsorship for some of its activities or events, you must ensure that your involvement with the sponsors is limited to the event in question and does not damage public confidence in the relationship between the Council and the sponsors.

## DECLARATIONS OF INTERESTS

It is your responsibility to make decisions about whether you have to declare an interest or make a judgement as to whether a declared interest prevents you from taking part in any discussions or voting. You are in the best position to assess your personal circumstances and to judge how these circumstances affect your role as a councillor in regard to a particular matter. You can, of course, seek

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advice from the Monitoring Officer. In making decisions for which you are personally responsible you are advised to err on the side of caution.

You may feel able to state truthfully that an interest would not influence your role as a councillor in discussion or decision-making. You must, however, always comply with the *objective test* ("the objective test") which is *whether a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your discussion or decision making in your role as a councillor.*

You must apply these principles no less scrupulously in your dealings with Council officers, at meetings with other councillors, including party group meetings, meetings of Joint Boards and Joint Committees and any other meeting, formal or informal, where you are representing the Council.

## Declaration of a DPI at a meeting of the Council

Your obligation to disclose a DPI to a meeting applies when you are aware of or ought to be aware of the existence of the DPI.

If you are present in any capacity (and this included a private capacity) at a meeting of the Council of its executive (Cabinet) or any committee of the executive, or of any committee, sub-committee, joint committee, or joint sub-committee of the Council, and you have a DPI relating to any business that is or will be considered at the meeting, **you must declare that interest and you must not participate in:**

- any discussion of the business at the meeting, or if you become aware of your disclosable DPI during the meeting participate further in any discussion of the business, or
- any vote or further vote taken on the matter at the meeting.

If the interest is not registered, you must still disclose the interest to the meeting. 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.

These prohibitions apply to any form of participation including speaking (or even observing the meeting) as a member of the public. **You must leave the room.** You

cannot remain in the public gallery even if only to observe any discussion or vote on the matter.

In certain circumstances you can request from the Monitoring Officer a dispensation from these prohibitions.

## Dispensations which do not amount to DPIs

You do not have a DPI in the following circumstances:

1. Setting of Council Tax or precept or local arrangements for council tax support;
2. Housing: where you (or your spouse or partner) hold a tenancy or lease with the Council as long as the matter does not relate to your particular tenancy or lease;
3. Housing Benefit: where you (or your spouse or partner) directly receive housing benefit in relation to your own circumstances; or
4. An allowance, travelling expense, payment or indemnity for Councillors.

## Declaration of "Other" Interests

Sometimes you may have "other" interests in a matter if that matter affects the well-being of you, members of your family, or people with whom you have a close association, more than it would affect most people in the ward affected by the decision, or in the Council's area.

An "other" interest can affect you, your family or close personal associates positively and negatively. So, if you or they have the potential to gain or lose from a matter under consideration, a personal interest may need to be declared in both situations.

Your obligation to disclose an "other" interest to a meeting only applies when you are aware of or ought to be aware of the existence of the personal interest. Providing that the "other" interest does not amount to a "prejudicial" interest you can remain in the room, participate in any discussion and vote on the business at the meeting,

## What is so significant that it is likely to prejudice your judgement?

If a reasonable member of the public with knowledge of all the relevant facts would think that your judgement of the public interest might be prejudiced, then you have a "prejudicial" interest.

## HART DISTRICT COUNCIL MEMBERS' CODE OF CONDUCT 2019

The mere existence of local knowledge, or connections within the local community however, will not normally be sufficient to meet the test. There must be some factor that might positively harm your ability to judge the public interest objectively. The nature of the matter is also important, including whether a large number of people are equally affected by it or whether you or a smaller group are particularly affected.

### What you should do if you have a “prejudicial” interest

If you have a “prejudicial” interest in a matter being discussed at a meeting, even if you are only attending to observe the meeting from the public gallery, you must declare that you have a prejudicial interest and the nature of that interest as soon as that interest becomes apparent to you.

You should then leave the room, **unless members of the public are allowed to make representations, give evidence or answer questions about the matter, by statutory right or otherwise.** If that is the case, you can also attend the meeting for that purpose.

However, you must **immediately leave the room** once you have finished speaking or when the meeting decides that you have finished (if that is earlier). You cannot remain in the public gallery to observe the discussion or vote on the matter.

In addition, you must not seek to improperly influence a decision in which you have a prejudicial interest. This rule is similar to your general obligation not to use your position as a member improperly to your or someone else's advantage or disadvantage.

### Bias/Predetermination

While declaring interests will to some extent deal with issues of bias, there will still be areas where a formal declaration is not required under the Code of Conduct but you still need to make clear that you are not biased or predetermined going into the decision making process.

Even though you may have been scrupulously impartial, the appearance of bias can itself call into question the legitimacy of the decision making process. In general, the rule against bias looks to the appearance or risk of bias rather than bias in fact.

You are entitled to have a **predisposition** one way or another as long as you have not predetermined the outcome. In essence you are not taken to have had, or appeared to have had, a closed mind when making a decision just because you have previously done anything that directly or indirectly indicated what view you may take. You are able to express an opinion providing that you can show that you have come to the relevant meeting with an open mind, able to take account of all of the evidence and make your decision on the day.

However, there is still a need for anyone proposing to participate in decisions to examine their position with scrupulous care. This should be in the light of how proposed involvement is likely to be seen by critical external observers (“the objective test”).

## DISCLOSABLE PECUNIARY INTERESTS

The duties to register, disclose and not to participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011. Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and it is either the 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:

(In the extracts from the Regulations below, 'M' means you and the 'relevant person' means you and your partner, as above)

<b>Subject</b>	<b>Prescribed description</b>
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 Hart District Council - <ul style="list-style-type: none"> <li>• under which goods or services are to be provided or works are to be executed; and</li> <li>• which has not been fully discharged.</li> </ul>
Land	Any beneficial interest in land which is within the area of Hart District Council.
Licences	Any licence (alone or jointly with others) to occupy land in the area of Hart District Council for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge) - <ul style="list-style-type: none"> <li>• the landlord is Hart District Council; and</li> <li>• the tenant is a body in which the relevant person has a beneficial interest.</li> </ul>

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Securities	<p>Any beneficial interest in securities of a body where</p> <p>-</p> <ul style="list-style-type: none"> <li>• that body (to M's knowledge) has a place of business or land in the area of Hart District Council; and</li> </ul> <p>either -</p> <ul style="list-style-type: none"> <li>• the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</li> <li>• 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.</li> </ul>
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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 Hart District Council;

“member” includes a co-opted 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 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.

## **STANDARDS COMMITTEE**

**Date and Time:** Wednesday, 6 March 2019 at 7pm

**Place:** Committee Room 1, Civic Offices

**Present:**

### **COUNCILLORS**

Clarke, Kennett, Southern

**Independent Member:** Peter Kern

**Parish Representatives:** Alastair Clark, David Argent, John Keane

**Officers Present:** Daryl Phillips, Monitoring Officer

### **1 ELECTION OF CHAIRMAN AND VICE CHAIRMAN**

Alastair Clark was elected as Chairman and Cllr Tony Clarke as Vice Chairman.

### **2 MINUTES OF PREVIOUS MEETING**

The Minutes of the meeting of 20 August 2015 were confirmed and signed as a correct record.

### **3 APOLOGIES FOR ABSENCE**

Apologies for absence had been received from Councillor Ambler.

### **4 CHAIRMAN'S ANNOUNCEMENTS**

None.

### **5 DECLARATIONS OF INTEREST**

None declared.

### **6 UPDATE - COMPLAINTS AGAINST COUNCILLORS**

Members considered the decisions on recent complaints.

### **DECISION**

That the information be noted.

## **7 REVIEW OF CODE OF CONDUCT COMPLAINTS FORM AND GUIDANCE**

Members considered the format and content of the Code of Conduct Complaints Form and Guidance and offered suggestions for improvement and clarity. In light of the adjustments made it was agreed that the Monitoring Officer would circulate the finalised version of the respective documents/forms prior to publication.

### **DECISION**

That the Monitoring Officer be delegated authority to update the Form and Guidance as per the recommendations of the Committee.

### **RECOMMENDATION to Council**

That the amended Guidance be recommended to Council for adoption.

## **8 MEMBERS' CODE OF CONDUCT UPDATE**

The Committee considered the updated Members' Code of Conduct. A couple of adjustments were suggested. It was agreed that the Monitoring Officer would circulate the finalised version of the Code of Conduct prior to publication.

### **RECOMMENDATION to Council**

That the updated Members' Code of Conduct be recommended to Council for adoption.

The meeting closed at 8.35pm