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Our reference:
Your reference:
Date: 17 July 2013

To all Members of the Standards Committee

Dear Member

A meeting of the **Standards Committee** will be held on Thursday 25 July 2013 at **5.30 pm** in Committee Room 1, Civic Centre, Pavilion Road, West Bridgford to consider the following items of business.

Yours sincerely

Executive Manager Operations and Corporate Governance

AGENDA

1. Apologies for Absence
2. Declarations of Interest
3. Minutes of Meeting held on 28 November 2012

To receive as a correct record the Minutes of the Meeting held on 28 November 2012 (attached pages 1 – 3).

4. New Standards Regime – Update and Review

The report of the Monitoring Officer is attached (pages 4 - 12).

5. Annual Review - Cases

The report of the Monitoring Officer is attached (pages 13 - 15).

6. Independent Person

The Monitoring Officer will report verbally.

Membership

Borough Councillors R A Adair (Chairman), G Davidson, J E Greenwood,
A MacInnes, Mrs M M Males, B A Nicholls
Co-opted Members G Norbury , K White and W A Wood

Meeting Room Guidance

Fire Alarm Evacuation: in the event of an alarm sounding please evacuate the building using the nearest fire exit, normally through the Council Chamber. You should assemble in the Nottingham Forest car park adjacent to the main gates.

Toilets are located opposite Committee Room 2.

Mobile Phones: For the benefit of others please ensure that your mobile phone is switched off whilst you are in the meeting.

Microphones: When you are invited to speak please press the button on your microphone, a red light will appear on the stem. Please ensure that you switch this off after you have spoken.



**NOTES
OF THE MEETING OF THE
STANDARDS COMMITTEE
WEDNESDAY 28 NOVEMBER 2012**

Held at 5.30 pm in Committee Room 1, Civic Centre, Pavilion Road, West Bridgford

PRESENT:

Councillors R A Adair, G Davidson, J E Greenwood, A MacInnes,
Mrs M M Males, B A Nicholls

Independent Members: G Norbury, K White, W A Wood

ALSO IN ATTENDANCE:

H Salisbury Independent Person

OFFICERS PRESENT:

P Cox Senior Solicitor
V Nightingale Senior Member Support Officer
D Swaine Head of Corporate Services

APOLOGIES FOR ABSENCE:

There were no apologies for absence

1. Declarations of Interest

There were none declared.

2. Appointment of Chairman

Councillor Mrs Males nominated Councillor Adair as Chairman and Councillor MacInnes nominated Councillor Davidson. After both nominations being seconded and following a vote Councillor R A Adair was appointed as Chairman.

3. Introduction to the Independent Person

The Chairman welcomed Ms Salisbury to the meeting and asked her to inform the committee why she had applied for the position and summarised her experience.

Ms Salisbury explained that she had previously been a Monitoring Officer and had been a director of casework for the Standards Board for England. After that she had worked for a firm of solicitors advising on issues regarding Members. Ms Salisbury stated that she had applied for the position to help the Committee with the new regime using the benefit of her experience.

4. Councillor Complaints Procedure

The Head of Corporate Services presented a revised version of the Councillor Complaint Procedure. The document reflected the new Code of Conduct and

was more pragmatic and flexible. He highlighted the sanctions that could be administered and explained that the document had been written primarily from a complainant's perspective. It was acknowledged that the new code was less prescriptive, or regulated, than the previous code.. Following a question the Head of Corporate Services explained that the majority of the parishes had adopted the Council's code which was based on the Department for Communities and Local Government's guidelines, however, some parishes had used guidance from the National Association of Local Councils. Any parish complaint would have to be based on the Code adopted by that parish.

The Committee considered the Procedure and the amended text.

It was recognised that normally the name of the person making the complaint would be disclosed except in exceptional circumstance, ie where there was a possibility of intimidation. Members also felt it was appropriate for the Monitoring Officer to inform the subject of the complaint at the initial stage as it would be beneficial to ascertain all the information at the start of the process. The Head of Corporate Services stated that in some cases this could lead to the complaint being addressed.

When a complaint was brought against a parish councillor the Committee agreed that it was appropriate for the parish to be notified. Following a discussion it was felt that this should be the whole council and not just the clerk. It also agreed that it was not appropriate for the matter to be discussed by the parish council as this would not be the case if the subject person was a Borough Councillor. It was felt that the Monitoring Officer should be given the discretion to decide how much information to provide. The parish members of the Committee supported these decisions.

The Committee agreed:

- that the wording should be altered to emphasise that as many cases as possible would be dealt with informally;
- that if it was concluded that there was no evidence of failure that this was still a decision and as such would be subject to consultation with the Independent Person, and that the document should be amended to include this; and that the wording should be altered to give further clarification regarding the use of a local resolution rather than formal hearings in certain cases.

In respect of a finding of no evidence of failure the Head of Corporate Services stated that he would need to be satisfied on both the evidence submitted and any investigation that had been carried out. After consideration the Committee felt that the subject member might want to have the full report sent to the parish council to show that they had been vindicated. However, on reflection it was felt that the Monitoring Officer should notify the parish council of the decision only.

The Committee considered the amendments made to the section in respect of the Independent Person. It was felt that any contact with the Independent Person by the subject person should be controlled by the Monitoring Officer to ensure that the process is not abused. Ms Salisbury stated that as the

Independent Person she could be contacted by either side but would remain impartial. She stated that she would need to make available to the Monitoring Officer anything that was said to her as there should be transparency

Whilst considering the document it was suggested that

- a link to the website should be included in Section 2 “The Code of Conduct”
- a link to the complaints form on the Council’s website be included in Section 3 “Making a Complaint”
- the wording in Section 7.2 “Local Hearing” the legal jargon ‘issuing directions’ which related to how the meeting was conducted should be simplified for ease of understanding
- for consistency all references to he should read he/she
- all references to days should read working days to avoid confusion

Following a question, the Head of Corporate Services stated that any decision would be formally issued. However, the Council did not have any powers to enforce actions. The Head of Corporate Services stated that if the actions were not followed through this could lead to the public having no confidence in the authority involved.

It was AGREED that the Councillor Complaints Procedure be amended following the Committee’s consideration and referred to Council for adoption.

5. Future Dates

The Head of Corporate Services indicated that he felt that the Committee should meet again early in 2013. Items for the work programme should include a review of Code of Conduct and the Councillor Staff Protocol which had been introduced in 2007. Also the Committee should receive a report outlining any complaints received. The Committee could then consider if there were any trends which could be addressed, for example incorrect declarations of interest, which might lead to further training being suggested.

Following a discussion it was felt that the Committee should receive training on the new Code of Conduct, similar to that given to Members of the Council. This would ensure that all the members of the Committee, including the co-opted members, had a common understanding of their role.

The meeting closed at 6.25 pm.



Rushcliffe
Borough Council

Standards Committee

25 July 2013

New Standards Regime – Update and Review

4

Report of the Monitoring Officer

Summary

This report provides an update on the Council's Standards arrangements previously agreed by Council following changes arising from the Localism Act 2011. It also outlines the request of Council that the agreed Code of Conduct and the established composition of the Standards Committee be reviewed to determine if any changes are necessary.

Recommendation

It is RECOMMENDED that the Standards Committee:

- a. reviews the Code of Conduct (**Appendix A**) previously agreed by Council on 21 June 2012 in order to identify if any changes are required; and
- b. considers its composition and its terms of reference (**Appendix B**) in order to determine if any changes are necessary.

Details

1. At its meeting on 21 June 2012 Council considered and agreed a revised Standards Framework as recommended to it by the previous Standards Committee. This comprised a new Councillor 'Code of Conduct' (**Appendix A**) and also the establishment of a revised 'Standards Committee' comprising of six Borough Councillors, two parish members and one independent member. Having agreed the new Code and the establishment of a revised 'Committee', Council asked that these be reviewed after a year and the findings of this review be reported to it. Therefore this report aims to inform this review in order that, if necessary its findings be reported to a future Council meeting.

Code of Conduct

2. The Code of Conduct agreed by Council on 21 June 2012 (**Appendix A**) was based on the requirement for consistency with the seven principles of public life and the mandatory requirements relating to disclosable pecuniary interests. There was no national model code that had to be followed and each local authority was free to decide the code suitable for it. The Code agreed by Council was in effect a hybrid comprising the Local Government Association Template and the 'illustrative text' for a code of conduct as provided by the Department for Communities and Local Government. In addition provisions

from the previous code relating to advice from the statutory officers and confidentiality and equality were also included.

3. Following agreement of Council the Monitoring officer wrote to the Parish and Town Councils highlighting that for consistency purposes, the Borough Councils Code could be adopted by them. Consequently a high number of the Parish and Town Councils have adopted the same Code as the Borough Council.
4. When Council agreed the Code on 21 June 2012 it asked that it be reviewed by the Standards Committee. As it is now over 12 months since the Code was agreed the Standards Committee is asked to review it. In reviewing the Code the Committee is asked to consider the provisions in relation to disclosable pecuniary interests as set out in the schedule within the Code. This is in order to determine if any further subjects, such as extending the application of pecuniary interest beyond the Member, their spouse or civil partner or someone they are living with as husband or wife or civil partner, should be added.
5. Furthermore the Committee is asked to consider if a Member's membership of any external organisations or groups, beyond those that reflect a 'pecuniary interest', should be added to the list so that these have to be declared. In considering this the Committee is asked to have regard to the potential public perception of such interests and members involvement in decision making. It should also recognise that any other such interests would not be classed as a 'DPI' and as such requiring these to be declared would be an addition to the legislative requirements. Members would need to consider how such interests would be managed in relation to committee proceedings and the potential mechanisms for implementing such arrangements.
6. This arrangement could potentially strengthen the open and transparent process which would enable Members to openly declare such interests on the register and if necessary highlight these at meetings and, where appropriate, withdraw. However, the Committee would need to consider how any such arrangements would work as presently the disclosure of a DPI restricts the ability of a Member to participate in a meeting, whereas any other interest declared would not necessarily carry such a formal requirement. This would mean it would rely on the Member's judgement in order for them to determine the appropriateness of their involvement in any proceedings based on the extent and nature of any interest included in register.

Composition of the Standards Committee

7. As previously indicated the Committee comprises of six Borough Councillors, two parish members and one independent member. There is no formal requirement to have such a Committee, however the former Standards Committee, and a sub-committee of it, which developed the post Localism recommendations did not believe disciplinary type decisions should be delegated to officers. It was also believed that the Committee needed to be in place to consider Councillor behaviour as a wider policy issue.
8. Following recommendations from the previous Standards Committee Council agreed that the revised Committee should comprise of six Borough Councillors, two parish members and one independent member. The parish

and independent members are co-optees under section 102(3) of the Local Government Act 1972 and as such have no voting rights. However these positions ensured external experience, knowledge and influence were not lost, demonstrating a transparent and fair process. These positions receive an annual allowance as set out in the Councils Members' Allowance Scheme.

9. When agreeing the composition of the revised Standards Committee Council determined that where an investigation found a case to answer a sub-committee comprising of at least 3 Borough Councillors heard such a case. Significant or serious cases would be referred to the full Standards Committee in line with the criteria within the Committees terms of reference which are attached at **Appendix B**. At the time of writing this report no cases have required a hearing meeting.
10. In reviewing its composition and role the Committee is asked to consider if any changes are necessary giving particular regard to the agreed terms of reference, the mechanisms for hearing cases and the criteria for referral to the full committee and the retention of parish and independent members knowledge and expertise.

Financial Comments

None directly from the report.

Section 17 Crime and Disorder Act

As failure to declare a disclosable pecuniary interest could constitute a criminal offence it is not proposed to change any of these as they reflect the schedule as set out by the regulations. As such there are no direct implications arising from this report in relation to the prevention and detection of crime and disorder.

Diversity

None directly from the report.

Background Papers Available for Inspection:

New Standards Arrangements - Report to Council 21 June 2012

Code of Conduct for Members – Rushcliffe Borough Council

S51 Local Government Act 2000 – Duty of Relevant Authorities to adopt codes of conduct

Department for Communities and Local Government – 'Illustrative text' – Code of Conduct 2012

Local Government Association - Template Code of Conduct 2012

The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

Member Code of Conduct

You are a Member or Co-opted Member of Rushcliffe Borough Council and as such are committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

SELFLESSNESS: Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP: Holders of public office should promote and support these principles by leadership and example.

Accordingly, when acting in your capacity as a Member or Co-opted Member –

- i. You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate
- ii. You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties
- iii. When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit
- iv. You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office

- v. You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions
- vi. You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below
- vii. You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986
- viii. 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
- ix. You must have regard to any relevant advice provided to you by the Council's Monitoring Officer, Section 151 Officer and Chief Executive where they are acting pursuant to his or her statutory duties
- x. You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:-
 - a. You have the consent of a person authorised to give it
 - b. You are required by law to do so
 - c. The disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - d. The disclosure is:
 - i. Reasonable and in the public interest and
 - ii. Made in good faith and in compliance with the reasonable requirements of the authority.
- xi. Members must promote equality by not discriminating against any person , and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability

Registering and declaring pecuniary and non-pecuniary interests

You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State (see attached Schedule), where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.

If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.¹

Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non-pecuniary interest as defined by your authority.

¹ A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

SCHEDULE

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Terms of Reference for Standards Committee

- a. promoting and maintaining high standards of conduct by Councillors and co-opted Members;
- b. assisting Councillors and co-opted Members to observe the Members' Code of Conduct;
- c. advising the Council on the adoption or revision of the Members' Code of Conduct;
- d. monitoring the operation of the Member's Code of Conduct;
- e. advising, training or arranging to train Councillors and co-opted Members on matters relating to the Members' Code of Conduct;
- f. dealing with complaints about Councillors in accordance with the published Members' Complaints Procedure approved under section 28(6) of the Localism Act 2011;
- g. the exercise of (a) to (f) above in relation to parish councils wholly or mainly in its area and the members of those parish councils;
- h. granting dispensations to Councillors and co-opted Members from requirements relating to disclosable pecuniary interests;
- i. considering any reference to the Committee by the Chief Executive pursuant to paragraph 10 of the Members' Allowances Scheme relating to the failure of a member to attend any meeting during a period of three months, with power to suspend the payment of allowances under the Scheme to the member concerned, unless the reasons for non-attendance are approved by the Committee.

Standards Committee Hearing Sub Committee

Criteria for referral of cases to Standards Committee for hearing

- Does the status of the member or members, or the number of members about whom the complaint is made, make it difficult for the Sub Committee to deal with the complaint? For example, is the member a group leader, elected mayor or a member of the authority's Cabinet?
- Does the status of the complainant or complainants make it difficult for the Sub Committee to deal with the complaint? For example, is the complainant a group leader, elected mayor or a member of the authority's cabinet or the Chief Executive, the Monitoring officer or other senior officer?
- Does the Sub Committee believe that there is a potential conflict of interest of so many members of the Sub Committee that it could not properly consider the complaint?
- Is the case so serious or complex, or involving so many members, that it cannot be handled by the Sub Committee?
- Does the complaint relate to long-term or systemic member/officer bullying and therefore should it be considered by the full Standards Committee?
- Might the public perceive the authority to have an interest in the outcome of the complaint and therefore is it in the public interest for the case to be heard by the full committee rather than the Sub Committee?

Report of the Monitoring Officer

Summary

This report provides information on the number of complaints received since the implementation of the new standards regime from July 2012. It also outlines the training activity undertaken to assist Councillors in understanding the new regime and the responsibilities placed upon them.

Recommendation

It is RECOMMENDED that:

- a. the report be noted; and
- b. the Committee identify if any further training for Councillors is required.

Details

Complaints received since 1 July 2012

1. At its meeting on 21 June 2012 Council agreed a Councillor Code of Conduct in line with provisions with the Localism Act 2011. It also agreed to retain a Standards Committee, comprising of six Borough Councillors, two parish representatives and one independent member. At its meeting on 13 December 2012 Council agreed a revised Councillor Complaint Procedure replacing the previous one which was out of date as a consequent of the demise of the old standards regime, and the associated legislative requirement's being repealed.
2. This report sets out the complaints received since the implementation of the new regime on 1 July 2012. Details of the cases previously received under the old standards regime from June 2008 to February 2012 were reported to the previous Standards Committee in March 2012. From March 2012 to end of June 2012 no further complaints were received.
3. From the 1 July 2012 eight complaints have been received. These were dealt with in line with the agreed Councillor Complaints Procedure with the Independent Person being consulted in each case. Brief details of these complaints are set out in the table at **Appendix A** of the report which indicates the date of complaint, if it related to a Borough or Parish or Town Councillor, if the complaint was made by another Borough or Parish or Town councillors and what action was taken to address the complaint.

4. It will be seen that all cases except one have resulted in a 'no action' decision. One case remains outstanding and this has been referred to the police as this relates to an alleged failure to declare a pecuniary interest. The table indicates that a number of complaints related to one particular Parish Council which reflected of on-going disputes between individuals or small groups of people. Furthermore these complaints were set against the background of a particular issue within that locality so it has been important to ensure the Councillor Complaints Procedure was used for the correct purposes.

Training

5. Two training sessions to assist Borough Councillors' understanding of the new standards regime were held in September 2012. 21 Borough Councillors attended these sessions. A session was also delivered at the Parish Forum held on in July 2012 outlining the requirements of the new regime in order to assist and inform Parish Councils.
6. In line with the report's recommendation the Committee is asked to determine if any further training is needed for Borough, Parish or Town Councillors on the Code and the Standards regime as it has now been in place for just over 12 months.

Financial Comments

None

Section 17 Crime and Disorder Act
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No implications

Diversity

No implications

Background Papers Available for Inspection: None

Summary of Cases

APPENDIX A

Case Ref	Date received	RBC/Parish Council	Complainant	Independent Person consulted	Decision and date
01/13	5/02/2013	Holme Pierrepont and Gamston Parish Council (no subject member identified)	Two Parish Councillors*	5/02/13	No action 22/02/13
02/13	15/02/13	Gotham Parish Council	Spouse of Parish Councillor	22/02/13	Local resolution (apology) 25/03/2013
03/13	4/04/13	Holme Pierrepont and Gamston Parish Council	Parish and Borough Councillor	6/04/13	No action 9/05/13
04/13	4/04/13	Holme Pierrepont and Gamston Parish Council	Parish Councillor	6/04/13	No action 9/05/13
05/13	9/05/13	Holme Pierrepont and Gamston Parish Council	Parish Councillor	9/05/13	On-going
06/13	10/05/13	RBC and Holme Pierrepont and Gamston Parish Council	Two Parish Councillors*	15/05/13	No action 17/06/13
07/13**	20/05/13	Cropwell Bishop	Member of public	-	-
08/13	6/06/13	RBC	Member of Public	12/06/13	No action
09/13***	27/06/13	To be determined	Member of public	-	-

As at 30 June 2013

* Note this comprised of two identical complaints

** Note Complainant decided to raise issue directly with subject member

*** Awaiting confirmation from complainant of subject member