

# NON-CONFIDENTIAL



## **Borough of Tamworth**

12 June 2012

Dear Councillor

You are hereby summoned to attend a **meeting of the Council of this Borough** to be held on **TUESDAY, 19TH JUNE, 2012** at 6.00 pm in the **COUNCIL CHAMBER - MARMION HOUSE**, for the transaction of the following business:-

### **AGENDA**

#### **NON CONFIDENTIAL**

- 1 Apologies for Absence**
- 2 To receive the Minutes of the previous meetings (Pages 1 - 18)**
- 3 Declarations of Interest**

*To receive any declarations of Members' interests (personal and/or personal and prejudicial) in any matters which are to be considered at this meeting.*

*When Members are declaring a personal interest or personal and prejudicial interest in respect of which they have dispensation, they should specify the nature of such interest. Members should leave the room if they have a personal and prejudicial interest in respect of which they do not have a dispensation.*

- 4 To receive any announcements from the Mayor, Leader, Members of the Cabinet or the Chief Executive**
- 5 Question Time:**

- (i) To answer questions from members of the public pursuant to Procedure Rule No. 10.
- (ii) To answer questions from members of the Council pursuant to Procedure Rule No. 11

**6 Changes to Constitution arising from the Localism Act (Pages 19 - 48)**

*Report of the Solicitor to the Council and Monitoring Officer*

Yours faithfully

A handwritten signature in black ink, appearing to be 'A. Oost', written over a circular stamp or mark.

**CHIEF EXECUTIVE**

*People who have a disability and who would like to attend the meeting should contact Democratic Services on 01827 709264 or e-mail [committees@tamworth.gov.uk](mailto:committees@tamworth.gov.uk) preferably 24 hours prior to the meeting. We can then endeavour to ensure that any particular requirements you may have are catered for.*

Marmion House  
Lichfield Street  
Tamworth



**MINUTES OF A MEETING OF THE  
COUNCIL  
HELD ON 15th MAY 2012**

PRESENT: Councillor J Oates, Councillors T Clements, J Garner, L Bates, B Beale, M Clarke, S Claymore, D Cook, C Cooke, M Couchman, S Doyle, J Faulkner, M Greatorex, A James, R Kingstone, A Lunn, M McDermid, R McDermid, K Norchi, S Peuple, R Pritchard, S Pritchard, E Rowe, P Seekings, P Standen and M Thurgood

The following officers were present: Anthony E Goodwin (Chief Executive), John Wheatley (Executive Director Corporate), Jane Hackett (Solicitor to the Council and Monitoring Officer) and Bernadette Flanagan (Elections Officer)

**1 MAYOR'S CADET**

The Mayors Cadet for 2012/13 was inaugurated.

**2 TO ELECT A MAYOR**

Councillor Tina Clements was elected as Mayor and proposed a vote of thanks for Councillor Jeremy Oates' year as Mayor.

*(Moved by Councillor A Lunn and seconded by Councillor S Peuple)*

**3 TO ELECT A DEPUTY MAYOR**

Councillor John Garner was elected as Deputy Mayor

*(Moved by Councillor T Clements and seconded By Councillor E Rowe)*

**4 TO ELECT THE LEADER OF THE COUNCIL**

Councillor Danny Cook was elected as Leader of the Council

*(Proposed by Councillor S Pritchard and seconded by Councillor S Claymore)*

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The Mayor

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## **MINUTES OF A MEETING OF THE COUNCIL HELD ON 17th MAY 2012**

**PRESENT:** Councillor T Clements (Chair), Councillors J Garner, L Bates, B Beale, M Clarke, S Claymore, D Cook, C Cooke, M Couchman, S Doyle, J Faulkner, D Foster, M Greatorex, A James, R Kingstone, A Lunn, M McDermid, R McDermid, K Norchi, J Oates, S People, R Pritchard, S Pritchard, E Rowe, P Seekings and P Standen

The following officers were present: Anthony E Goodwin (Chief Executive), John Wheatley (Executive Director Corporate), Jane Hackett (Solicitor to the Council and Monitoring Officer) and Lara Allman (Democratic & Election Services Officer)

### **5 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors M Gant, K Gant, G Hirons and M Thurgood

### **6 TO RECEIVE THE MINUTES OF THE MEETING HELD ON 27 MARCH 2012**

The minutes of the meeting held on 27 March 2012 were approved and signed as a correct record.

*(Moved by Councillor D Cook and seconded by Councillor R Pritchard)*

### **7 DECLARATIONS OF INTEREST**

There were no Declarations of Interest.

### **8 TO RECEIVE ANY ANNOUNCEMENTS FROM THE MAYOR, LEADER, MEMBERS OF THE CABINET OR THE CHIEF EXECUTIVE**

#### **Announcement by the Mayor**

The Mayor thanked the outgoing Councillors N Oates, M Oates, G Pinner, A Lees and R Cook and presented them with certificates.

Councillor Clements spent a long weekend in Vaujours to celebrate 10 years of Twinning. She was presented with a wooden plaque for the Town Hall and a glass ornament for herself.

It was moved by Councillor D Cook and seconded by Councillor R Pritchard that Rule 13 (I) be applied and the meeting was adjourned for 10 minutes while Councillors D Cook, R Pritchard, J Faulkner and R McDermid left the Chamber.

### **Announcement by Councillor R Pritchard**

The community BMX track is now officially open and is proving to be very popular. He expressed his thanks to everyone who has been involved with this project.

The Mayor thanked Cllr R Pritchard for all his work to get this up and running.

## **9 QUESTION TIME:**

*QUESTIONS FROM MEMBERS OF THE COUNCIL* **NO.1**  
*Under Procedure Rule No 11, Councillor C Cooke will ask the Portfolio Holder for Corporate Services and Assets, the following question:-*

"In January 2010 Tamworth Council was asked for information under a freedom of information request regarding the number of allotment sites and plots in Tamworth and the state of the waiting lists. The reply from Tamworth's information officer on 19th January 2010 was that the information was not available to the Council as the Council leased out this land.

Could the portfolio holder explain to me how the Council can fulfil its legal obligations under the Section 23 of the Small Holdings and Allotments Act 1908 to provide sufficient allotments sites within Tamworth if, by leasing out the land, it also fails to retain responsibility for monitoring and assessing the relevant information?"

### **The Portfolio Holder for Corporate Services and Assets gave the following reply:**

The Tamworth Allotment & Leisure Gardeners Association can at any time request the council seek to make provision for more allotment space. While many members, myself included, have had informal approaches from the public for more allotment space, no official request to increase allotment space have been received by the council from any person, group or organisation.

Local allotment associations running allotments is a good example of the "big Society" in action, and those who use them are best placed to manage the service.

Should you feel the desire to make representation to the Tamworth Allotment & Leisure Gardeners Association you can contact them by writing to

The Tamworth Allotment & Leisure Gardeners Association  
Lichfield Road  
Tamworth  
Staffordshire  
B79 7DE

Or by calling 01827 61792

However I will remind you that this council is a proactive council and it has just recently brought some disused allotment space in Glascode back into use. The council is also actively looking at other spaces in the Borough that might be suitable for increased allotment provision.

This is something we are doing in partnership with the Tamworth Allotment & Leisure Gardeners Association.

### **Supplementary Question**

I am aware that the Tamworth Allotment Association currently has a waiting list. Could you look into this matter?

### **Councillor R Pritchard gave the following reply:**

A Tamworth Borough Council officer has been in touch and there has been no official request for more allotment space.

*QUESTIONS FROM MEMBERS OF THE COUNCIL* **NO.2**  
*Under Procedure Rule No 11, Councillor C Cooke will ask the Portfolio Holder for Corporate Services and Assets, the following question:-*

"Will the portfolio holder advise me of the total number of commercial properties owned by Tamworth Borough Council throughout the Borough and the percentage of those properties that are currently classed as unoccupied for whatever reason?"

### **The Portfolio Holder for Corporate Services and Assets gave the following reply:**

There are 66 commercial properties throughout the borough. 5 are currently void, however 3 of the void 5 are under offer. 2 of which already have agreed terms.

If the third has agreed terms, and along with the two other properties is subsequently let, the Borough Council will have just 2 empty commercial properties in the whole borough.

The Borough Council currently classes just 8% of commercial properties as being empty.

## **10 APPOINTMENT OF CABINET AND ALLOCATION OF RESPONSIBILITIES**

The membership of Cabinet for 2012/13 was received and circulated at the meeting as follows:

	<b>Leader of the Council</b> <b>Cllr Daniel Cook</b>	
	<b>Portfolio</b> Corporate Assessments Engagement Overview Financial Planning Performance Management Member Development Strategic Overview Local Strategic Partnership	
<b>Economic Development &amp; Enterprise</b> <b>Cllr Steve Claymore</b>	<b>Core Services &amp; Assets</b> <b>Cllr Rob Pritchard (Deputy leader)</b>	<b>Community Development</b> <b>Cllr Jeremy Oates</b>
<b>Portfolio</b>  Heritage & Leisure Tourism Town Centre Development Education Business Liaison Business Development Development Management Building Control Voluntary Sector Parks and Play Outdoor/Indoor Events Market Development  Local Plan LEP Board Member Infrastructure / Transport	<b>Portfolio</b>  Corporate Finance Procurement Audit & Governance Service Transformation ICT Human Resources Corporate Property Asset Management Treasury Management Revenues & Benefits Legal Services Democratic Services  Car Parks Customer Services Corporate Health and Safety	<b>Portfolio</b>  Safer & Stronger Communities Community Safety Tackling Crime ASB Reduction Tackling Fear of Crime Integrated Enforcement Civil Parking Enforcement Street Wardens CCTV Management Community Development Locality Working GP Commissioning / PCT Engagement Healthier Lifestyles Healthier Communities Police Commissioner
<b>Housing</b> <b>Cllr Michael Greateorex</b>	<b>Environment &amp; Waste Management</b> <b>Cllr Stephen Doyle</b>	<b>Reputation &amp; Engagement</b> <b>Cllr Lee Bates</b>
<b>Portfolio</b>  Strategic Housing	<b>Portfolio</b>  Strategic Waste Management	<b>Portfolio</b>  PR Management



<p>Homelessness Prevention Housing Advice Landlord Services Decent &amp; Affordable Housing Private Sector Housing Child Protection Safeguarding Children Vulnerable Adults Neighbourhood Renewal Healthier Housing Garages</p>	<p>Refuse Collection Recycling Services Waste Minimisation Community Health &amp; Safety Licensing Streetscene Tamworth in Bloom Operations Clean Streets Enforcements Street Furniture Maintenance</p>	<p>PR &amp; Comms Overview Tamworth Listens Graphics Publications Youth Council Corporate Consultation Budget Consultation HRA Consultation Services for Young People Tenant Engagement HRA Public Relations Third Sector Engagement Place Steering Group Gateways Project Participatory Budgeting</p>
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## 11 APPOINTMENT OF COMMITTEE 2012/13

The constitution and membership of Committees for 2012/13 was received and circulated at the meeting as follows:

### BOROUGH OF TAMWORTH

#### CONSTITUTION OF COMMITTEES 2012/13

##### CABINET

Councillors	Danny Cook	Leader with Portfolio
	Robert Pritchard	Deputy Leader/Core Services & Assets
Portfolio	Stephen Doyle	Environment & Waste Management Portfolio
	Jeremy Oates	Community Development
	Steven Claymore	Economic Development & Enterprise Portfolio
	Michael Greatorex	Housing Portfolio
	Lee Bates	Reputation & Engagement Portfolio

##### ASPIRE & PROSPER SCRUTINY COMMITTEE

Councillors	Brian Beale
	Garry Hirons
	Andrew James
	Richard Kingstone
	Matthew McDermid
	Simon Peale
	Steven Pritchard
	Patrick Standen

Michelle Thurgood

**HEALTHIER & SAFER SCRUTINY COMMITTEE**

Councillors      Margaret Clarke  
                         Marion Couchman  
                         John Faulkner  
                         Ken Gant  
                         Maureen Gant  
                         John Garner  
                         Andrew James  
                         Allan Lunn  
                         Evelyn Rowe

**PLANNING COMMITTEE**

Councillors      Brian Beale  
                         Steven Claymore  
                         Chris Cooke  
                         Richard Kingstone  
                         Richard McDermid  
                         Ken Norchi  
                         Jeremy Oates  
                         Evelyn Rowe  
                         Patrick Standen  
                         Michelle Thurgood

**STANDARDS COMMITTEE**

Councillors        Marion Couchman  
                          David Foster  
                          Ken Gant  
                          John Garner  
                          Eve Rowe

## Independent Members

Cathy Tibbles  
Richard Hughes  
Colin Stalford

**AUDIT & GOVERNANCE COMMITTEE**

Councillors        Maureen Gant  
                          Richard Kingstone  
                          Simon People  
                          Peter Seekings  
                          Michelle Thurgood

**LICENSING COMMITTEE**

Councillors        Brian Beale  
                          Tina Clements  
                          Margaret Clarke  
                          Danny Cook  
                          Chris Cooke  
                          Stephen Doyle  
                          Ken Gant  
                          John Garner  
                          Garry Hirons  
                          Andrew James  
                          Allan Lunn  
                          Matthew McDermid  
                          Ken Norchi  
                          Steven Pritchard  
                          Peter Seekings

**APPOINTMENTS AND STAFFING COMMITTEE**

Councillors        Danny Cook  
                          John Faulkner  
                          Michael Greatorex  
                          Richard McDermid  
                          Robert Pritchard

**CHIEF OFFICER CONDUCT COMMITTEE**

Councillors

**CABINET (GRANTS) SUB COMMITTEE**

Councillors            Lee Bates  
                              Steven Claymore  
                              Robert Pritchard

**Staffordshire Connects (1 member)**

**Local Parking Board (4 members)**

**SCC Communities Crime & Culture Committee (1 member)**

**County Health Scrutiny Committee (1 member)**

Andrew James

**Compact Committee (3 members)**

**12 TAMWORTH CORE STRATEGY / LOCAL PLAN**

The Report of the Portfolio Holder for Economic Development and Enterprise

- RESOLVED:**            That:
- 1 The Tamworth Local Plan be approved by Council for Pre-Submission Publication and following consultation on soundness the Local Plan be submitted to the Secretary of State, in accordance with Regulations 27, 28 & 30 of the Town and Country Planning (Local Development) (Amendment) Regulations 2008 (subject to recommendation (1a))
    - (a) Subject to no fundamental objections to the soundness of the Local Plan being made during the Pre-Submission Publication Stage; and
  - 2 Authority is delegated to the Head of Planning and Regeneration, in consultation with the Portfolio Holder for Economic Development & Enterprise, to make any typographical and formatting (including the insertion of photographs) amendments to the Local Plan prior to the

Submission; and

- 3 The Memorandum of Understanding (MoU) between Tamworth, Lichfield and North Warwickshire be approved with authorisation given to the Leader of the Council to sign the agreement and the Head of Planning and Regeneration to make minor amendments to the MoU as required.
- 4 Paragraph 5.37 on page 52 of the Tamworth Local Plan 'The updated SHMA identified that the split of affordable housing tenure should be 40% Social Rented and 60% Intermediate Tenure'.

be substituted with the following:

'The updated SHMA identified that the split of affordable housing tenure should be 50% Social Rented, 25% Affordable Rented and 25% Intermediate Tenure'

- 5 Policy CP4

d) for on site provision 40% of units as social rented and 60% of units as intermediate

be substituted with the following:

'd) for on site provision 50% Social Rented, 25% Affordable Rented and 25% Intermediate Tenure'

*(Moved by Councillor S Claymore and seconded by Councillor J Faulkner)*

## 13 REVIEW OF THE CONSTITUTION

The report of the Solicitor to the Council and Monitoring Officer advising Members of required changes to the Constitution was considered.

<b>RESOLVED</b>		That:
	1	The changes to the Constitution be noted;
	2	The changes outlined in Appendix 1 to this report be approved;
	3	The following be added: 1.8 <b>Decisions to be taken by the executive</b> (c) The executive are to reply recommendations accepted from Full council or the scrutiny Committees within a 3 month period;
	4	The following be added at Article 10A – Nominations Committee: 10A. 02 <b>Composition</b>  (a) <b>Membership.</b> The nominations committee will be composed of at least:

	<ul style="list-style-type: none"> <li>• five councillors</li> <li>• one person who is not a councillor or an officer of the council.</li> </ul> <p>(b) <b>Chairing the Committee.</b> The Chairman and Vice-Chairman will be appointed in accordance with Council Procedure Rules.</p> <p>(c) <b>Independent members.</b> Independent members will be entitled to vote at meetings;</p> <p><b>10A. 03 Role and Function</b></p> <p>The Nominations Committee will have the following roles and functions:</p> <ol style="list-style-type: none"> <li>1. Consider nominations to be made to the Council pursuant to section 249(1) of the Local Government Act 1972 for conferring the title of honorary aldermen or honorary alderwomen on persons who have, in the opinion of the Council, rendered eminent services to the Council.</li> <li>2. Consider nominations to be made to the Council pursuant to section 249(5) of the Local Government Act 1972 to admit to be honorary freemen or honorary freewomen of the Borough of Tamworth persons who are of distinction and who have, in the opinion of the Council, rendered eminent services to the Borough.</li> <li>3. Maintain a publicly accessible application process for the two above honours</li> <li>4. Any approved applications are referred to Full Council for Full Council approval.</li> <li>5. Act as a sponsor to a new application, make referral to, or support an existing application that nominates a Tamworth resident to any outside bodies' awards or recognition scheme.</li> <li>6. Seek nominations from the Tamworth public, persons worthy of public recognition for their service or work for the Borough of Tamworth.</li> </ol>
5	The following amendment be made to

		<p><b>11.2 Questions on notice at Ordinary Meetings of the Council:</b></p> <p>Subject to Rule 11.4, a member of the Council may ask:</p> <ul style="list-style-type: none"> <li>• a member of the executive;</li> <li>• the chairman or vice-chair of any committee or sub-committee</li> <li>• a question on any matter in relation to which the Council has powers or duties or which affects Tamworth.</li> </ul> <p>Be removed and replaced with</p> <p><b>11.2 Questions on notice at Ordinary Meetings of the Council</b></p> <p>Subject to Rule 11.4, a member of the Council may ask:</p> <ul style="list-style-type: none"> <li>• any member in receipt of a Special Responsibility Allowance, except the Mayor and Deputy Mayor.</li> <li>• a question on any matter in relation to which the Council has powers or duties or which affects Tamworth.</li> </ul>
	6	<p>The following amendment be made to 6.03 <b>Specific functions:</b></p> <p>(iv) question members of the executive and committees and chief officers about their views on issues and proposals affecting the area; and</p> <p>Be removed and replaced with:</p> <p>(iv) question members of the executive and committees and chief officers about their views on issues and proposals affecting the area and receive a reply/progress statement from the responsible body or member within 3 calendar months, relating to any recommendations accepted by full council or cabinet which have been referred from the scrutiny process; and</p>
	7	<p>Page C-8 <b>1. RESPONSIBILITY FOR EXECUTIVE FUNCTIONS</b> be updated with the new Executive Functions as detailed below: Executive functions shall subject to the provisions of</p>

	<p>Section 9E of the Local Government Act 2000 (as amended) be the responsibility of the Leader of the Council who may discharge executive functions or arrange for their discharge by the executive, by another member of the executive, by a committee of the executive or by an officer of the Council.</p> <p>The Leader shall as required by Article 7.06 maintain a list of delegations of functions which shall form part of this constitution.</p>		
	<p>Who is responsible</p>	<p>Responsibilities (provided the decision is within any guidance or direction from the Leader and/or the Cabinet)</p>	<p>Onward limits on delegations (provided the decision is within any guidance or direction from the Leader and/or the Cabinet and/or the Portfolio Holder)</p>
	<p>Leader</p>	<p><b>Corporate Assessments Engagement Overview Financial Planning Performance Management Member Development Strategic Overview Local Strategic Partnership</b></p>	<p>Chief Officers with responsibilities for these functions</p>
	<p>Portfolio Holder for <b>Core Services &amp; Assets</b></p>	<p><b>Corporate Finance Procurement Audit &amp; Governance Service Transformation ICT Human Resources Corporate Property Asset Management Treasury</b></p>	<p>Chief Officers with responsibilities for these functions</p>



		<b>Management Revenues &amp; Benefits</b> <b>Legal Services</b> <b>Democratic Services</b> <b>Car Parks</b> <b>Customer Services</b> <b>Corporate Health and Safety</b>	
	Portfolio Holder for <b>Community Development</b>	<b>Safer &amp; Stronger Communities</b> <b>Community Safety</b> <b>Tackling Crime</b> <b>ASB Reduction</b> <b>Tackling Fear of Crime</b> <b>Integrated Enforcement</b> <b>Civil Parking Enforcement</b> <b>Street Wardens</b> <b>CCTV</b> <b>Management</b> <b>Community Development</b> <b>Locality Working</b> <b>Healthier Communities</b>	Chief Officers with responsibilities for these functions
	Portfolio Holder for <b>Housing</b>	<b>Strategic Housing</b> <b>Homelessness Prevention</b> <b>Housing Advice</b> <b>Landlord Services</b> <b>Decent &amp; Affordable Housing</b> <b>Private Sector Housing</b> <b>Child Protection</b> <b>Safeguarding Children</b> <b>Vulnerable Adults</b> <b>Neighbourhood Renewal</b> <b>Healthier</b>	Chief Officers with responsibilities for these functions

		<b>Housing Garages</b>	
	Portfolio Holder for <b>Reputation &amp; Engagement</b>	<b>Public Relations Management Public Relations Communications Overview Tamworth Listens Graphics Publications Youth Council Corporate Consultation Budget Consultation HRA Consultation Services for Young People Tenant Engagement HRA Public Relations Third Sector Engagement Place Steering Group Gateways Project Participatory Budgeting</b>	Chief Officers with responsibilities for these functions
	Portfolio Holder for <b>Environment and Waste Management</b>	<b>Strategic Waste Management Refuse Collection Recycling Services Waste Minimisation Public Health &amp; Safety Community Health &amp; Safety Licensing StreetScene Tamworth in Bloom Operations Clean Streets Enforcements</b>	Chief Officers with responsibilities for these functions

	Portfolio Holder for <b>Economic Development &amp; Enterprise</b>	<b>Heritage &amp; Leisure</b> <b>Tourism</b> <b>Town Centre Development</b> <b>Education</b> <b>Business Liaison</b> <b>Business Development</b> <b>Development Management</b> <b>Building Control</b> <b>Voluntary Sector</b> <b>Parks and Play</b> <b>Outdoor/Indoor Events</b> <b>Market Development</b> <b>Local Plan</b> <b>Local Enterprise Partnerships</b> <b>Infrastructure / Transport</b>	Chief Officers with responsibilities for these functions
	Cabinet (Grants) Sub Committee	<ul style="list-style-type: none"> <li>• To determine applications under the grants to voluntary organisations scheme (small grants)</li> <li>• To determine applications under the Arts Grants Fund</li> </ul> <p>To determine applications under the Sports Grants Fund</p>	Chief Officers with responsibilities for these functions
		<i>(Moved by Councillor R Pritchard and seconded by Councillor D Cook)</i>	

#### 14 SCHEME OF DELEGATION FOR OFFICERS

The Report of the Solicitor to the Council and Monitoring Officer seeking Council's comments, endorsement and approval to the proposed draft Scheme of Delegation for officers was considered.

<b>RESOLVED</b>	That the revised Scheme of Delegation to Officers be adopted and approved.
	<i>(Moved by Councillor D Cook and seconded by Councillor R Pritchard)</i>

## 15 COMPLAINTS TO STANDARDS COMMITTEE

The Report of the Solicitor to the Council and Monitoring Officer advising Members on the number of complaints received for the year 1 April 2010 until 31 March 2011 in relation to breaches of the Code of Conduct since the local filtering regime was put in place in May 2008 was considered.

<b>RESOLVED:</b>	That the findings contained in the report be endorsed.
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## 16 CALENDAR OF MEETINGS 2012/13

The Calendar of Meetings for 2012/13 was received and circulated at the meeting.

<b>RESOLVED</b>	That the Council meeting scheduled for 10 July 2012 be moved to 11 July.
	<i>(Moved by Councillor D Cook and seconded by Councillor R Pritchard)</i>

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The Mayor

## REPORT TO COUNCIL

19 June 2012

### Report of the Solicitor to the Council and Monitoring Officer

## THE LOCALISM ACT 2011 – Changes to the Standards Regime

### 1 PURPOSE

The Localism Act 2011 (the Act) makes fundamental changes to the system of regulation of Standards of Conduct for elected and co-opted Councillors. The date for implementation of these changes is 1 July 2012.

This report describes the changes and recommends the actions required for the Council to implement the new regime.

### 2 RECOMMENDATIONS

It is recommended that :-

a.

(i) Council establish a larger Audit and Governance Committee comprising seven elected members of the District Council, appointed proportionally; or

(ii) Council retain Standards Committee without Independent Members bringing membership of the Committee down to five elected members

b. the Terms of Reference of the Audit and Governance Committee be extended to encompass issues and complaints relating to Standards of Conduct of members

c. Council adopt a Code of Conduct to have effect from 1 July 2012.

(1) The Standards Committee has recommended that the draft Code should be as that suggested by the LGA as attached at Appendix A.

(2) THE AFORESAID Code of Conduct does not encompass Disclosable Pecuniary Interests nor the recommendations of the Governance Review Group, Such a Code is attached at Appendix B.

The minimum Statutory requirement requires a Code that

- i. is consistent with the principles of public life and
- ii. specifies the interests which are required to be registered in addition to the mandatory registration of by the Disclosable Pecuniary Interests (DPI's).

- d. Council adopt Arrangements for dealing with complaints regarding members of the Council as attached at Appendix C in terms of Section 28(6) of the Act, which is the proposal for all Staffordshire Councils to allow for uniformity and consistency in dealing with complaints across Staffordshire
- e. the Monitoring Officer appoint a Deputy Monitoring Officer from one of the members of Corporate Management Team
- f. the Monitoring Officer advertise a vacancy of the appointment of 1 Independent Person and up to 2 Reserve Independent Persons
- g. a Committee comprising the Chair and two other members of Standards Committee/ Audit and Governance Committee be set up to deal with the appointment at (e) above and proceed to short-list and interview candidates, and to make a recommendation to Council for appointment.
- h. the Monitoring Officer, in consultation with the Chair of the Committee and the Leader, be authorised to set the initial allowances and expenses for the Independent Person and any Reserve Independent Persons, and this function subsequently be delegated to the said Committee.
- i. the Monitoring Officer prepare and maintain a new register of members interests to comply with the requirements of the Act and of the Council's Code of Conduct, once adopted, and ensure that it is available for inspection as required by the Act;
- j. Council adopt a Standing Order which equates to the current Code of conduct requirement that a member must withdraw from the meeting room, including from the public gallery, during the whole of consideration of any item of business in which e/she has a DPI, except where he/she is permitted to remain as a result of the grant of a dispensation.
- k. Council delegate the power to grant dispensations –
  - i to the Monitoring Officer with an appeal to the said Committee, and
  - ii to the said Committee after consultation with the Independent Person.
- l. that the current Standards Committee and appointment of Independent members cease to have effect from 30 June 2012 and that any complaints not concluded at that date be referred to the Committee for consideration.

### **3 SUMMARY**

Under the Localism Act the authority remain under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members.

Accordingly the District Council has to decide

- i) what arrangements to make to deal with issues of misconduct of its members and how it is to be composed;
- ii) what it will include in its Code of Conduct
- iii) how many Independent Persons are required
- iv) what “arrangements” it will adopt for dealing with conduct complaints and for taking action where a member is found to have failed to comply with the Code of Conduct
- v) the requirements for the Register of Members Interests
- vi) whether to adopt a Standing Order in respect of withdrawal from meetings for member’s interests
- vii) in what circumstances Standing Orders would exclude a member from attending meetings while the matter in which they have a Disclosable Pecuniary Interest is being discussed or voted upon
- viii) what arrangements would be appropriate for granting dispensations in relation to prejudicial interests of members.

#### **4 RESOURCE IMPLICATIONS**

The setting up of extended remit of the Committee, Code of Conduct, hearing processes and appointment of Independent Persons and changes to the Constitution will be carried out by the Monitoring Officer as part of her duties and have no additional resource implications for the Authority. The level of remuneration for the Independent Person(s) requires to be decided and will be an ongoing requirement, however it is not considered to be an onerous cost to the authority and should be contained within present budget figures.

#### **5 EQUALITY IMPLICATIONS**

This decision does not require an Equalities Impact Assessment. In approving the recommendations it is envisaged that the citizens of Tamworth will benefit from a robust, open and transparent Standards Regime.

#### **6 RISK IMPLICATIONS**

An effective Standards Regime will provide the mitigating action necessary to ensure that its statutory obligations under the Localism Act 2011 are met by the implementation date of 1 July 2012.

#### **7 BACKGROUND INFORMATION**

##### **7.1 Standards Committee**

The Act repeals Section 55 of the Local Government Act 2000, which provides for the current statutory Standards Committee. The Standards Board has already been abolished from 1 April 2012 and arrangements for Standards are a meter for individual authorities to determine under the new provisions in the Localism Act. In essence, there will be no requirement for a Standards Committee. However, there will still be a need to deal with conduct issues and case-work, so that it is likely to remain convenient to have a Committee that can deal with such complaints. It will be a normal Committee of Council, without the unique features which were conferred by the previous legislation. As a result –

- 7.1.1 The composition of the Committee will be governed by proportionality.

- 7.1.2 The current co-opted independent members will cease to hold office. The Act establishes for a new category of Independent Persons who must be consulted at various stages. The existing co-opted independent members cannot serve as Independent Persons for five years. A person is not “independent” if they are or have been within the last five years an elected , or co-opted member of any Committee or Sub-Committee of the Council, this precludes any of the current co-opted independent members of Standards Committee being appointed as an Independent Person The new Independent Persons may be invited to attend meetings of the Committee, but would not be members of that Committee;

## 7.2 The Code of Conduct

The current ten General Principles and Model Code of Conduct are repealed. However the Council will require its members to give an undertaking to comply with the Code of Conduct. In addition the Council will require to adopt a new Code of Conduct governing elected and co-opted member’s conduct when acting in that capacity. The Council’s new Code of Conduct must, viewed as a whole, be consistent with the following seven principles

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

The Council has discretion as to what it includes within its new Code of Conduct, provided that it is consistent with the seven principles.

So the Council’s new Code of Conduct has to deal with the following matters –

- General conduct rules, to give effect to the seven principles.
- Registration and disclosure of interests other than DPIs – effectively, replacing the current personal interests provisions. The Act requires DPI’s to be registered and where not registered be declared at meetings. The Relevant Authorities (Disclosable Interests) Regulations 2012 (Appendix D) set out those pecuniary interests which must be registered.
- The Governance Review Group recommended that each member sign a copy of the Code indicating their willingness to be bound to it and that it encompass respect between members, staff and any other people members come into contact with in the course of their duties.

The Act does not give the Council any powers to impose sanctions, such as suspension or requirements for training or an apology, on members in relation to a breach of conduct. So, where a failure to comply with the Code of Conduct is found, the range of actions which the authority can take in respect of the member is limited and must be directed to securing the continuing ability of the authority to continue to discharge its functions effectively, rather than “punishing” the member concerned. In practice, this should include the following –



## The Committee

- Report its findings to Council for information;
- Recommend to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- Instruct the Monitoring Officer to arrange training for the member;
- Remove the member from all outside appointments to which he/she has been appointed or nominated by the authority;
- Withdraw facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or

Excluding 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.

## Appeals

There is no requirement to put in place any appeals mechanism against such decisions. The decision would be open to judicial review by the High Court if it was patently unreasonable, or if it were taken improperly, or if it sought to impose a sanction which the authority had no power to impose.

## 7.3 Independent Person(s)

The "arrangements" adopted by Council must include provision for the appointment by Council of at least one Independent Person.

### 7.3.1 "Independence"

The Independent Person must be appointed through a process of public advertisement, application and appointment by a positive vote of a majority of all members of the District Council (not just of those present and voting).

### 7.3.2 Remuneration

As the Independent Person is not a member of the authority or of its Committees or Sub-Committees, the remuneration of the Independent Person no longer comes within the scheme of members' allowances, and can therefore be determined without reference to the Independent Remuneration Panel.

In comparison to the current Chair of Standards Committee, the role of Independent Person is likely to be less onerous. He/she will need to be available to be consulted by members against whom a complaint has been made, although it is unclear what assistance he/she could offer. Where he/she has been so consulted, he/she would be unable to be involved in the determination of that complaint. This report suggests that the Independent Person also be involved in the local resolution of complaints and in the grant of dispensations.

## 7.4 The Register of Members' Interests.

The Localism Act abolishes the concepts of personal and prejudicial interests. Instead, The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (attached at Appendix D) define “Disclosable Pecuniary Interests” (DPIs).

In Summary they are

Employment, office, trade, profession or vocation  
Sponsorship  
Contracts  
Land  
Licences  
Corporate Tenancies  
Securities

The Act extends the requirement for registration to cover not just the member’s own interests, but also those of the member’s spouse or civil partner, or someone living with the member in a similar capacity.

The provisions of the Act in respect of the Code of Conduct require an authority’s code to contain appropriate requirements for the registration (and disclosure) of other pecuniary interests and non-pecuniary interests.

Each elected or co-opted member must register all DPIs within 28 days of becoming a member. Failure to register is made a criminal offence.

## 7.5 Disclosable Pecuniary Interests and withdrawal from meetings

The Act prohibits members with a DPI from participating in authority business, and the Council should adopt a Standing Order requiring members to withdraw from the meeting room.

As set out above, DPIs are broadly equivalent to prejudicial interests, but with important differences. So –

7.5.1 The duty to disclose and withdraw arises whenever a member attends any meeting of Council, a committee or sub-committee, or of Cabinet or a Cabinet committee, and is aware that he/she has an unregistered DPI in any matter being considered at the meeting. So it applies even if the member would be absent from that part of the meeting where the matter in question is under consideration. Where the DPI is disclosed it must be registered in the register of interests within 28 days unless notification has already been given.

7.5.2 If a member has a DPI in any matter, he/she must not –

Participate in any discussion of the matter at the meeting; or  
Participate in any vote on the matter, unless he/she has obtained a dispensation allowing him/her to speak and/or vote.

- 7.5.3 Failure to observe these provisions will be criminal offences which on conviction will carry a maximum fine of £5,000. Prosecutions may only be instituted with the permission of the Director of Public Prosecutions and cases must be brought within specific time scales.
- 7.5.4 The requirement to withdraw from the meeting room shall be covered by Standing Order, which would apply not just to Council, Committees and Sub-Committees, but can apply also to Cabinet meetings.

## Sensitive Interests

The Act effectively re-enacts the existing provisions on Sensitive Interests.

So, where a member is concerned that disclosure of the detail of an interest (either a DPI or any other interest which he/she would be required to disclose) at a meeting or on the register of members' interests would lead to the member or a person connected with him/her being subject to violence or intimidation, he/she may request the Monitoring Officer to agree that the interest is a "sensitive interest".

If the Monitoring Officer agrees, the member then merely has to disclose the existence of an interest, rather than the detail of it, at a meeting, and the Monitoring Officer can exclude the detail of the interest from the published version of the register of members' interests.

## Appendices

**Appendix A Proposed Code of Conduct by Standards Committee**

**Appendix B Proposed Code of Conduct incorporating Disclosable Pecuniary Interests and recommendations of the Governance Review Group**

**Appendix C Arrangements for dealing with Complaints**

**Appendix D The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012**

## REPORT AUTHOR

Jane M Hackett, Solicitor to the Council and Monitoring Officer Tel; 709258 if you would like further information or clarification prior to the meeting

## LIST OF BACKGROUND PAPERS

The Localism Act 2011 <http://www.legislation.gov.uk/ukpga/2011/20/contents>

The Localism Act 2011 Explanatory Notes

<http://www.legislation.gov.uk/ukpga/2011/20/notes/contents>

The Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012 <http://www.legislation.gov.uk/uksi/2012/1463/contents/made>

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## Template Code of Conduct

As a member or co-opted member of *[X authority]* I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

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

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

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

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

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

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

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

The Act further provides for registration and disclosure of interests and in *[X authority]* this will be done as follows: *[to be completed by individual authorities]*

As a Member of [*X authority*], my conduct will in particular address the statutory principles of the code of conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the [*county*][*borough*][*Authority's area*] or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.



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## Tamworth Borough Council Members' Code of Conduct

As a member or co-opted member of Tamworth Borough Council I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

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

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

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

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

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

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

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

As a member or co-opted member of Tamworth Borough Council, my conduct will in particular address the statutory principles of the code of conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.

- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the Borough of Tamworth or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.

## **Registration of Interests**

The Localism Act further provides for registration and disclosure of interests and this will be done as follows:

The Solicitor and Monitoring Officer will maintain a register of members' interests in accordance with section 29 of the Localism Act 2011. The register of interests is a public document which must be published on the Council's web site.

### **The requirement to register interests**

Members and co-opted members shall on the adoption of this code of conduct register any disclosable pecuniary interests as specified by the Relevant Authorities (Disclosable Pecuniary Interest) Regulation 2012. A copy of the statutory provisions and the regulations is set out in the schedule to this code.

A member or co-opted member must before the end of 28 days beginning with the day on which the person becomes a member or co-opted member of the Council notify the Solicitor and Monitoring Officer of any disclosable pecuniary interest which a person has at the time when notification is given or in the case of re-election or re-appointment any interests which have not been the subject of notification. A form will be provided for the convenience of members and co-opted members.

All interests declared whether or not disclosable pecuniary interests shall be entered on the register.

### **The interests to be registered**

Disclosable pecuniary interests as set out in the regulations<sup>1</sup> being the interest of:-

- (a) the member or co-opted member.
- (b) the spouse or partner of the member or co-opted member.
- (c) a person with whom the member or co-opted member is living as husband and wife or as if they were civil partners, and the member or co-opted member is aware that the other person has an interest.

Disclosable pecuniary interests<sup>2</sup> are:-

- Employment, office, trade profession or vocation.
- Sponsorship.
- Contracts with the Council.
- Any interest in land in the Borough.
- Any licence to occupy land in the Borough.
- Corporate tenancies where the Council is the landlord and the tenant is a body in which any of the persons in paragraphs (a), (b) and (c) above have a beneficial interest.

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<sup>1</sup> The Relevant Authorities (Disclosable Pecuniary Interest) Regulation 2012.

<sup>2</sup> See the regulations for the full definition.

- Securities such as shares in a body having a place of business in the Borough and the nominal value exceeds £25,000 or 1% of the issued share capital of that body or the class of shares held.

Obligations in respect of matters considered at meetings or by a single member exercising executive functions

If a member or co-opted member is present at a meeting of the Council, the Cabinet, or any committee, sub-committee, joint committee or joint sub-committee of the Council has a disclosable pecuniary interest of which they are aware and the interest is not entered in the register of interests, the member or co-opted member must disclose the interest to the meeting unless the interest is a sensitive interest (see below) in which case only the fact that there is an interest need be disclosed.

Notice of the interest must be given to the Solicitor and Monitoring Officer within 28 days of disclosing it, unless the interest has already been registered or notice has already been given.

**If you have a pecuniary disclosable interest in any business you cannot participate, or participate further, in any discussion of the matter at the meeting or participate in any vote, or further vote taken on the matter at the meeting.**

Standing order 21.6 provides that a member with a disclosable pecuniary interest must withdraw from the room in which the meeting is being held.

Where a single member exercising executive decisions has a disclosable pecuniary interest in any matter being dealt with by that member in discharging that function, notice of the interest must be given to the Solicitor and Monitoring Officer within 28 days of disclosing it, unless the interest has already been registered or notice has already been given and the member must not take any further steps in relation to the matter except for enabling the matter to be dealt with by another member.

Voluntary registration and declaration of interests – guidance

If a member or co-opted member has other interests which do not constitute a disclosable pecuniary interest, it would be good practice and in accordance with principle of openness to consider whether in all the circumstances such interests should be notified to the Solicitor and Monitoring Officer for inclusion in the register of interests.

Members and co-opted members should also consider whether such interests might be viewed by other people as prejudicing the proper consideration of business in the public interest and whether such interests should be disclosed to the meeting. Members and co-opted members should also decide whether or not to take part in the discussion and any vote where an interest is disclosed. Particular consideration should be given to other interests in the case of planning and licensing decisions.

The Solicitor and Monitoring Officer will be available to provide general guidance to members and co-opted members.

Sensitive interests

If a member or co-opted member considers that disclosure of an interest could result in that person or a connected person being subject to violence or intimidation an application should be made to the Solicitor and Monitoring Officer for details of that interest to be excluded from the register.

Dispensations

If the number of members prohibited from participating in any business would be so great a proportion of the number of members transacting the business as to impede the transaction of the business, the Council, acting by the Audit and Governance Committee may grant a dispensation in appropriate terms for a period not exceeding four years.

Criminal offences

Failure, without reasonable excuse to comply with the statutory provisions relating to disclosable pecuniary interests is a criminal offence which on summary conviction carries a maximum fine of £5,000 and may lead to disqualification for a maximum period of five years for being or becoming a member or co-opted member of a local authority.

Section 34 of the Localism Act (see the schedule) sets out the offences.

I .....

being a member or co-opted member of Tamworth Borough Council agree to be bound by the provisions of this code of conduct.

Dated.....

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**Arrangements for Dealing with Standards Allegations  
Under The Localism Act 2011**

**1. Context**

These “Arrangements” set out how you may make a complaint that an elected or co-opted member of this authority has failed to comply with the authority’s Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the authority’s Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a member or co-opted member of the authority or of a Committee or Sub-Committee of the authority, has failed to comply with that authority’s Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the authority to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a member against whom an allegation has been made.

**2. The Code of Conduct**

The Council has adopted a Code of Conduct for members, which is available for inspection on the authority’s website and on request from Reception at the Council Offices.

**3. Making a Complaint**

If you wish to make a complaint, please write or email to –

The Monitoring Officer  
Marmion House  
Lichfield Street  
Tamworth  
B79 7BZ

Or –

[jane-hackett@tamworth.gov.uk](mailto:jane-hackett@tamworth.gov.uk)

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the model complaint form, which can be downloaded from the authority's website, next to the Code of Conduct, and is available on request from Reception at the Council Offices.

Please do provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the member against whom you make the complaint, without your prior consent. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.

#### **4. Will your complaint be investigated?**

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. This decision will normally be taken within 14 days of receipt of your complaint. Where the Monitoring Officer has taken a decision, she will inform you of her decision and the reasons for that decision.

Where she requires additional information in order to come to a decision, she may come back to you for such information, and may request information from the member against whom your complaint is directed.

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



If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

**5. How is the investigation conducted?**

The Council has adopted a procedure for the investigation of misconduct complaints.

If the Monitoring Officer decides that a complaint merits formal investigation, she will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

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

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

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

The Monitoring Officer will review the Investigating Officer's report and, if she is satisfied that the Investigating officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned notifying you that she is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, she may ask the Investigating Officer to reconsider

his/her report.

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

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person, seek local resolution.

**7.1 Local Resolution**

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Committee for information, but will take no further action. However, if you tell the Monitoring officer that any suggested resolution would not be adequate; the Monitoring Officer will refer the matter for a local hearing.

**7.2 Local Hearing**

If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The Council has agreed the following procedure for local hearings.

Essentially, the Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officers report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this

purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearings Panel. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

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

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

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

- 8.1 Report its findings to Council for information;
- 8.2 Recommend to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 8.3 Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 8.4 Instruct the Monitoring Officer to arrange training for the member;
- 8.5 Remove from all outside appointments to which he/she has been appointed or nominated by the authority;
- 8.6 Withdraw facilities provided to the member by the Council, such as a computer, website and/or email and internet access;
- 8.7 Exclude the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee or Sub-Committee meetings;

- 8.8 Censure or reprimand the member;
- 8.9 Publish its findings in respect of the member's conduct;
- 8.10 Recommend to Council that the member be replaced as Executive Leader.

The Hearings Panel has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

## 9. **What happens at the end of the hearing?**

At the end of the hearing, the Chair will state the decision to the Hearings Panel as to whether the member failed to comply with the Code of Conduct and as to any actions which the Hearings Panel resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel, and send a copy to you, to the member, make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

## 10. **Who are the Hearings Panel?**

The Hearings Panel is a Sub-Committee of the xx Committee. It will comprise a maximum of xx members of the Committee, including and comprise members drawn from at least 2 different political parties. Subject to those requirements, it is appointed on the nomination of party group leaders in proportion to the strengths of each party group on the Council.

The Independent Person is invited to attend all meetings of the Hearings Panel and his views are sought and taken into consideration before the Hearings Panel takes any decision on whether the member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

## 11. **Who is the Independent Person?**

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

A person cannot be "independent" is he/she –

- 1. Is, or has been within the past 5 years, a member, co-opted member or officer of the authority;

2. Is or has been within the past 5 years, a member, co-opted member or officer of a parish council within the authority's area, or
3. Is a relative, or close friend, of a person within paragraph 1 or 2 above. For this purpose, "relative" means –
  - 3.1 Spouse or civil partner;
  - 3.2 Living with the other person as husband or wife or as if they were civil partners;
  - 3.3 Grandparent of the other person;
  - 3.4 A lineal descendent of a grandparent of the other person;
  - 3.5 A parent, sibling or a child of a person within paragraphs 3.1 or 3.2;
  - 3.6 A spouse or civil partner of a person within paragraphs 3.3, 3.4 or 3.5; or
  - 3.7 Living with a person within paragraphs 3.3, 3.4, or 3.5 as husband and wife or as if they were civil partners.

## 12. **Revision of these arrangements**

The Council may by resolution agree to amend these arrangements, and has delegated to the Chair of the Hearings Panel the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

## 13. **Appeals**

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

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

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**2012 No. 1464**

**LOCAL GOVERNMENT, ENGLAND**

**The Relevant Authorities (Disclosable Pecuniary Interests)  
Regulations 2012**

<i>Made</i> - - - -	<i>6th June 2012</i>
<i>Laid before Parliament</i>	<i>8th June 2012</i>
<i>Coming into force</i> - -	<i>1st July 2012</i>

The Secretary of State, in exercise of the powers conferred by sections 30(3) and 235(2) of the Localism Act 2011(a), makes the following Regulations.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and shall come into force on 1st July 2012.

(2) In these regulations—

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means a member of a relevant authority;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

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

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000(b) and other securities of any description, other than money deposited with a building society.

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(a) 2011 c.20.  
(b) 2000 c. 8.

## Specified pecuniary interests

2. The pecuniary interests which are specified for the purposes of Chapter 7 of Part 1 of the Act are the interests specified in the second column of the Schedule to these Regulations.

Signed by authority of the Secretary of State for Communities and Local Government

*Grant Shapps*  
Minister of State

6th June 2012

Department for Communities and Local Government

## SCHEDULE

Regulation 2

<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(a).
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

(a) 1992 c. 52.



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.

#### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

Section 30 of the Localism Act 2011 provides that a member or co-opted member of a relevant authority as defined in section 27(6) of the Localism Act 2011, on taking office and in the circumstances set out in section 31, must notify the authority's monitoring officer of any disclosable pecuniary interest which that person has at the time of notification. These Regulations specify what is a pecuniary interest. Section 30(3) of the Act sets out the circumstances in which such an interest is a disclosable interest.

A full impact assessment has not been produced for these Regulations as no impact on the private or voluntary sectors is foreseen.

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