



Civic Centre,
Arnot Hill Park,
Arnold,
Nottinghamshire,
NG5 6LU

Agenda

Standards Committee

Date: **Thursday 4 July 2019**

Time: **6.00 pm**

Place: **Committee Room**

For any further information please contact:

Helen Barrington

Director of Organisational Development and Democratic
Services

0115 901 3896

Standards Committee

Membership

Chair Councillor Michael Boyle

Vice-Chair Councillor Michael Payne

Councillor Pat Bosworth
Councillor Andrew Ellwood
Councillor Mike Hope
Councillor Simon Murray
Councillor Martin Smith
Councillor Clive Towsey-Hinton
Rosalie Hawks
Patricia Woodfield

AGENDA

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- 1 Apologies for Absence and Substitutions.**
- 2 To approve, as a correct record, the minutes of the meeting held on 21 February 2019.** 5 - 7
- 3 Declaration of Interests.**
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Report of the Director of Organisational Development and Democratic Services.
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Report of the Director of Organisational Development and Democratic Services.
- 8 Any other item which the Chair considers urgent.**

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MINUTES STANDARDS COMMITTEE

Thursday 21 February 2019

Councillor Emily Bailey Jay (Chair)

Councillor Michael Payne	Rosalie Hawks
Councillor Alan Bexon	Patricia Woodfield
Councillor Andrew Ellwood	

Absent: Councillor Colin Powell and John Bailey

Officers in Attendance: H Barrington and K Bradford

Independent Person: John Baggaley

8 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS.

Apologies for absence were received from Councillor Colin Powell and John Bailey (Parish Representative). Apologies were also received from Susan Dewey (Reserve Independent Person).

9 TO APPROVE, AS A CORRECT RECORD, THE MINUTES OF THE MEETING HELD ON 30 AUGUST 2018.

RESOLVED:

That the minutes of the above meeting, having been circulated, be approved as a correct record subject to adding John Baggaley to the list of present attendees.

10 DECLARATION OF INTERESTS.

None.

11 COMMITTEE ON STANDARDS IN PUBLIC LIFE - REVIEW OF LOCAL GOVERNMENT ETHICAL STANDARDS

The Director of Organisational Development and Democratic Services introduced a report, which had been circulated prior to the meeting, presenting the findings of the Committee on Standards in Public Life following a review of local government ethical standards with a view to seeing what changes can be implemented locally.

RESOLVED to:

- 1) Note the Committee on Standards in Public Life report;
- 2) Agree the good practice recommendations set out in the Committee on Standards in Public Life report in principle and that steps be taken to introduce all the recommendations;
- 3) Agree that the Chair of the Standards Committee should write to the Committee on Standards in Public Life expressing disappointment that more recommendations were not made to deal with bullying and intimidation of members; and
- 4) Explore what support can be put in place to support members experiencing bullying and intimidation.

12 REVIEW OF GIFTS AND HOSPITALITY CODE OF PRACTICE FOR MEMBERS AND OFFICERS

The Director of Organisational Development and Democratic Services presented a report, which had been circulated in advance of the meeting, proposing minor amendments to the Gifts and Hospitality Code of Practice for Members and Officers for referral to Joint Consultative and Safety Committee and Appointments and Conditions of Service Committee for formal approval.

RESOLVED:

To agree the minor amendments to the Gifts and Hospitality Code of Practice for Members and Officers set out at Appendix 1 to the report for referral to the Joint Consultative and Safety Committee and Appointments and Conditions of Service Committee for formal approval.

13 CODE OF CONDUCT COMPLAINTS

The Director of Organisational Development and Democratic Services introduced a report, which had been circulated prior to the meeting, informing members of the Standards Committee of complaints received between 21 August 2018 and 12 February 2019.

RESOLVED:

To note the report.

14 ANY OTHER ITEM WHICH THE CHAIR CONSIDERS URGENT.

None

The meeting finished at 6.45 pm

Signed by Chair:
Date:

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Report to Standards Committee

Subject: Gifts and Hospitality 2018/19

Date: 4 July 2019

Author: Director of Organisational Development and Democratic Services

1. Purpose

To inform members of the Standards Committee of gifts and hospitality received between 1 April 2018 and 31 March 2019.

Recommendation

THAT the report be noted.

2. Background

- 2.1 The Council has a Gifts and Hospitality Code of Practice for Members and Officers to enable Members and Officers to decide on the circumstances and the manner in which gifts and hospitality may be accepted. The Code was reviewed during 2018 and minor amendments approved by both Standards Committee and Appointments and Conditions of Service Committee. In addition to the Code of Practice, there are also obligations in the Code of Conduct relating to gifts and hospitality which Members were reminded of as part of the recent Code of Conduct training, in particular the ongoing requirement to register any future gifts and hospitality.
- 2.2 Historically, each council department held its own register of gifts and hospitality in which details of gifts and hospitality offered to Officers were registered. However, since 2012 the register has been held centrally in an electronic folder. The register of gifts and hospitality for Members is also held in the electronic folder and is updated on the Monitoring Officer's behalf by Democratic Services.
- 2.3 In addition to the review of the Gifts and Hospitality Code of Practice an advisory audit conducted by RSM relating to Strategic Fraud touched on gifts and hospitality. A number of recommendations have been made and the following actions agreed:

- The gifts and hospitality registers will be reviewed on a quarterly rather than an annual basis to ensure that any questionable declarations do not go undetected for 12 months before being identified.
- The register has been amended to require more specific detail of who offered the gift/hospitality. In future both the name of the person and the Company (if applicable) will be recorded. In addition, the estimated value of the gift/hospitality will now need to be recorded.

The advisory audit recognised that the recent review of the Code of Practice was reaching a conclusion and made a number of other suggestions in relation to the Code of Practice which will be considered the next time it is reviewed.

- 2.4 Regular reminders have previously been sent to Service Managers asking them to ensure all staff register all gifts and hospitality offered, whether accepted or not. Following the review of the Code of Practice last year, staff have been reminded of the obligations relating to gifts and hospitality again and a specific briefing given to SLT and Service Managers by the Monitoring Officer.
- 2.5 The entries on the Register shows that during 2018/19, across the Council officers, 33 offers of gifts or hospitality were accepted and none were refused. Most common gifts were boxes of chocolates, and boxes of biscuits. There were 2 instances of hospitality offered consisting of dinner at a conference/Awards ceremony. No offers of gifts or hospitality were recorded by Members. A breakdown of the gifts and hospitality offered appears at Appendix 1.
- 2.6 A review of the Register entries has identified the following gaps/concerns:
- Two instances where the “Authorised by Manager” column includes the name of the officer to which the gift was offered.
 - Three instances where the “Authorised by Manager” column is blank.

These have been raised with the relevant managers direct and a general reminder sent to all Service Managers making it clear that the Manager must authorise the acceptance of a gift/hospitality (not the individual to which it is offered) and this must be recorded.

3. Proposal

It is proposed that the Committee notes the report.

4. Resource Implications

None.

5. Appendices

Appendix 1 – Breakdown of gifts and hospitality received 2018/19.

6. Background papers

None identified.

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APPENDIX 1

Breakdown of gifts and hospitality received by officers 2018/19.

Nature of Gift or Hospitality	Comment
Biscuits	Gift of nominal value - Thank you gift
Bunch of flowers	Low value gift
Chocolates	Low value gift
Rugby ball	Low value gift
Chocolates	Given to the Mayor's charity
Celebration chocolates	Low value – shared amongst the team
Hamper of chocolate and wine	Given to the Mayor's charity
Tin of chocolates	Low value – shared amongst the team
Box of chocolates	Low value – shared amongst the team
Bottle of wine, some chocolates and jam	Given to the Mayor's charity.
Box of biscuits	Low value gift
Box of Celebrations	Low value gift – shared amongst the team
Box of Celebrations	Low value gift
Box of Celebrations	Low value gift – Left on Reception a thank you to all the staff
Box of biscuits	Low value gift
Box of Celebrations	Low value gift
Box of biscuits	
6 mince pies	
Plastic brooch	Low value gift
Box of Milk Tray	Low value gift – shared with the office
Box of biscuits	Low value gift – shared with the office
Bottle of Piper-Heidsieck champagne	Given to the Mayor's charity
Parker Pen	Low value gift
Evening dinner at IRRV conference	Subsistence meal whilst at conference
Box of chocolates	Low value gift
X1 box of mints X2 boxes of biscuits Various notepads and pens	Low value gift – shared with the office
Seat at East Midlands Celebrating Construction Awards	Award is for the construction of Café 1899 at GCP

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Report to Standards Committee

Subject: Implementation of the best practice recommendations from the Committee on Standards in Public Life Report - Review of Local Government Ethical Standards

Date: 4 July 2019

Author: Director of Organisational Development and Democratic Services

1. Purpose

To formally agree the action plan, amended Code of Conduct and amended Arrangements for Dealing with Complaints required to implement the best practice recommendations set out in the Committee on Standards in Public Life report following the review of local government ethical standards.

Recommendations

THAT:

1. the action plan for implementing the best practice recommendations set out in the Committee on Standards in Public Life report at Appendix 2 be approved;
2. the amended Code of Conduct at Appendix 3 be agreed and referred to Council for approval; and
3. the amended Arrangements for Dealing with Complaints at Appendix 4 be approved.

2. Background

- 2.1 The Committee on Standards in Public Life ("CSPL") advises the Prime Minister on ethical standards across the whole of public life in England. It monitors and reports on issues relating to the standards of conduct of all public office holders. CSPL is an independent advisory non-departmental public body.
- 2.2 During 2018, the CSPL undertook a review of local government ethical standards. This review was not prompted by any specific allegations of misconduct or council failure, but rather to review the effectiveness of the current

arrangements for standards in local government, particularly in light of the changes made by the Localism Act 2011. The terms of reference for the review were to:

i. Examine the structures, processes and practices in local government in England for:

- Maintaining codes of conduct for local councillors
- Investigating alleged breaches fairly and with due process
- Enforcing codes and imposing sanctions for misconduct
- Declaring interests and managing conflicts of interest
- Whistleblowing

ii. Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government;

iii. Make any recommendations for how they can be improved;

iv. Note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation.

2.3 The review covered all local authorities in England, of which there are 353 principal authorities, with 18,111 councillors, and an estimated 10,000 parish councils, with around 80,000 parish councillors. The Committee did not take evidence relating to Combined Authorities, metro mayors, or the Mayor of London and so do not address these areas of local government in this report. Following consideration of the consultation document by Standards Committee at its meeting on 8 February 2018, a response was submitted to the CSPL by the Monitoring Officer in May 2018.

2.4 On 30 January 2019, the CSPL published its report and recommendations on ethical standards in local government, following a year-long review and wide consultation. Key recommendations include:

- a new power for local authorities to suspend councillors without allowances for up to six months with a right of appeal for suspended councillors to the Local Government Ombudsman
- revised rules on declaring interests and gifts and hospitality
- an updated voluntary Model Code of Conduct to be introduced with local authorities to retain ownership of their own Codes of Conduct
- a strengthened role for the Independent Person
- Monitoring Officers provided with adequate training, corporate support and resources and statutory protections to be expanded
- greater transparency about the number and nature of Code complaints
- Political groups set clear expectations of behaviour by their members and code of conduct training to be mandatory

2.5 A copy of the full CSPL report is a background paper to this report and is available at <https://www.gov.uk/government/publications/local-government->

[ethical-standards-report](#). A copy of the Executive Summary, List of Recommendations and List of Best Practice appears at Appendix 1.

- 2.6 Many of the CSPL recommendations will require primary legislation; the implementation of which will be subject to Parliamentary timetabling. Some changes can be made through secondary legislation or amendments to the Local Government Transparency Code, which could be implemented by government relatively quickly. The best practice is a matter for individual local authorities and can be introduced by the Council straightway.
- 2.7 The CSPL report was considered by the Standards Committee on 21 February 2019 and it was agreed that steps be taken to introduce all the best practice recommendations in order to demonstrate the Committee's continued commitment to promote and maintain high standards of conduct by members and co-opted members of the Council.

3. Proposal

- 3.1 When comparing the best practice recommendations to the arrangements the Council already has in place, it is worth noting that whilst there are some gaps, there are a number of provisions which are already covered. An action plan which sets out the best practice recommendations, makes comment on the current position and proposed actions is attached at Appendix 2 to this report. It is proposed that the Standards Committee approves the action plan for implementation by the Monitoring Officer. Updates on progress will be brought to future Standards Committee meetings.
- 3.2 Members will note that implementation of best practice recommendations 1 and 2 require amendments to the Code of Conduct. A copy of the proposed Code is attached at Appendix 3 with the additions shown in italics for ease of reference. The Code of Conduct can only be approved by Council, therefore it is proposed that Standards Committee agrees it and refers it to Council for approval.
- 3.3 In addition, it is proposed that best practice recommendations 6, 7, 9, 11 and 13 are implemented through amendments to the Arrangements for Dealing with Complaints. The proposed amendments are shown in italics for ease of reference in the updated Arrangements attached at Appendix 4. The opportunity has also been taken to review the Arrangements generally and a number of additional changes are proposed:
- to make it clear that a complaint which is not submitted online must still include the prescribed information;
 - to move the paragraph relating to criminal conduct to the beginning of the document, recognising that a referral to the Police will take place at the beginning of the process;
 - to clarify how decisions on initial assessment will be reported to

Standards Committee;

- to clarify what will happen if the Monitoring Officer recommends informal resolution but the Subject Member refuses to accept it.

It is proposed that the amended Arrangements for Dealing with Complaints at Appendix 4 be approved by the Standards Committee. Once approved they will be published on the Council's website.

- 3.4 When the CSPL report was considered by Standards Committee on 21 February 2019, the Committee expressed its disappointment that the CSPL did not make any additional recommendations to protect and support local councillors from intimidation. As requested by Committee, the Chair wrote to the CSPL expressing this disappointment and pointing out that whilst the CSPL's 2017 report on intimidation in Public Life made a number recommendations, many of these were geared towards MPs and parliamentary candidates, with timelines for implementation linked to the next general election. This unfortunately leaves a gap in relation to locally elected Members at borough and parish level. In recognition of this the Standards Committee made an additional recommendation at the meeting in February to explore support which can be put in place for Members who are suffering bullying and intimidation. This has been included in the attached action plan and Members will note that in order to establish the extent and nature of the problems, the first step proposed is to write to all borough and parish councillors requesting evidence of specific examples of bullying, intimidation or threats they have been subject to. Once the extent of the issue is understood, appropriate measures can be identified to support victims. The LGA is now developing a guide for Councillors on handling intimidation, threats and personal safety which will assist with this work.

4. Resources Implications

None.

5. Appendices

Appendix 1 - Local Government Ethical Standards - A Review by the Committee on Standards in Public Life: Executive Summary, List of Recommendations and List of Best Practice.

Appendix 2 – Action Plan for implementation of the best practice recommendations.

Appendix 3 – Amended Code of Conduct.

Appendix 4 – Amended Arrangements for Dealing with Complaints.

6. Background papers

Report of the Committee on Standards in Public Life

Local Government Ethical Standards - A Review by the Committee on Standards

in Public Life.

<https://www.gov.uk/government/publications/local-government-ethical-standards-report>

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Local Government Ethical Standards

**A Review by the
Committee on
Standards in Public Life**

**Committee on
Standards in
Public Life**





Executive summary

Local government impacts the lives of citizens every day. Local authorities are responsible for a wide range of important services: social care, education, housing, planning and waste collection, as well as services such as licensing, registering births, marriages and deaths, and pest control. Their proximity to local people means that their decisions can directly affect citizens' quality of life.

High standards of conduct in local government are therefore needed to protect the integrity of decision-making, maintain public confidence, and safeguard local democracy.

Our evidence supports the view that the vast majority of councillors and officers maintain high standards of conduct. There is, however, clear evidence of misconduct by some councillors. The majority of these cases relate to bullying or harassment, or other disruptive behaviour. There is also evidence of persistent or repeated misconduct by a minority of councillors.

We are also concerned about a risk to standards under the current arrangements, as a result of the current rules around declaring interests, gifts and hospitality, and the increased complexity of local government decision-making.

Giving local authorities responsibility for ethical standards has a number of benefits. It allows for flexibility and the discretion to resolve standards issues informally. We have considered whether there is a need for a centralised body to govern and adjudicate on standards. We have concluded that whilst the consistency and independence of the system could be enhanced, there is no reason to reintroduce a centralised body, and that local

authorities should retain ultimate responsibility for implementing and applying the Seven Principles of Public Life in local government.

We have made a number of recommendations and identified best practice to improve ethical standards in local government. Our recommendations are made to government and to specific groups of public office-holders. We recommend a number of changes to primary legislation, which would be subject to Parliamentary timetabling; but also to secondary legislation and the Local Government Transparency Code, which we expect could be implemented more swiftly. Our best practice recommendations for local authorities should be considered a benchmark of good ethical practice, which we expect that all local authorities can and should implement. We will review the implementation of our best practice in 2020.

Codes of conduct

Local authorities are currently required to have in place a code of conduct of their choosing which outlines the behaviour required of councillors. There is considerable variation in the length, quality and clarity of codes of conduct. This creates confusion among members of the public, and among councillors who represent more than one tier of local government. Many codes of conduct fail to address adequately important areas of behaviour such as social media use and bullying and harassment. An updated model code of conduct should therefore be available to local authorities in order to enhance the consistency and quality of local authority codes.



There are, however, benefits to local authorities being able to amend and have ownership of their own codes of conduct. The updated model code should therefore be voluntary and able to be adapted by local authorities. The scope of the code of conduct should also be widened, with a rebuttable presumption that a councillor's public behaviour, including comments made on publicly accessible social media, is in their official capacity.

Declaring and managing interests

The current arrangements for declaring and managing interests are unclear, too narrow and do not meet the expectations of councillors or the public. The current requirements for registering interests should be updated to include categories of non-pecuniary interests. The current rules on declaring and managing interests should be repealed and replaced with an objective test, in line with the devolved standards bodies in Scotland, Wales and Northern Ireland.

Investigations and safeguards

Monitoring Officers have responsibility for filtering complaints and undertaking investigations into alleged breaches of the code of conduct. A local authority should maintain a standards committee. This committee may advise on standards issues, decide on alleged breaches and sanctions, or a combination of these. Independent members of decision-making standards committees should be able to vote.

Any standards process needs to have safeguards in place to ensure that decisions are made fairly and impartially, and that councillors are protected against politically-motivated, malicious, or unfounded allegations of misconduct. The Independent Person is an important safeguard in the current system. This safeguard should be strengthened and clarified: a local authority should only be able to suspend a councillor where the Independent

Person agrees both that there has been a breach and that suspension is a proportionate sanction. Independent Persons should have fixed terms and legal protections. The view of the Independent Person in relation to a decision on which they are consulted should be published in any formal decision notice.

Sanctions

The current sanctions available to local authorities are insufficient. Party discipline, whilst it has an important role to play in maintaining high standards, lacks the necessary independence and transparency to play the central role in a standards system. The current lack of robust sanctions damages public confidence in the standards system and leaves local authorities with no means of enforcing lower level sanctions, nor of addressing serious or repeated misconduct.

Local authorities should therefore be given the power to suspend councillors without allowances for up to six months. Councillors, including parish councillors, who are suspended should be given the right to appeal to the Local Government Ombudsman, who should be given the power to investigate allegations of code breaches on appeal. The decision of the Ombudsman should be binding.

The current criminal offences relating to Disclosable Pecuniary Interests are disproportionate in principle and ineffective in practice, and should be abolished.



Town and parish councils

Principal authorities have responsibility for undertaking formal investigations of code breaches by parish councillors. This should remain the case. This responsibility, however, can be a disproportionate burden for principal authorities. Parish councils should be required to adopt the code of their principal authority (or the new model code), and a principal authority's decision on sanctions for a parish councillor should be binding. Monitoring Officers should be provided with adequate training, corporate support and resources to undertake their role in providing support on standards issues to parish councils, including in undertaking investigations and recommending sanctions. Clerks should also hold an appropriate qualification to support them to uphold governance within their parish council.

Supporting officers

The Monitoring Officer is the lynchpin of the current standards arrangements. The role is challenging and broad, with a number of practical tensions and the potential for conflicts of interest. Local authorities should put in place arrangements to manage any potential conflicts. We have concluded, however, that the role is not unique in its tensions and can be made coherent and manageable with the support of other statutory officers. Employment protections for statutory officers should be extended, and statutory officers should be supported through training on local authority governance.

Councils' corporate arrangements

At a time of rapid change in local government, decision-making in local councils is getting more complex, with increased commercial activity and partnership working. This complexity risks putting governance under strain. Local authorities setting up separate bodies risk a governance 'illusion', and should

take steps to prevent and manage potential conflicts of interest, particularly if councillors sit on these bodies. They should also ensure that these bodies are transparent and accountable to the council and to the public.

Our analysis of a number of high-profile cases of corporate failure in local government shows that standards risks, where they are not addressed, can become risks of corporate failure. This underlines the importance of establishing and maintaining an ethical culture.

Leadership and culture

An ethical culture requires leadership. Given the multi-faceted nature of local government, leadership is needed from a range of individuals and groups: an authority's standards committee, the Chief Executive, political group leaders, and the chair of the council.

Political groups have an important role to play in maintaining an ethical culture. They should be seen as a semi-formal institution sitting between direct advice from officers and formal processes by the council, rather than a parallel system to the local authority's standards processes. Political groups should set clear expectations of behaviour by their members, and senior officers should maintain effective relationships with political groups, working with them informally to resolve standards issues where appropriate.

The aim of a standards system is ultimately to maintain an ethical culture and ethical practice. An ethical culture starts with tone. Whilst there will always be robust disagreement in a political arena, the tone of engagement should be civil and constructive. Expected standards of behaviour should be embedded through effective induction and ongoing training. Political groups should require their members to attend code of conduct training provided by a local authority, and this should also be



written into national party model group rules. Maintaining an ethical culture day-to-day relies on an impartial, objective Monitoring Officer who has the confidence of all councillors and who is professionally supported by the Chief Executive.

An ethical culture will be an open culture. Local authorities should welcome and foster opportunities for scrutiny, and see it as a way to improve decision making. They should not rely unduly on commercial confidentiality provisions, or circumvent open decision-making processes. Whilst local press can play an important role in scrutinising local government, openness must be facilitated by authorities' own processes and practices.



List of recommendations

Number	Recommendation	Responsible body
1	The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.	Local Government Association
2	The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests.	Government
3	Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches.	Government
4	Section 27(2) of the Localism Act 2011 should be amended to state that a local authority's code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.	Government
5	The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include: unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy.	Government
6	Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any gifts and hospitality received over a value of £50, or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct.	Government



Number	Recommendation	Responsible body
7	Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, "if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to that matter".	Government
8	The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.	Government
9	The Local Government Transparency Code should be updated to provide that the view of the Independent Person in relation to a decision on which they are consulted should be formally recorded in any decision notice or minutes.	Government
10	A local authority should only be able to suspend a councillor where the authority's Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction.	Government
11	Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed.	Government / all local authorities
12	Local authorities should be given the discretionary power to establish a decision-making standards committee with voting independent members and voting members from dependent parishes, to decide on allegations and impose sanctions.	Government
13	Councillors should be given the right to appeal to the Local Government Ombudsman if their local authority imposes a period of suspension for breaching the code of conduct.	Government



List of recommendations

Number	Recommendation	Responsible body
14	The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, on appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority.	Government
15	The Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g. bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.	Government
16	Local authorities should be given the power to suspend councillors, without allowances, for up to six months.	Government
17	The government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. These powers should be put beyond doubt in legislation if necessary.	Government
18	The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.	Government
19	Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.	Parish councils
20	Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code.	Government
21	Section 28(11) of the Localism Act 2011 should be amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority.	Government
22	The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal.	Government



Number	Recommendation	Responsible body
23	The Local Government Transparency Code should be updated to provide that local authorities must ensure that their whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website.	Government
24	Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.	Government
25	Councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules.	Political groups National political parties
26	Local Government Association corporate peer reviews should also include consideration of a local authority's processes for maintaining ethical standards.	Local Government Association



List of best practice

Our best practice recommendations are directed to local authorities, and we expect that any local authority can and should implement them. We intend to review the implementation of our best practice in 2020.

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Best practice 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Best practice 4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Best practice 7: Local authorities should have access to at least two Independent Persons.

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.



Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Best practice 11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.

Best practice 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Best practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.

Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

CSPL – Best Practice Recommendations Action Plan

Best Practice Recommendation	Comment	Action Required	Update/progress
<u>Best Practice 1</u> Local Authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.	Code of Conduct already includes prohibition on bullying; but not harassment. Code does not include list of examples.	Code of Conduct to be amended to include prohibition on harassment and definition of bullying and harassment and examples.	Amended Code of Conduct to be considered by Standards Committee on 4 July 2019 for agreement and referral to Council for approval on 17 July 2019.
<u>Best Practice 2</u> Councils should include provisions in their code requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.	Code of Conduct does not include this provision.	Code of Conduct to be amended to include provisions.	Amended Code of Conduct to be considered by Standards Committee on 4 July 2019 for agreement and referral to Council for approval on 17 July 2019.
<u>Best Practice 3</u> Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the	The Code of Conduct was last reviewed in 2016.	Process to be put in place to review Code of Conduct annually.	

Best Practice Recommendation	Comment	Action Required	Update/progress
public, community organisations and neighbouring authorities.	We have not previously sought the views of the public etc.		
<p><u>Best Practice 4</u></p> <p>An Authority's code should be readily accessible to both councillors and the public, in a prominent position on the council's website and available in council premises.</p>	<p>The Code of Conduct is published on the website as part of the Constitution and as a separate document on the Councillors page.</p> <p>A copy of the Code is also provided to all councillors on election as part of the induction pack.</p> <p>A hard copy would be provided on request at the Council Offices.</p> <p>Parish Council Codes of Conduct are not always readily accessible on the Parish Council website.</p>	Monitoring Officer to write to Parish Councils advising them to ensure Code of Conduct is published.	
<p><u>Best Practice 5</u></p> <p>Local authorities should update their gifts and hospitality register at least once per quarter, and</p>	The register is updated as the Monitoring Officer is notified by councillors that they have been offered gifts	Process to be put in place to remind councillors to register gifts and hospitality received each	

Best Practice Recommendation	Comment	Action Required	Update/progress
publish it in an accessible format, such as CSV.	<p>or hospitality and an annual report is prepared for Standards Committee.</p> <p>The register is not currently published on the website.</p>	quarter and publish it on the website in accessible format.	
<p><u>Best Practice 6</u></p> <p>Councils should publish a clear and straightforward public interest test against which allegations are filtered.</p>	The approved Arrangements for dealing with complaints includes tests to be applied when filtering complaints, however can be improved to include the provisions set out in the CSPL report.	Arrangements for dealing with complaints to be amended to incorporate the 'public interest' test referred to in the report.	Amended Arrangements for dealing with Complaints to be considered by Standards Committee on 4 July 2019 for approval.
<p><u>Best Practice 7</u></p> <p>Local authorities should have access to at least two Independent Persons.</p>	The Council has already agreed that we should have an Independent Person and reserve Independent Person. Whilst recruitment has been difficult, both posts are currently occupied.	<p>Arrangements for dealing with complaints to be amended to recognise we have an Independent Person and reserve.</p> <p>Recognising the difficulties in recruiting Independent Persons, the Monitoring Officer to</p>	<p>Amended Arrangements for dealing with Complaints to be considered by Standards Committee on 4 July 2019 for approval.</p> <p>Discussed at Monitoring Officers meeting on 6 June 2019 and in</p>

Best Practice Recommendation	Comment	Action Required	Update/progress
		collaborate with Nottinghamshire Monitoring Officers and introduce arrangements to pool/share Independent Persons.	principle agreement obtained to work together.
<u>Best Practice 8</u> An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.	The approved Arrangements for dealing with complaints includes a requirement for the Monitoring Officer to consult the Independent Person when making an initial assessment of the complaint.	None	
<u>Best Practice 9</u> Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person,	The approved Arrangements for dealing with complaints already requires the Monitoring Officer to prepare a formal decision notice following a hearing and make that decision notice available for public inspection.	Arrangements for dealing with complaints to be amended to include provision to publish all decision notices following formal investigation.	Amended Arrangements for dealing with Complaints to be considered by Standards Committee on 4 July 2019 for approval.

Best Practice Recommendation	Comment	Action Required	Update/progress
the reasoning of the decision-maker and any sanction applied.	Where the Monitoring Officer resolves a complaint by way of local resolution following an investigation, there is no such requirement; the decision is however reported to Standards Committee.		
<u>Best Practice 10</u> A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.	The council already has accessible guidance on its website on how to make a complaint (including an online form) and arrangements for dealing with complaints.	Webpage to be amended to include estimated timescales for investigation and outcomes.	
<u>Best Practice 11</u> Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.	The borough council does not have the power to require parish councillors to submit complaints on behalf of the Clerk, but it can put in place processes to support this and can set out expectations to parish councils.	Arrangements for dealing with complaints to be amended to make it clear complaints about the conduct of a parish councillor towards a Clerk can and should be made by the Chair or parish council as a whole. Monitoring Officer to write to parish councils to notify them and request	Amended Arrangements for dealing with Complaints to be considered by Standards Committee on 4 July 2019 for approval.

Best Practice Recommendation	Comment	Action Required	Update/progress
		they put processes in place to enable this to happen.	
<p><u>Best Practice 12</u></p> <p>Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.</p>	<p>Complaints made about parish councillors have been investigated in accordance with the approved arrangements for dealing with complaints. None have been rejected due to lack of resources. The Monitoring Officer has a budget for training and development and regularly attends training on relevant matters, including ethical conduct. A deputy Monitoring Officer is also in place to provide additional support and capacity.</p> <p>The Appointments and Conditions of Service Committee have a specific delegation to 'ensure the provision of sufficient staff and other resources' to the Monitoring Officer and</p>	<p>Keep a watching brief on resources particularly in light of budget reductions and efficiencies which may impact on the resources available to the Monitoring Officer.</p>	

Best Practice Recommendation	Comment	Action Required	Update/progress
	<p>deputy. Additional resource can be requested if necessary.</p> <p>Due to pressures, there is insufficient resource within Legal Services to conduct Standards investigations; however Legal Services has an approved annual budget for the obtaining external legal services which is available should an external investigator need to be appointed.</p>		
<p><u>Best Practice 13</u></p> <p>A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.</p>	<p>Deputy Monitoring Officer in place to deal with complaints where the Monitoring Officer has a conflict of interest. Investigations can and have been outsourced to an external investigator.</p> <p>Monitoring Officers from other authorities are unlikely to have sufficient resources to carry out investigations for others.</p>	<p>Approved arrangements for dealing with complaints to be amended to set out the options available in the case of a conflict of interest.</p>	<p>Amended Arrangements for dealing with Complaints to be considered by Standards Committee on 4 July 2019 for approval.</p>

Best Practice Recommendation	Comment	Action Required	Update/progress
<p><u>Best Practice 14</u></p> <p>Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.</p>	<p>The Council has not set up separate bodies.</p>	<p>Monitoring Officer to request the Council's Chief Financial Officer to include relevant provisions in the annual Governance Statement in the event separate bodies are set up.</p> <p>To require any separate bodies set up in the future to abide by the Nolan principles and publish agendas and minutes.</p>	
<p><u>Best Practice 15</u></p> <p>Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.</p>	<p>Currently no regular scheduled meetings with group leaders or business managers.</p>	<p>Bi-annual meetings (as a minimum) between Chief Executive, Monitoring Officer and group leaders and deputies to be arranged.</p>	

Additional recommendation from Standards Committee

Recommendation	Comment	Action required
<p>Explore support which can be put in place for Members who are suffering bullying and intimidation.</p>	<p>The Committee on Standards in Public Life referred to the previous report and recommendations it made in 2017 relating to intimidation on social media.</p>	<p>Monitoring Officer to write to all Borough Councillors and Parish Councils to request evidence of specific examples of bullying, intimidation and threats against elected members.</p> <p>Subject to the responses received, establish a working group including parish councillors to consider the extent and nature of the bullying, intimidation and threats and agree appropriate measures to support the victim.</p>

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Members' Code of Conduct

PART 1

General Provisions

Introduction

1. (1) Gedling Borough Council is committed to promoting and maintaining high standards of conduct by Members and co-opted Members of the Council. The actions of those who represent the Council impact on how the Council as a whole is viewed. Misconduct can seriously damage the effectiveness and reputation of the Council and will not be tolerated. Those serving their communities must adhere to the high standards expected of them to promote public confidence in local democracy.
- (2) This Code of Conduct has been adopted by the Council under Section 27 of the Localism Act 2011 and sets out the standards that Members are expected to observe.

Interpretation

2. (1) This Code applies to you as a Member of the Council.
- (2) It is your responsibility to comply with the provisions of this Code. Failure to do so may result in a sanction being imposed by the Council. Failure to take appropriate action in respect of a disclosable Pecuniary Interest may result in a criminal conviction.
- (3) In this Code:
"meeting" means any meeting of:
 - (a) the Council;
 - (b) the executive of the Council;
 - (c) any of the Council's or its Executive's committees, sub-committees, joint committees, joint sub-committees, or area committees;

"Member" includes a co-opted member or an appointed member.

Scope

3. (1) Subject to sub-paragraphs (2) and (3), you must comply with this Code whenever you:
 - (a) Conduct the business of the Council (which, in this Code, includes the business of the office to which you are elected or appointed); or
 - (b) act, claim to act or give the impression you are acting as a representative of the Council;and references to your official capacity are construed accordingly.

- (2) Where you act as a representative of the Council:
 - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's Code of Conduct; or
 - (b) on any other body, you must, when acting for that other body, comply with this Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.
- (3) This Code does not have effect in relation to your conduct other than where it is in your official capacity.

The Seven Principles of Public Life

4. You must observe the following general principles:

Selflessness

You should take decisions solely in terms of the public interest. You should not do so in order to gain financial or other material benefits for yourself, your family or your friends.

Integrity

You should not place yourself under any financial or other obligation to outside individuals or organisations that might influence you in the performance of your official duties.

Objectivity

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

Accountability

You are accountable for your decisions and actions to the public and must submit yourself to whatever scrutiny is appropriate to your office.

Openness

You should be as open as possible about all the decisions and actions that you take. You should give reasons for your decisions and restrict information only when the wider public interest clearly demands.

Honesty

You have a duty to declare any private interests relating to your public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

You should promote and support these principles by leadership and example.

General Obligations

5. (1) You must:

- (a) treat others with respect, including the organisations and public you engage with and those you work alongside.
- (b) value your colleagues and staff and engage with them in an appropriate manner and one that underpins the mutual respect between you that is essential to good local government.

(2) You must not:

- (a) do anything which may cause the Council to breach the Equality Act 2010;
- (b) bully *or harass* any person.

The definition of bullying and harassment and examples of behaviour which amounts to bullying and harassment are set out in Appendix 1 to the Code of Conduct;

- (c) intimidate or attempt to intimidate any person who is or is likely to be:
 - (i) a complainant;
 - (ii) a witness;
 - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with the Code of Conduct; or
- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

6. You must not:

- (a) 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:
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) 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
 - (iv) the disclosure is:
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the Council; or
- (b) prevent another person from gaining access to information to which that person is entitled by law.

7. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.

8. *You must not make trivial or malicious allegations that another Member has*

failed to comply with the Code of Conduct.

9. *You must comply with any formal standards investigation carried out in relation to an allegation that you have failed to comply with the Code of Conduct.*
10. You must:
- (a) not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;
 - (b) when using or authorising the use by others of the resources of the Council:
 - (i) act in accordance with the Council's reasonable requirements; and
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes);
 - (c) have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986;
 - (d) behave in accordance with all legal obligations, alongside any requirements contained within the Council's policies, protocols and procedures.
11. (1) When reaching decisions on any matter you must listen to the interests of all parties and have regard to relevant advice provided to you by:
- (a) The Council's Chief Finance Officer; or
 - (b) The Council's Monitoring Officer;
- (where that officer is acting pursuant to his or her statutory duties) and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- (2) You must:
- (a) exercise independent judgement and not compromise your position by placing yourself under obligations to outside individuals or organisations who might seek to influence the way you perform your duties as a member.
 - (b) contribute to making the Council'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 you and other members to account.
 - (c) be accountable for your decisions and co-operate when scrutinised internally and externally, including by local residents.
12. You must:
- (a) champion the needs of residents – the whole community and your constituents, including those who did not vote for you – and put their interests first.
 - (b) deal with representations, or enquiries from residents, members of our

communities and visitors fairly, appropriately and impartially.

- (c) not allow other pressures, including your financial interests or others connected to you, to deter you from pursuing constituents casework, the interests of the Council's area or the good governance of the Council in a proper manner.

13. You must provide leadership by behaving in accordance with these principles when championing the interests of the community with other organisations as well as within the Council.

PART 2

Interests

Disclosable Pecuniary Interests

12.(1) You have a disclosable pecuniary interest in any business of the Council where it is of a description set out in paragraph 12(2) and either:

- (a) it is an interest of yours; or
- (b) it is an interest of your spouse or civil partner and you are aware that the other person has the interest; or
- (c) it is an interest of a person with whom you are living as husband and wife and you are aware that the other person has the interest; or
- (d) it is an interest of a person with whom you are living as if you were civil partners and you are aware that the other person has the interest.

- (2) Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows –

Interest

Employment, office, trade, profession or vocation

Prescribed description

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 Council) made or provided within the previous 12 months (up to and including the date of notification of the interest) in respect of any expenses incurred by you carrying out duties as a member, or towards your election expenses.

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 you, your spouse or civil partner or person with whom you are living as a spouse or civil partner (or a body in which you or they have a beneficial interest) and the Council:

(a) under which goods or services are to be provided or works are to be executed; and

(b) which has not been fully discharged.

For this purpose “body in which you or they have 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

Any beneficial interest in land which is within the Council’s area.

For this purpose “land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for you, your spouse, civil partner or person with whom you are living as a spouse or civil partner (alone or jointly with another) to occupy the land or to receive income.

Licences

Any licence (alone or jointly with others) to occupy land in the Council’s area for a month or longer.

Corporate tenancies

Any tenancy where (to your knowledge):

(a) the landlord is the Council; and

(b) the tenant is a body in which you, your spouse or civil partner or a person you are living with as a spouse or civil partner has a beneficial interest

Securities

Any beneficial interest in securities of a body where:

(a) that body (to your knowledge) has a place of business or land in the Council’s area; 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 you, your spouse or civil partner or person with whom you are living as a spouse or civil

partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For this purpose, "securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Disclosable Pecuniary Interests in matters considered at meetings

13. (1) Subject to sub-paragraph (2) and (3), where you are:

- (a) present at a meeting of the Council; and
 - (b) have a disclosable pecuniary interest in any matter to be considered, or being considered at the meeting; and
 - (c) you are aware that you have such an interest, you must:
 - (i) disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent, whether or not such interest is registered in the Council's register of interests of members and co-opted members or for which you have made a pending notification; and
 - (ii) not 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; and
 - (iii) in accordance with the Council's Standing Orders, withdraw from the room or chamber where a meeting considering the business is being held:
 - aa) in the case where sub-paragraph (3) applies, immediately after making representations, answering questions or giving evidence;
 - bb) in any other case, wherever it becomes apparent that the business is being considered at that meeting;
- unless you have obtained a dispensation from the Council's Standards Committee or Monitoring Officer.

- (2) Where you have a disclosable pecuniary interest which by virtue of paragraph 19 is considered to be a sensitive interest, you must indicate to the meeting that you have a disclosable pecuniary interest in the matter concerned, but need not disclose the details of the interest to the meeting.
- (3) Where you have a disclosable pecuniary interest in any business of the Council, you may attend a meeting (including a meeting of the overview and scrutiny committee of the Council or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

- (4) Where the interest is not entered in the Council's register of interests of members and co-opted members and is not the subject of a pending notification, you must notify the Council's Monitoring Officer of the interest in writing before the end of 28 days beginning with the date of the meeting.

Disclosable Pecuniary Interests in matters considered by a single member

14. (1) Where:

- (a) a function of the Council may be discharged by you acting alone;
 - (b) you have a disclosable pecuniary interest in any matter to be to be dealt with, or being dealt with, by you in the course of discharging that function; and
 - (c) you are aware that you have such an interest,
- you must not take any steps, or any further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by the member).

- (2) Where the interest is not entered in the Council's register of interests of members and co-opted members and is not the subject of a pending notification, you must notify the Council's Monitoring Officer of the interest in writing before the end of 28 days beginning with the date when you became aware that the condition in sub-paragraph 14(1)(c) is met in relation to the matter.

Criminal offences relating to Disclosable Pecuniary Interests

15. (1) You will commit an offence if, without reasonable excuse, you –

- (a) Fail to notify the Council's Monitoring Officer within 28 days of your election of any disclosable pecuniary interests which you have at the time when the notification is given.
- (b) Fail to disclose a disclosable pecuniary interest in any matter to be considered, or being considered, to the meeting where that interest is not entered in the Council's register of interests of members and co-opted members.
- (c) Fail to notify the Council's Monitoring Officer of any disclosable pecuniary interest that you have disclosed to a meeting, where that interest is not already entered in the Council's register of interests of members and co-opted members or subject to a pending notification, before the end of 28 days beginning with the date of the meeting.
- (d) Are an executive member and you fail to notify the Council's Monitoring Officer of any disclosable pecuniary interest that you have in any matter to be to be dealt with, or being dealt with, by you in the course of discharging that executive function, where that interest is not entered in the Council's register of interests of members and co-opted members or subject to a

pending notification, before the end of 28 days beginning with the date that you became aware of such an interest.

- (e) participate, or participate further, in any discussion of a matter in which you have a disclosable pecuniary interest, or participate in any vote, or further vote, taken on any such matter.
- (f) Are an executive member and you take any steps, or any further steps, in relation to any matter to be to be dealt with, or being dealt with, by you in the course of discharging that executive function in which you have a disclosable pecuniary interest (except for the purpose of enabling the matter to be dealt with otherwise than by you).
- (g) Provide information that is false or misleading when notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting and you:
 - i. know that the information is false or misleading, or
 - ii. are reckless as to whether the information is true and not misleading.

Interests other than Disclosable Pecuniary Interests

Non-pecuniary Interests

16. (1) You have a non-pecuniary interest in any business of the Council where either:

(a) It relates to or is likely to affect:

- (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council;
- (ii) any body:
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).

of which you are a member or in a position of general control or management;

- (iii) any employment, office, trade, profession or vocation carried on by you not for profit or gain;
- (iv) any easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income;
- (v) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50;

or

(b) A decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of:

- (i) a member of your family or any person with whom you have a close association;
- (ii) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (iii) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (iv) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision.

Disclosure of Non-pecuniary Interests

17. (1) Subject to sub-paragraph (2) to (6), where you have a non-pecuniary interest in any business of the Council and you attend a meeting of the Council at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a non-pecuniary interest in any business of the Council which relates to or is likely to affect a person described in paragraph 16(1)(a)(i) or 16(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

(3) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the non-pecuniary interest.

(4) Where you have a non-pecuniary interest but, by virtue of paragraph 19 it is considered to be a sensitive interest, you must indicate to the meeting that you have a non-pecuniary interest in the matter concerned, but need not disclose the details of the interest to the meeting.

(5) Where you have a non-pecuniary interest in any business of the Council and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

(6) In this paragraph “executive decision” is to be construed in accordance with any regulations made by the Secretary of State under Section 22 of the Local Government Act 2000.

(7) Subject to paragraphs (8) and (9) below, if you have a non-pecuniary interest in any business of the Council you may participate, vote and remain in the

room or chamber where a meeting considering the business is being held unless your interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

- (8) If you have a non-pecuniary interest in any business of the Council you may participate, vote and remain in the room or chamber where a meeting considering the business is being held where that business relates to the functions of the Council in respect of:
- (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
 - (ii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - (iii) an allowance, payment or indemnity given to members;
 - (iv) any ceremonial honour given to members; and
 - (v) setting council tax or a precept under the Local Government Finance Act 1992.
- (9) Where you have a non-pecuniary interest in any business of the Council in the circumstances set out in paragraph (7) above, you may remain in the room or chamber where a meeting considering the business is being held for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Gifts and Hospitality

17. (1) You must, within 28 days of receipt, notify the Council's Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £50.00 which you have accepted as a member from any person or body other than the authority.
- (2) Any gifts or hospitality notified to the Monitoring Officer will be included in the register of interests of gifts and hospitality.
- (3) The duty to notify the Monitoring officer does not apply where the gift or hospitality comes within any description approved by the Council for this purpose.

PART 3

Register of interests of members and co-opted members

18.(1) Subject to paragraph 19, you must, within 28 days of:

- (a) this Code being adopted by the Council, or
 - (b) your election or appointment to office (where that is later),
- register in the Council's register of interests of members and co-opted members (maintained under Section 29(1) of the Localism Act 2011) details of all disclosable pecuniary interests and non-pecuniary interests you have at the time the notification is given by providing written notification to the Council's Monitoring Officer.
- (2) Where you become a member or co-opted member of the Council as a result of re-election or re-appointment, sub-paragraph (1) applies only as regards interests not entered in the Council's register of interests of members and co-opted members when the notification is given.
 - (3) You must, within 28 days of becoming aware of any new interests or change to any interests registered under paragraph (1), register details of that new interests or change by providing written notification to the Council's Monitoring Officer.
 - (4) You are obliged to register details of disclosable pecuniary interests in accordance with paragraphs 13(4) and 14(2).
 - (5) Any interests notified to the Monitoring Officer will be included in the register of interests of members and co-opted members.
 - (6) A copy of the register will be available for public inspection and will be published on the Council's website.

Sensitive Interests

- 19.(1) This paragraph applies where you have an interest (whether or not a disclosable pecuniary interest) and the nature of the interest is such that you and the Council's Monitoring Officer, consider that disclosure of the details of the interest could lead to you or a person connected with you being subject to violence or intimidation ("sensitive interest").
- (2) If the sensitive interest is entered in the Council's register of interests of members and co-opted members, copies of the register that are made available for inspection, and any published version of the register, will not include details of the interest (but may state that you have an interest the details of which are withheld under Section 32(2) of the Localism Act 2011).
 - (3) You must, within 28 days of becoming aware of any change of circumstances which means that an interest excluded under paragraph 19(2) is no longer a sensitive interest, notify the Council's Monitoring Officer asking that the interest be included in copies of the register that are made available for inspection, and any published version of the register.

Definitions and examples of behaviour which amount to bullying or harassment

Bullying may be characterised as behaviour, or an abuse or misuse of power in a way that undermines, humiliates, unfairly criticises or injures someone.

A non-exhaustive list of behaviour which amounts to bullying includes:

- *spreading malicious rumours, or insulting someone by word or behaviour*
- *copying correspondence that is critical about someone to others who do not need to know*
- *ridiculing or demeaning someone - picking on them or setting them up to fail*
- *exclusion - deliberately excluding someone from meetings or written correspondence in matters for which they have a responsibility or professional interest or deliberately excluding someone from events or celebrations that it would ordinarily be expected that they might legitimately attend*
- *victimisation - taking action detrimental to someone as a result of them raising a complaint or issue of concern in good faith through formal and correct procedure whether or not the complaint was upheld or proven*
- *unfair treatment*
- *overbearing supervision or other misuse of power or position*
- *unwelcome sexual advances-touching, standing too close, display of offensive materials, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected*
- *making threats or comments about job security without foundation*
- *publicly criticising the work or efficiency of someone where the issue has not been formally raised with that person through proper process and the right of explanation or appeal has not been made available*
- *deliberately undermining a competent worker by overloading and constant criticism*
- *preventing individuals progressing by intentionally blocking promotion or training opportunities*

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

A non-exhaustive list of behaviour which amounts to harassment includes:

- *frequent unwanted contact, including texts, letters, phone calls and emails*
- *sending unwanted gifts*
- *driving past an individual's home or following or watching an individual*
- *sharing humiliating information, lies or gossip about an individual*
- *making inappropriate comments, critical remarks or offensive jokes*
- *threatening behaviour*
- *excessive demands that are impossible to deliver*
- *making sexual comments or jokes or inappropriate sexual gestures*
- *making jokes or degrading or patronising comments or teasing an individual about their race, religion, age, gender, sexual orientation or disability. This would also amount to an offence under the Equality Act.*

Arrangements for dealing with complaints about breach of the Code of Conduct

1 Introduction

These arrangements set out how Gedling Borough Council (“the Council”) will deal with allegations that an elected or co-opted member of the Council or of a Parish Council within its area has failed to comply with the Code of Conduct.

The person making the complaint will be referred to as “the Complainant” and the person against whom the complaint is made will be referred to as “the Subject Member”.

2 The Code of Conduct

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

Each Parish Council is also required to adopt a Code of Conduct. If the Complainant wishes to inspect a Parish Council’s Code of Conduct, the Complainant should inspect any website operated by the parish council or request the parish clerk to allow the Complainant to inspect the parish council’s Code of Conduct.

3 Making a complaint

All complaints must be submitted in writing to –

The Monitoring Officer
Gedling Borough Council
Civic Centre
Arnot Hill Park
Arnold
Nottingham
NG5 6LU

helen.barrington@gedling.gov.uk

The complaint shall include:

- the Complainant’s name and contact details;
- the name of the member(s) the Complainant believes has breached the Code of Conduct and the name of the authority;

- what the Subject Member has allegedly done that the Complainant believes breaches the Code of Conduct; and
- details of why the Complainant believes their name and/or the details of the complaint should be withheld (if necessary).

In order to ensure that the Council has all the information to be able to process the complaint a complaint form is available on the Council's website. *If the complainant decides not to use the complaint form, they must still provide the Monitoring Officer with all the information set out above; otherwise the Monitoring Officer will not be able to consider the complaint.*

Formal complaints about the conduct of a Parish Councillor towards the Clerk can and should be made by the Chair or the Parish Council as a whole, rather than the Clerk, in all but exceptional circumstances.

4 Conflict of interest

Where the Monitoring Officer considers that he/she has a conflict of interests, for example, as a result of a close professional relationship with the Subject Member; the Monitoring Officer will pass the complaint to the Deputy Monitoring Officer to deal with. Where the Deputy Monitoring Officer similarly has a conflict of interest, arrangements may be made for a Monitoring Officer from another local authority in Nottinghamshire to oversee and manage the complaint.

5 Criminal conduct

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

5 Acknowledging the complaint

The Monitoring Officer will acknowledge receipt of the complaint within 5 working days of receiving it. The Monitoring Officer will write to the Subject Member (and in the case of a complaint about a Parish Councillor to the Clerk of the Parish Council) with details of the allegations (subject to any representations from the Complainant about confidentiality or concerns that disclosure of the complaint would prejudice any potential investigation) and notifying the Subject Member of their right to consult the Independent Person. At the same time the Monitoring Officer will write to the Independent Person with details of the allegations so that he/she is aware of the nature of the complaint if the Subject Member consults them. The Subject Member may, within 10 working days of the date of the letter, or such longer period as the Monitoring Officer may agree, make written representations to the Monitoring Officer which will be taken into account when deciding how the complaint will be dealt with.

6 Initial filtering of complaints

Code of Conduct complaints can only be accepted if they relate to a member's behaviour whilst they are acting, or giving the impression that they are acting, in

their official capacity. Complaints which clearly relate to a member acting in their private capacity or otherwise fall outside of the Code of Conduct can be rejected by the Monitoring Officer without notifying the Subject Member (and in the case of a complaint about a Parish Councillor to the Clerk of the Parish Council) or seeking the views of the Independent Person. The Monitoring Officer will inform the Complainant, the Subject Member (and in the case of a complaint about a Parish Councillor to the Clerk of the Parish Council) of the decision and the reasons for that decision in writing.

5 Confidentiality

As a matter of fairness and natural justice, the Subject Member should be told who has complained about them. There may be occasions where the Complainant requests that their identity is withheld. Such a request may be granted in circumstances that the Monitoring Officer considers to be exceptional, for example:

- a) The Complainant has reasonable grounds for believing that they will be at real risk of intimidation, victimisation or physical harm if their identity is disclosed.
- b) The Complainant is an officer who works closely with the Subject Member and they are afraid of the consequences to their employment if their identity is disclosed.
- c) The Complainant suffers from a serious health condition, which might be adversely affected if their identity is disclosed.

If the Monitoring Officer decides to refuse a request by the Complainant for confidentiality, he/she will offer the Complainant the option to withdraw the complaint, rather than proceed with disclosure of the Complainant's identity.

As a matter of fairness and natural justice, the Subject Member should also be informed of the nature of the complaint. If however the Monitoring Officer considers that disclosure of details of the complaint to the Subject Member might prejudice the investigation, the Monitoring Officer can agree to delay notifying the Subject Member until consideration of the complaint has progressed sufficiently.

It is important, first, to preserve the integrity of the complaints process and, second, to minimise any negative impact of the complaint on all the people affected by it, that information relating to the complaint is treated as confidential. The assessment of complaints will therefore be conducted by the Monitoring Officer in private. The parties to a complaint are expected to maintain confidentiality as well. Parties are not prohibited from discussing the complaint to seek advice and support; however, it should not be discussed in the public domain.

6 Additional Information

If the Complainant does not submit sufficient information to enable the Monitoring Officer to come to a decision, the Monitoring Officer may ask the Complainant for such information, and may request additional information from the Subject Member.

The Monitoring Officer may also carry out pre-assessment enquiries, which will not amount to an investigation. This may include obtaining documentation, such as a copy of the relevant Code of Conduct or minutes of meetings.

7 Initial Assessment of Complaint

The Monitoring Officer will review the complaint together with any representations received from the Subject Member and, after consultation with the Independent Person, take a decision as to whether the complaint merits formal investigation or should be dealt with informally or rejected. This decision will normally be taken within 20 working days of receipt of the complaint or the Subject Member's written representation, whichever is the latter. The Monitoring Officer will inform the Complainant, the Subject Member (and in the case of a complaint about a Parish Councillor to the Clerk of the Parish Council) of the decision on initial assessment and the reasons for that decision in writing. *The decision of the Monitoring Officer will also be reported to the Standards Committee for information. Where the Monitoring Officer has determined that if the complaint is proven, there would potentially be a breach of the Code and recommended an information resolution, it is in the public interest for the Subject Member to be named, however where the Monitoring Officer has made a finding of no breach, the Subject Member will not be identified.*

Each complaint will be assessed to determine whether it is one the Monitoring Officer can and should investigate.

The Monitoring Officer *will consider the following in deciding whether the complaint can be investigated* must initially be satisfied that the complaint meets the following tests:

- a) Is the complaint about the conduct of a named, elected or co-opted member of the Borough Council or a Parish Council within the Borough?
- b) Was the named member in office at the time the alleged misconduct took place?
- c) Was the Code of Conduct in force at the time the alleged misconduct took place?
- d) If the complaint is proven, would there potentially be a breach of the Code under which the Subject Member was operating at the time of the alleged misconduct?

If the complaint fails one or more of these tests it will be rejected.

The Monitoring Officer will then consider the following in deciding whether the complaint should be investigated, dealt with informally or rejected:

- i. The complaint appears to be trivial, vexatious, malicious, politically motivated or tit for tat.

- ii. The complaint is anonymous. The Monitoring Officer will not usually investigate anonymous complaints, unless there is a clear public interest in doing so.
- iii. *The complainant has not provided any evidence that supports the complaint. The Monitoring Officer will not usually investigate where a complainant has simply make an allegation that the councillor has failed to act in a way that is required by the Code.*
- iv. A significant period of time has elapsed since the events, which are the subject of the complaint. This could be because, where a matter is serious, it would be reasonable to expect the Complainant to make a complaint promptly, or because the passage of time may make it more difficult to obtain documentary evidence and reliable witness evidence. The Monitoring Officer will normally reject a complaint where the last event complained of took place more than 6 months prior to the date of the complaint.
- v. The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter. This could be where the matter is such that there is unlikely to be any firm evidence on the matter.
- vi. The complaint or a substantially similar allegation has previously been the subject of an investigation and there is nothing more to be gained by further action being taken.
- vii. The complaint suggests that there is a wider problem throughout the authority.
- viii. The complaint discloses a potential breach of the Code, but the Subject Member has remedied or made reasonable endeavours to remedy the issues to which the complaint relates and the complaint does not disclose sufficiently serious potential breaches of the Code of Conduct to merit further consideration.
- ix. The complaint discloses a potential breach of the Code, but the complaint is not serious enough to merit an investigation in circumstances where the resources needed to investigate are wholly disproportionate to the allegations and there is no overriding public interest in carrying out an investigation. *Public interest is regarded as "something which is of serious concern and benefit to the public".*

8 Informal Resolution

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 Subject Member accepting that his/her conduct was unacceptable; and

- offering an apology;

- agreeing to attend a training course;
- agreeing to engage in a process of conciliation; or
- the Council introducing some other remedial action (such as changing procedures).

Where the Subject Member makes a reasonable offer of local *informal* resolution, but the Complainant is not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

Where the Monitoring Officer recommends informal resolution, but the Subject Member is not willing to accept his/her conduct was unacceptable or not willing to accept the informal resolution proposed, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

9 Criminal conduct

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

10 Investigation

If the Monitoring Officer decides that the complaint merits formal investigation, he/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 the Complainant to understand the nature of the complaint.

The Investigating Officer would normally write to the Subject Member and provide him/her with a copy of the complaint, and ask the Subject Member to provide his/her explanation of events, and to identify what documents the Investigating Officer needs to see and who she/he needs to interview. In exceptional cases, where it is appropriate to keep the Complainant's identity confidential or the Monitoring Officer considers that disclosure of details of the complaint to the Subject Member might prejudice the investigation, the Investigating Officer can delete the Complainant's name and address from the papers given to the Subject Member, or delay notifying the Subject 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 the Complainant and to the Subject Member concerned, to give them both an opportunity to identify any matter in that draft report which they disagree with or which they consider requires more consideration. Both parties will be given 10 working days to make representations or, in exceptional circumstances, such other period as the Investigating Officer considers reasonable.

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

11 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 he/she is satisfied that the Investigating Officer's report is sufficient, will send to the Complainant and the Subject Member (and the Parish Council, where the complaint relates to a Parish Councillor) a copy of the Investigating Officer's final report and confirm the finding of no failure to comply with the Code of Conduct. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer to reconsider his/her report.

12 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 Hearing Panel ("the Panel") or, after consulting the Independent Person, seek local resolution.

12.1 Local Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and the Complainant and seek to agree what the Complainant considers to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such informal resolution may involve the Subject Member accepting that his/her conduct was unacceptable; and

- offering an apology;
- agreeing to attend a training course;
- agreeing to engage in a process of conciliation; or
- the Council introducing some other remedial action (such as changing procedures).

If the Subject Member complies with the suggested resolution, the Monitoring Officer will *issue a decision notice* ~~report the matter to the Standards Committee (and the Parish Council, where the complaint relates to a Parish Councillor) for information, but will take no further action.~~ *The decision notice will include a brief statement of facts, the provisions of the code of conduct engaged by the allegations, the views of the Independent Person, the reasons for the decision and any sanctions applied. A copy of the decision notice will be sent to the Complainant, to the Subject Member [and to the Parish Council in the case of a complaint about a Parish Councillor], published on the Council's website and reported to the next convenient meeting of the Standards Committee.*

However, if the Complainant tells the Monitoring Officer that any suggested resolution would not be adequate or the Subject Member refuses to accept the resolution; the Monitoring Officer will refer the matter for a local hearing.

12.2 Local Hearing

If the Monitoring Officer considers that local resolution is not appropriate, or the Complainant is not satisfied by the proposed resolution, or the Subject Member 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 Hearing Panel which will conduct a local hearing before deciding whether the Subject Member has failed to comply with the Code of Conduct and, if so, whether to take any action.

The Monitoring Officer will conduct a "pre-hearing process", requiring the Subject Member to give his/her response to the Investigating Officer's report in writing, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing. The Chairman of the 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 Subject Member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask the Complainant to attend and give evidence to the Panel. The Subject Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct. The Panel can allow witnesses to be questioned and cross examined by the Subject Member, the Monitoring Officer, the Investigating Officer (or their representative(s)) directly or through the Chairman. The Panel can also question witnesses.

The Independent Person will be invited to attend to observe, but will not participate in the hearing. The Panel will seek the views of the Independent Person and take those views into account before making its decision.

The Panel may conclude that the Subject Member did not fail to comply with the Code of Conduct, and if so will dismiss the complaint.

If the Panel concludes that the Subject Member did fail to comply with the Code of Conduct, the Chairman will inform the Subject Member of this finding and the Panel will then consider what action, if any, the Panel should take as a result of the Subject Member's failure to comply with the Code of Conduct. In doing this, the Panel will give the Subject Member an opportunity to make representations to the Panel and seek the views of the Independent Person and take those views into account before making its decision.

13 What action can the Hearing Panel take where a member has failed to comply with the Code of Conduct?

The Council has delegated to the 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 Panel may do one or a combination of the following –

- 13.1 Send a formal letter to the Subject Member;
- 13.2 Issue a formal Censure;
- 13.3 Publish its findings in respect of the Subject Member's conduct;
- 13.4 Report its findings to Council (or to the Parish Council) for information;
- 13.5 Recommend to the Subject Member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 13.6 Recommend to the Leader of the Council that the Subject Member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 13.7 Instruct the Monitoring Officer to (or recommend that the Parish Council) arrange training for the Subject Member;
- 13.8 Recommend to the Subject Member's Group Leader that he/she is removed ([or recommend to the Parish Council that the Subject Member be removed]) from all outside appointments to which he/she has been appointed or nominated by the authority (or by the Parish Council);
- 13.9 In the case of a co-opted Member, recommend to Council (or to the Parish Council) that he/she be removed from the Council or any of its committees, sub-committees or working groups;
- 13.10 Withdraw (or recommend to the Parish Council that it withdraws) facilities provided to the Subject Member by the Council (such as a computer, website and/or email and Internet access) for a specified period; or
- 13.11 Exclude (or recommend that the Parish Council exclude) the Subject Member from the Council's offices or other premises for a specified period, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

The Hearings Panel has no power to suspend or disqualify the Subject Member or to withdraw members' or special responsibility allowances. It also has no power to impose a sanction which would fetter the otherwise appropriate activities of a democratically elected representative.

14 What happens at the end of the hearing?

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

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chairman of the Panel. *The decision*

notice will include a brief statement of facts, the provisions of the code of conduct engaged by the allegations, the views of the Independent Person, the reasons for the decision and any sanctions applied. ~~and send A copy of the decision notice will be sent~~ to the Complainant, to the Subject Member [and to the Parish Council in the case of a complaint about a Parish Councillor], ~~make that decision notice available for public inspection~~ *published on the Council's website* and ~~reported~~ the decision to the next convenient meeting of the Standards Committee.

15 What is the Hearing Panel?

The Hearing Panel is a sub-committee of the Council's Standards Committee.

The Independent Person is invited to attend all meetings of the Panel and his/her views are sought and taken into consideration before the Panel takes any decision on whether the Subject 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.

16 Who is the Independent Person?

The Independent Person is a person who has been appointed by the Council under Section 28 of the Localism Act 2011. The Independent Person's views must be sought and taken into account before a decision on an allegation can be made. Their views may also be sought by the Subject Member.

The Monitoring Officer will consult the Independent Person as set out in these arrangements, but has the discretion to consult the Independent Person on any other issues arising out of an allegation that a member has failed to comply with the Code of Conduct. *The Council has also appointed a reserve Independent Person who is able to act when the Independent Person is incapacitated or otherwise unable to act, for example due to illness, holiday or conflict.*

17 ~~Reporting to Standards Committee~~

~~Decisions of the Monitoring Officer will be reported to the Standards Committee for information. Where the Monitoring Officer has found a breach of the Code, it is in the public interest for the Subject Member to be named, however where the Monitoring Officer has made a finding of no breach, the Subject Member will not be identified.~~

18 Revision of these arrangements

The Standards Committee has the power to amend these arrangements. The Council has delegated to the Panel and the Monitoring Officer the right to depart from these arrangements where it considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

19 Appeals

There is no right of appeal against a decision of the Monitoring Officer or the Panel.

If the Complainant feels that the Council has failed to deal with the complaint properly, he/she may complain to the Local Government *and Social Care* Ombudsman.

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Report to Standards Committee

Subject: Update on Code of Conduct training and Register of Members' Interests (borough and parishes) following the May 2019 elections

Date: 4 July 2019

Author: Director of Organisational Development and Democratic Services

1. Purpose

To inform members of the Standards Committee about the code of conduct training delivered to Borough Councillors following the elections in May 2019 and the current position with regard to the Register of Members' Interests forms received from Borough and Parish Members and Co-opted Members.

Recommendation:

THAT the Committee notes the report and provides comments on whether Code of Conduct training should be offered to Parish Councils.

2. Background

- 2.1 A comprehensive induction programme for all Members of Gedling Borough Council has been delivered following the election in May 2019. This included Code of Conduct training which was delivered by the Monitoring Officer and Deputy Monitoring Officer on 16 May 2019. The training covered obligations under the Code, declaring and registering interests, gifts and hospitality, conflict, pre-determination/bias and the process for dealing with Code of Conduct complaints. 24 out of 41 councillors attended the training. Prior to the training all Members had been sent a copy of detailed guidance on the Code of Conduct, briefing note on pre-determination and bias, guidance notes on completing the Register of Interest form and the Gifts and Hospitality Code of Practice for Members and Officers. Following the training a copy of the slides and examples of breaches of the Code of Conduct were also distributed to all Members. Where requested, one to one support has been given to Members to assist with the completion of the Register of Interests forms.
- 2.2 As members of the Committee are aware, the Monitoring Officer is responsible for establishing and maintaining a Register of Interests of members and co-opted

members of Borough Council and Parish Councils within the borough. All members and co-opted members of the Borough Council and Parish Councils within the borough are required to complete a register of interests form so that their interests can be duly registered.

- 2.3 There are 41 Borough Councillors and currently 2 co-opted Members on the Standards Committee, all of whom have completed their register of interests forms. The forms, together with any amendments forms, are kept in a file by the Monitoring Officer and are available for inspection. The information contained within the forms is now published on the Council's website.
- 2.4 Currently there are 11 Parish Councils within the borough plus 1 parish meeting at Stoke Bardolph. Appendix 1 sets out the position, as at the date of drafting of this report, with regard to the forms received from Parish Councillors. Once received, acknowledgements are sent to the Parish Clerks for their records. The forms, together with any amendments forms, are kept in a file by the Monitoring Officer and are available for inspection. The information contained within the forms will also be published on the Borough Council's website and a link is sent to the Parish Clerks, which they must publish on the Parish Council's own website if it has one.
- 2.5 In 2015 it was agreed by the Standards Committee that the Monitoring Officer should offer a training session to Parish Councils on the Code of Conduct. Following the election in May 2015, the Monitoring Officer wrote to all Parish Council Clerks asking whether the Parish Council would be interested in receiving such training and if so whether there were any specific topics they wanted to be trained on. Unfortunately only 2 responses were received and, in light of the lack of interest, training was not provided. The views of the Standards Committee are sought on whether Code of Conduct training should be offered again to Parish Councils.

3. Proposal

It is proposed that the Committee notes the report and provides comments on whether Code of Conduct training should be offered to Parish Councils.

4. Resource Implications

Any training delivered to Parish Councils would come from existing Monitoring Officer and Deputy Monitoring Officer resource.

5. Appendices

Appendix 1 – Summary of the Register of Interest Forms received from Parish Councillors

6. Background papers

None identified.

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Parish Council	No. of seats	No. of vacancies	Forms received	Forms outstanding	Comments
Bestwood Village	7	0	7	0	
Burton Joyce	11	0	11	0	
Calverton	15	1	3	11*	*Clerk chased
Colwick	9	3	6	0	
Lambley	9	2	6	1*	*Clerk chased
Linby	7	0	6	1*	*Clerk chased
Newstead	9	0	9	0	
Papplewick	7	1	6	0	
Ravenshead	11	0	11	0	
St. Albans	9	5	4	0	
Stoke Bardolph	N/A	N/A	N/A	N/A	Parish meetings only – Register of Interest forms not required
Woodborough	11	0	11	0	

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Report to Standards Committee

Subject: Code of Conduct Complaints Update

Date: 4 July 2019

Author: Director of Organisational Development and Democratic Services

1. Purpose

To inform members of the Standards Committee of complaints received between 13 February 2019 and 24 June 2019.

Recommendation

THAT the report be noted.

2. Background

- 2.1 A summary of the complaints received since the implementation of the existing Standards regime (from 1 July 2012) is set out in the table at Appendix 1. Since 13 February 2019 the Monitoring Officer has received 7 new Code of Conduct complaints.
- 2.2 Members of the Standards Committee will recall that at the time of the last committee meeting, 4 complaints were outstanding. A summary of the decisions made in relation to those complaints which have been determined since the last meeting where Monitoring Officer has determined that the complaint if proven would potentially amount to a breach of the Code of Conduct appears at Appendix 2. A summary of the decisions made in relation to the other complaints appears at Appendix 3. At the time of drafting this report two complaints are outstanding.
- 2.3 Members of the Standards Committee will note that a significant number of the complaints received relate to the conduct of Calverton Parish Councillors. In order to ensure that high standards of behaviour are promoted and maintained by the Parish Council, the Monitoring Officer has recommended that the Council adopt the Borough Council's Code of Conduct and has already met with a number of the parish councillors informally to progress this.

3. Proposal

It is proposed that the Committee notes the report.

4. Resources Implications

None.

5. Appendices

Appendix 1 – Summary of the Code of Conduct complaints received since 1 July 2012.

Appendix 2 – Summary of decisions on complaints determined between 13 February 2019 and 24 June 2019.

Exempt Appendix 3 - Summary of decisions on complaints determined between 13 February 2019 and 24 June 2019.

6. Background papers

None identified.

APPENDIX 1

Complaint Ref	Date received	GBC/Parish Council	Complainant	Decision	Date of decision
13/01	30/09/13	GBC	Member of public	No action	12/11/13
14/01	06/01/14	GBC	Member of public	Other Action (issue revised guidance on pre-determination)	05/02/14
14/02	18/07/14	GBC	Member of public	No action	12/08/14
14/03	18/07/14	GBC	Member of public	No action	12/08/14
14/04	21/07/14	Woodborough PC	Member of public	Informal resolution (apology)	26/08/14
15/01	05/05/15	GBC	Member of public	No action	09/06/15
15/02	15/09/15	Bestwood St. Albans PC	Member of public	No action	15/10/15
15/03	15/10/15	Bestwood St. Albans PC	Clerk	Local resolution (apology and procedural recommendation to Parish Council)	24/11/06
15/04	15/10/15	Bestwood St. Albans PC	Clerk	No action	26/11/15
16/01	08/03/16	Bestwood St. Albans PC	Clerk	Refer for investigation Investigation discontinued and case closed	05/05/16 38/07/17
16/02	17/03/16	Bestwood St. Albans PC	Member of public	No action	13/05/16
16/03	18/03/16	Bestwood St. Albans PC	Member of public	Informal resolution (training)	01/06/16
16/04	29/05/16	Bestwood St. Albans PC	Member of public	Other action (various procedural recommendations to Parish Council)	17/08/16
STD000299	05/06/17	GBC	Member of public	No action – outside scope of Code	19/06/17
STD000301	05/06/17	GBC	Member of public	No action – outside scope of Code	19/06/17

Complaint Ref	Date received	GBC/Parish Council	Complainant	Decision	Date of decision
STD000302	05/06/17	GBC	Member of public	No action – outside scope of Code	19/06/17
STD000530	06/11/17	GBC	GBC Councillor	Informal resolution (apology)	15/12/17
STD000668	04/01/18	GBC	Member of public	No action – outside scope of Code	14/02/18
STD000990	06/09/18	GBC	GBC Councillor	Other action – Recommendations made in relation to Planning Delegation Panel process	25/10/18
STD001069	15/11/18	Calverton Parish Council	Parish Councillor	<p>Informal resolution – apology and recommendations to the Parish Council that it adopts a revised Code of Conduct and introduces Committees with delegated powers.</p> <p>Subject Member did not accept informal resolution and refused to issue apology. No further action taken as not in the public interest to investigate.</p>	<p>21/03/19</p> <p>13/05/19</p>
STD001093	19/11/18	Calverton Parish Council	Parish Councillor	<p>Informal resolution – apology and recommendations to the Parish Council that it adopts a revised Code of Conduct and introduces Committees with delegated powers.</p> <p>Subject Member did not accept informal resolution and refused to issue apology. No further action taken as not in the public interest to investigate.</p>	<p>21/03/19</p> <p>13/05/19</p>
STD001094	19/11/18	Calverton Parish Council	Parish Councillor	Other action – advice given to Councillor and recommended Clerk issue guidance to all parish councillors about individuals' right	21/01/19

Complaint Ref	Date received	GBC/Parish Council	Complainant	Decision	Date of decision
				to record meetings.	
STD001096	21/11/19	Calverton Parish Council	Member of public	Not pursued by complainant	
STD001108	28/11/18	Calverton Parish Council	Parish Councillor	No further action	07/02/19
STD001110	28/11/18	Calverton Parish Council	Parish Councillor	No further action	18/01/19
STD001111	28/11/18	Calverton Parish Council	Parish Councillor	No further action	21/01/19
STD001112	28/11/18	Calverton Parish Council	Parish Councillor	No further action	21/01/19
STD001113	28/11/18	Calverton Parish Council	Parish Councillor	No further action	24/01/19
STD001126	06/12/18	Calverton Parish Council	Parish Councillor	Not pursued by complainant	
STD001138	11/12/18	Calverton Parish Council	Parish Councillor	No action	06/03/19
STD001199	23/01/19	Woodborough PC	Member of Public	No further action	20/03/19
STD001265	04/03/19	GBC	Member of Public	No further action	08/04/19
STD001298	18/03/19	GBC	Member of Public	Not pursued by complainant	
STD001299	18/03/19	GBC	Member of Public	Not pursued by complainant	
STD001354	02/05/19	Calverton Parish Council	Member of Public		
STD001355	02/05/19	Calverton Parish Council	Member of Public	No further action	20/06/19
STD001402	23/04/19	Calverton Parish Council	Member of Public		

Complaint Ref	Date received	GBC/Parish Council	Complainant	Decision	Date of decision
STD001403	23/04/19	Calverton Parish Council	Member of Public	Not pursued by complainant	

Reference: STD001093

Initial Assessment Decision

Complaint

The complaint was made about Councillor Emily Quilty, a Calverton Parish Councillor by a Calverton Parish Councillor.

A general summary of the complaint is set out below:

The Complainant has alleged that, due to her behaviour at a series of meetings and by her conduct outside meetings Councillor Emily Quilty has breached the Code of Conduct for Calverton Parish Council. Councillor Quilty has responded to the complaint strongly refuting the allegations made.

Decision

In accordance with Sections 28 (6) and (7) of the Localism Act 2011, having considered the allegation in accordance with the Council's Arrangements for Dealing with Complaints about breach of the Code of Conduct and in consultation with the Independent Person, I have decided that this is an appropriate case, to seek to resolve the complaint informally, without the need for a formal investigation.

I find that there is a potential breach of the Code of Conduct in relation to the following paragraphs of the Code of Conduct:

1. He/she shall behave in such a way a reasonable person would regard as respectful.

I recommend that Cllr Quilty apologises to the complainant and the parish council for sketching/ drawing in meetings in a manner which some parish councillors have found intimidating but could also be viewed as demonstrating a lack of interest in the proceedings at the meeting.

I also recommend that Calverton Parish Council considers:

1. Adopting a revised Code of Conduct which is sufficient to promote the high standards of conduct expected and sets out the behaviours expected of elected members.

The Code of Conduct is central to upholding high Standards in public life. The Calverton Parish Council Code is minimal and having assessed complaints I am not satisfied that it goes far enough to set out the standards expected.

2. Introducing Committees with delegated powers.

The complainant describes lengthy debates about policies which may be more appropriately conducted in a Committee meeting, rather than full Council. There is also a decision of the Council to plan Committees which was not progressed for a significant period of time. If not done so already I recommend that steps should be taken to give effect to the Council's decision.

In assessing this complaint I have had regard to:

- the complaint as submitted by the complainant;
- the recording of the meeting on 11 September 2018;
- the response to the complaint submitted by Councillor Quilty;
- the views of the Independent Person: and
- the Calverton Parish Council's Code of Conduct.

In considering if the Code has been breached the facts relating to the matter are considered in an objective manner adopting a reasonable person approach applying the balance of probabilities test, that is; is it more likely than not that a reasonable person in possession of all the facts would consider that the conduct complained of was a breach of the Code.

Whilst the complaint discloses a potential breach of the Code, I consider that it is appropriate to seek to conclude it by way of informal resolution.

The reason for this decision is as follows:

I am satisfied that for the purposes of this complaint that Councillor Quilty was acting in her official capacity at the time of the alleged conduct and was therefore bound by the Calverton Parish Council Code of Conduct.

The complainant alleges Cllr Emily Quilty is in breach of the following areas of the Code of Conduct: Integrity / honesty and openness; respect for others; selflessness; and leadership. The Calverton Parish Council's code of conduct states it is "is based on the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership"; however there are no specific obligations set out which require a Calverton Parish Councillor to act with integrity, honesty etc. The conduct alleged has to be assessed with reference to the specific obligations set out in the Code of Conduct. Therefore even if Councillor Quilty is found not to have acted with integrity, openness, respect etc. a breach of the Code could not be found. There are 5 obligations in the Code of Conduct; the following are relevant:

1. He/she shall behave in such a way a reasonable person would regard as respectful.
2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.

The complaint and the response are extensive and whilst all these have been read and considered only the key areas are referenced below. Rather than assessing each of the activity alleged, I consider each of the above obligations and assess whether the behaviour alleged could amount to a breach of those obligations.

The Code of Conduct sets out, at paragraph 1 that a Calverton Parish Councillor must behave in a way that others would regard as respectful.

For a breach of the Code to be found following an alleged failure to treat with respect, the behaviour complained of has to be, when viewed objectively by a reasonable man in possession of all the facts, unfair, unreasonable or demeaning. The Code does allow a councillor to be critical of an individual and a member can even be argumentative, but this must not be done in such a way that is a personal attack on an individual and therefore disrespectful. Councillors can be critical and can challenge, indeed this is intrinsic to the role of a councillor. However, the operation of the Code draws a distinction between being critical and challenging to attacking anyone personally.

Whilst the complainant has now resigned from office, this is a councillor on councillor complaint. When considering an allegation of lack of respect, it is clear that the 'robust political debate' is allowed and case law (Patrick Heesom v The Public Service Ombudsman for Wales) sets out that politicians are subject to wider levels of acceptable criticism than members of the public and are required to have 'thicker skins' and be more tolerant than ordinary citizens.

The complaint alleges that Cllr Quilty is "single minded in wanting to achieve her personal missions". Examples given include blocking Committees and motions, such as:

- Insisting that the planning for Finance and General Purposes Committee and Planning Committee is delayed and then not turning up at the meeting.
- Stating forcefully that she does not want to see delegated powers.
- Overriding concerns about the HR group and that HR matters are dealt with at full Council.
- During the discussion about Media Policy at meeting on 11 September 2018, speaking at length about a number of vaguely linked issues and completely 'putting down' the NALC policy.
- Demonstrating an absolute focus on a personal mission to protect the southern ridge, not sharing information, keeping others in the dark and defending the decision to purchase the land.

I am satisfied that a reasonable person viewing the conduct alleged objectively would not come to the conclusion that it is behaviour which is not respectful. Cllr Quilty, as a democratically elected member has a right to freedom of speech which includes the right freely and frankly to express her views; this can be forceful but should not be a direct personal attack on another individual. The decision as to whether or not HR matters are dealt with at full Council or there are Committees with delegated powers to deal with Finance and Planning Committees falls to the Parish Council as a whole. Freedom of speech and expression of views should be allowed. Cllr Quilty is entitled to express her view in a robust fashion and I do not consider that her behaviour went beyond what could reasonably be regarded as fair and reasonable.

I note that the decision of the Parish Council went against Cllr Quilty's view and a resolution to plan for the 2 committees is passed in January 2018. It is of concern that 11 months after that resolution, the Parish Council had not introduced committees as a

result of the delay in arranging the planning meeting and then 5 councillors failing to turn up. Cllr Quilty explains that this was not a formal council meeting and she cannot recall why she did not attend; she states that her attendance is generally good but sometimes she struggles with childcare. Cllr Quilty cannot be held solely responsible for the delay; there were 4 others who failed to attend.

In relation to Councillor Quilty's focus on protecting the southern ridge and defending the decision to purchase the land, Cllr Quilty has disputed that she has stated she is concerned about one particular area of council work. She accepts that the 'southern ridge' has constituted an important part of her work and she took on the task of producing the evidence document; however states that there are other areas of work she has carried out, including developing and maintaining the website. Cllr Quilty has also provided a copy of an email she received from the complainant dated 1 October 2017 in which the complainant states "*Just wanted to say I really appreciate all the work you have done and are doing on the land project ... well done you do 'us' proud*".

The actions of Councillor Quilty could be described as determined, focused and forceful, however I am satisfied that a reasonable person viewing the conduct objectively would not regard it as showing lack of respect. It is also relevant that the decision to purchase the land was made by the Parish Council and whilst the complainant may not now agree with it, it is not unreasonable for Cllr Quilty to defend a decision made by the Parish Council.

The complainant describes Cllr Quilty's behaviour during debates and parish council meetings, for example:

- At the council meeting on 20 November 2018 speaking at length off agenda, defending the purchase of the land and not addressing the resolution.
- Puts down information and contribution put forward by others, for example the Media Policy, Complaints Policy, evidence of inappropriate behaviour by staff and nomination for Chairman.
- Sketching other councillors during council meetings and selectively filming the complainant on her mobile phone.

For a breach of this part of the Code to be found it has to be shown that there has been a personal attack made by the councillor. The Code does allow a councillor to be critical of an individual and a councillor can even be argumentative, but this must not be done in such a way that is a personal attack on an individual and therefore disrespectful. Councillors can be critical and can challenge, indeed this is intrinsic to the role of a councillor. However, the operation of the Code draws a distinction between being critical and challenging to attacking anyone personally.

As set out above, in the case of *Heesom v The Public Services Ombudsman for Wales*, it was noted that:

'.....politicians are subject to wider limits of acceptable criticism and are required to have thicker skins and to have more tolerance to comment than ordinary citizens.'

Taking this case into account, it is clear that should a personal attack be made on a councillor then there is a higher threshold that needs to be attained before a breach of the Code can be found.

Speaking at length off the agenda is a procedural issue which is a matter for the Chair of the meeting to control. It is recognised that the code is an ethical code not a backstop against poor governance or process. Whilst the complainant may expect fellow councillors to stick to the matter being debated, I consider that this is not a matter which falls within the scope of the code of conduct.

Putting down or criticising information put forward by others is permissible but would be a breach of the code of conduct if what was said amounted to a personal attack on another individual. In considering the comments quoted in the complaint, I do not consider that, if proven, they would meet the threshold to amount to a breach of the code of conduct.

In her representations, Councillor Quilty admits that, as an artist, she does find herself drawing on whatever is to hand. I understand that whilst doodling in a meeting may look disrespectful to some, it may actually assist others to concentrate. The question is whether sketching other councillors during a meeting meets the threshold for demonstrating lack of respect. I have not seen copies of the 'sketches' but have viewed the recording of the meeting on 11 September where Councillor Quilty is seen sitting back in her seat holding a hardback book; the councillors sat on either side are shown what Cllr E Quilty is recording and the councillor opposite her makes a comment that she considers being sketched intimidatory. I note that there is a debate at the meeting about whether sketching is different to the right to film a meeting. In the complaint, the complainant also makes reference to Councillor Quilty sketching her with papers held high near her head.

The complainant and the councillor at the meeting on 11 September state that they find Councillor Quilty sketching them intimidatory, but an assessment has to be made as to how this behaviour would be viewed objectively by a reasonable person. I do consider that a reasonable person assessing the facts objectively would conclude that this behaviour is not intimidatory but could demonstrate lack of respect to not only the councillors being sketched but to other councillors at the meeting, particularly the Chair. Having viewed the recording of the meeting in September and making an objective assessment it could be concluded that Cllr Quilty is more interested in what she is recording on paper and displaying a lack of interest in the meeting.

The complainant also alleged that Cllr Quilty directly filmed her on a mobile phone in a selective way. Cllr E Quilty admits that she did try to attempt to digitally record some meetings, but states that the complainant has misrepresented and exaggerated her behaviour. The complainant alleges that Cllr Quilty was clearly filming her in "a selective and intimidating way" and a photograph provided by the complainant does show Cllr Quilty sitting with her mobile phone directed at the person opposite. There is also reference in the complaint to a comment made by another Parish Councillor pointing out to Cllr Quilty 'yes but you are filming' the complainant.

It is clear that Cllr Quilty has concerns about filming of parish council meetings, but both the complainant and Cllr Quilty are entitled to record parish council meetings by

virtue of the Openness of Local Government Bodies Regulations 2014. The legal position is that a parish council is required to allow any member of the public (which includes a parish councillor) to take photographs, film and audio-record the proceedings, and report on all public meetings. There is no requirement for a member of the public or councillor to ask for permission to do this, although it is helpful for the Council to be aware so that it can comply with the obligation to provide reasonable facilities for any member of the public to report on meetings. An individual can be asked to stop recording where they are disrupting the meeting. The starting point therefore is that Cllr E Quilty is entitled to record the meeting and this in itself would not be a breach of the code of conduct. The question is whether she has gone further than this and her behaviour amounts to lack of respect or intimidation. I am satisfied that a reasonable person objectively viewing the facts would not conclude that it would meet the threshold to be a breach of the code of conduct.

The complainant also alleges that Councillor Quilty has made inappropriate comments about others and the following are examples:

- Reacted “with fury on the street and on Facebook” to questions asked by the public and “acted with fury” across the community following a councillor tabling a resolution at the council meeting on 20 November 2018.
- Telephoned her after the meeting on 12 November 2018 and was “quite abusive”.
- “Openly defamed” the resident bringing the complaint about the decision to purchase the land.
- Has described other female councillors as “the witches”.

In response to the allegations that she reacted and acted ‘with fury’ across the community, Councillor Quilty states that she is bemused by the claim and has absolutely no idea what the complainant means. She also refers to an email from the complainant dated 22 November 2018 in which she states that she is not part of the social media circuit. As regards the telephone call, Councillor Quilty confirmed that she did telephone the complainant but ended it in response to rudeness on the complainant’s behalf. In her representations, Councillor Quilty states that she is not aware of anything she has said that could be construed as defamatory, although she may have alluded to the fact that she was annoyed about resources being wasted in calling an extraordinary meeting.

The allegations that Cllr Quilty ‘acted with fury’ and openly defamed another are general in nature and not sufficiently specific to be able to make a finding. There is also little detail about who was called “witches”, who the comment was made to and in what context. In view of the lack of evidence, I am unable to determine whether the allegation if proven would amount to a breach of the Code of Conduct and therefore make no finding. This aspect of the complaint is not serious enough to merit an investigation in circumstances where the resources needed to investigate are wholly disproportionate to the allegations and there is no overriding public interest in carrying out an investigation.

I note that whilst both parties agree that a telephone call took place, the account of the telephone call differs. The problem that is presented is that when there is a call between two people, there were no witnesses to it and as a result the alleged conduct

will remain as one word against the other. The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter. It is therefore not considered to be in the public interest to refer this for further investigation as it would not be possible to resolve these conflicting statements. As a result I make no finding at initial assessment stage.

The Code of Conduct sets out, at paragraph 2 that a Calverton Parish Councillor must not act in a way which a reasonable person would regard as bullying or intimidatory

The complainant contends that Cllrs Emily and her husband Nick Quilty act 'in tandem' and so they are supporting and compounding each other's forceful and intimidating behaviour. Cllr Nick Quilty generally takes the front attacking line, with Cllr E Quilty coming in as 'back up sincere justifier' ...trying to adopt some sort of 'moral high ground', often belittling the people who are raising issues. The complaint also alleges that Cllr E Quilty resolutely speaks and votes in support of Cllr N Quilty.

In response to the allegation, Cllr E Quilty has stated that she objects to the idea that she has implemented a strategy to bully 'in tandem' with Cllr N Quilty.

When considering an allegation of bullying, it is accepted that bullying may be characterised as behaviour, or an abuse or misuse of power in a way that undermines, humiliates, unfairly criticises or injures someone. Some examples of bullying behaviour include:

- spreading malicious rumours, or insulting someone by word or behaviour
- ridiculing or demeaning someone-picking on them or setting them up to fail
- exclusion or victimisation
- unfair treatment
- overbearing supervision or other misuse of power or position

Bullying and intimidation are unacceptable and should not be tolerated. It is important to recognise the impact such behaviour can have on any individual experiencing it, as well as on the wider parish council in terms of morale and operational effectiveness.

On balance, the majority of the behaviour alleged demonstrates a distinct difference of opinion between the complainant and Cllrs N and E Quilty. It is understood that being faced with a pair of married councillors, who dominate the debate at parish council meetings in a forceful or obfuscating way could be regarded by the complainant as intimidatory. The complainant may not welcome Cllr Quilty using "big words", "emotive and intellectual argument" and taking "the moral high ground" or "intellectual high ground"; however I am satisfied that Councillor Quilty's style of oral communication does not meet the threshold of bullying and intimidatory to amount to a breach of the code of conduct. The examples provided do not meet the threshold to demonstrate that Cllr Quilty's comments are personal and are aimed at undermining, humiliating, unfairly criticising or injuring an individual.

The complaint alleges that Cllrs N and E Quilty support each other and work together to block proposals put forward by others or to progress their own policies and personal missions; examples given include debates and decisions relating to the purchase of

the farmland at the south-western edge of the village, the Complaints Policy and procedure, 'wrongdoings' by employees, filming of meetings and Media Policy. In her representations, Cllr E Quilty states that she has always expressed her views as an individual and never sought to influence in co-ordination with anybody.

I am conscious that a democratically elected member has a right to freedom of speech which includes the right freely and frankly to express views about matters. It is also clear in a political environment that members of the same political group will share a common policy, common views and regularly vote in support of the same proposals at meetings. Robustly expressing views in common with others does not amount to a breach of the Code of Conduct and if this was the case, the management of the ethical standards process would become untenable. Councillors must be free to propose what they wish and express their views; it is then for the Parish Council as a corporate body, taking advice from its Clerk, to consider the matter and make a decision. The complainant clearly does not agree with the views expressed by Cllr Quilty at meetings and the decisions of the Parish Council she supported or voted against, however this is part of the democratic process. Councillors are entitled to express different opinions.

Decisions of the Parish Council are not made by consensus, they are made by majority of those present and voting and, on their own, Cllr N and E Quilty cannot carry the vote. There is no allegation in the complaint that Cllr N and E Quilty have bullied or intimidated others, including the complainant, into voting in a particular way. In viewing the recording of the meeting in September 2018, it is clear that the complainant has a different view of the Media Policy proposed to Cllrs N and E Quilty and expresses her support to the NALC model policy. Whilst, I appreciate that the complainant may be frustrated that Cllr N and E Quilty resolutely spoke in support of the draft Media Policy he proposed and she "sagely threw out concerns about the NALC Policy left real gaps" I am satisfied that the conduct described and viewed is not bullying or intimidatory in nature.

The complaint alleges that on 12 November 2018 Cllr E Quilty telephoned the complainant and was clearly very cross and "quite abusive", but the complaint does not detail how Cllr Quilty was abusive. In her representations, Cllr Quilty confirms that she did make the phone call but it ended in response to rudeness on behalf of the complainant.

As above, I note that whilst both parties agree that a telephone call took place, the account of the telephone call differ. The problem that is presented is that when there is a call between two people, there were no witnesses to it and as a result the alleged conduct will remain as one word against the other. The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter. It is therefore not considered to be in the public interest to refer this for further investigation as it would not be possible to resolve these conflicting statements. As a result I make no finding at initial assessment stage.

The complainant provides an email exchange on 11 and 12 November 2018 following the decision to cancel the scheduled parish council meeting on 13 November as evidence of bullying and intimidatory behaviour. The complainant describes Cllr Quilty's response as a "friendly approach" stressing an "emotive" argument. When

assessing the contents of the email objectively, I find the tone and the language used perfectly reasonable and am not persuaded that it amounts to bullying or intimidation.

The complainant describes the following behaviour, which she believes occurred at the Parish Council meeting in September. Having viewed the recording of that meeting, it is clear that Cllrs Nick and Emily Quilty are not sat at either side of the complainant and therefore the behaviour alleged must have taken place at a different meeting. The complainant states that Cllr N and E Quilty were sitting either side of the complainant, with Cllr N Quilty picking up his phone and waving it at the complainant whilst saying “we’ve got to get this one” and Cllr E Quilty sketching the complainant on papers held up high close to her head. Cllr E Quilty in her representations states that she would not have made a choice to sit in this way if there were empty seats and does not recognise the description of sketching with her papers held high. Cllr Quilty does accept that she may have held her papers up to avoid being filmed. Simply sitting on either side of the complainant alone would not amount to bullying if there were no other seats available; however waving a phone in front of the complainant whilst making the comment “we’ve got to get this one” and sketching could be personally intrusive and could reasonably be regarded as intimidatory. Given the fact that this is a single incident which is not of the most serious nature, I do not consider that it has met the threshold to be a breach of the code of conduct in respect of bullying and intimidation on this occasion.

The complainant also mentions the actions of a relation of Cllr E Quilty and a large entourage at the meeting on 20 November 2018 as evidence of bullying and intimidation. The nub of the complaint is about them filming the meeting with a large camera on a tripod and a hand held device. The complainant states that she found the filming distracting and makes no mention of being intimidated by it. Cllr Quilty explains that this was a public meeting and members of the public are allowed to film meetings. In considering this matter objectively, any member of the public is entitled to attend and film a public meeting. In my view the complainant has recorded meetings, which she is entitled to, and which other councillors have clearly expressed their dissatisfaction about. She may have found it distracting when Cllr E Quilty’s family recorded the meeting, simply being distracted does not amount to bullying and intimidatory behaviour on the part of Cllr Quilty.

Potential breaches of the Code of Conduct considered

The Calverton Parish Council code of conduct is based on the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

When a member of the Council acts, claims to act or gives the impression of acting as a representative of the Council, he/she has the following obligations:

1. He/she shall behave in such a way a reasonable person would regard as respectful.

(Note - Failing to treat others with respect might be defined as unfair, unreasonable or demeaning behaviour directed by one person against another. I consider that most reasonable members of the public would take into account the context in which particular language and behaviour has been used in assessing whether it was “disrespectful”. The context might include the place where an incident occurred, who

observed the behaviour, the character and relationship of the people involved, and the behaviour of one or more of the parties that prompted an alleged act of disrespect.)

2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidation.

(Note - Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Conduct is unlikely to be considered as bullying when it is an isolated incident of a minor nature.)

Response to Initial Assessment Decision

Councillor Quilty responded to the Initial Assessment Decision Notice. She does not accept the decision on initial assessment and has not apologised as recommended. A summary of why she does not accept the decision is as follows. She considers that:

- There are significant aspects of the original complaint, her treatment throughout the complaint process, the handling of the complaint and the resulting decision/recommendation that are fundamentally unreasonable.
- The manner in which the evidence has been collected and evaluated has been unfairly weighted in favour of the complainant throughout this process.
- The assessment of the complaint and the associated request for an apology is untenable for a number of reasons.
- The question of the content of her notes is irrelevant. Other councillors, including the complainant whilst in office, routinely draw on the side of their notes. She is perfectly entitled to do likewise; it has only ever enhanced her ability to concentrate on the proceedings of meetings.
- She is entitled to keep her notes private or share with individual councillors if she wishes. She is unaware that the scribbles that are routinely applied to other councillors' personal documents have ever been subject to a similar level of scrutiny.

Decision and reasons

In accordance with Sections 28 (6) and (7) of the Localism Act 2011, having considered the allegation in accordance with the Council's Arrangements for Dealing with Complaints about breach of the Code of Conduct and in consultation with the Independent Person, I have decided that no further action should be taken in relation to the original complaint and the file should be closed.

The reason for this decision is as follows:

Whilst the complaint discloses a potential breach of the Code, that part of the complaint is not serious enough to merit an investigation in circumstances where the resources needed to investigate are wholly disproportionate to the allegations and there is no overriding public interest in carrying out an investigation.

I am aware that Emily Quilty is now no longer a councillor and neither is the complainant. If the complaint is investigated, even if a finding of breach is made, any sanction is limited to sending a letter or publishing findings. This is likely to have little impact when Mrs Quilty is no longer a councillor.

In any event, even if Emily Quilty was still a councillor the potential breach of the Code is not serious enough to merit an investigation. The officer time and costs which would be incurred by the Borough Council to investigate are disproportionate to the breach and any possible sanction which could be imposed in the event of a finding of breach.

Reference: STD001069

Initial Assessment Decision

Complaint

The complaint was made about Councillor Nick Quilty, a Calverton Parish Councillor by a Calverton Parish Councillor.

A general summary of the complaint is set out below:

The Complainant has alleged that, due to his behaviour at a series of meetings and by his conduct outside meetings Councillor Nick Quilty has breached the Code of Conduct for Calverton Parish Council. Councillor Quilty has responded to the complaint strongly refuting the allegations made.

Decision

In accordance with Sections 28 (6) and (7) of the Localism Act 2011, having considered the allegation in accordance with the Council's Arrangements for Dealing with Complaints about breach of the Code of Conduct and in consultation with the Independent Person, I have decided that this is an appropriate case, to seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution would involve Councillor Quilty apologising to the complainant.

I find that there is a potential breach of the Code of Conduct in relation to the following paragraphs of the Code of Conduct:

2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidation.

I also recommend that Calverton Parish Council considers:

1. Adopting a revised Code of Conduct which is sufficient to promote the high standards of conduct expected and sets out the behaviours expected of elected members.

The Code of Conduct is central to upholding high Standards in public life. The Calverton Parish Council Code is minimal and having assessed complaints I am not satisfied that it goes far enough to set out the standards expected.

2. Introducing Committees with delegated powers.

The complainant describes lengthy debates about policies which may be more appropriately conducted in a Committee meeting, rather than full Council. There is also a decision of the Council to plan Committees which was not progressed for a significant period of time. If not done so already I recommend that steps should be taken to give effect to the Council's decision.

In assessing this complaint I have had regard to:

- the complaint as submitted by the complainant;
- the recording of the meeting on 11 September 2018;
- agenda and minutes for the meeting of the Parish Council on 12 June 2018;
- the response to the complaint submitted by Councillor Quilty;
- the views of the Independent Person: and
- the Calverton Parish Council's Code of Conduct.

In considering if the Code has been breached the facts relating to the matter are considered in an objective manner adopting a reasonable person approach applying the balance of probabilities test, that is; is it more likely than not that a reasonable person in possession of all the facts would consider that the conduct complained of was a breach of the Code.

Whilst the complaint discloses a potential breach of the Code, I consider that it is appropriate to seek to conclude it by way of informal resolution.

The reason for this decision is as follows:

I am satisfied that for the purposes of this complaint that Councillor Nick Quilty was acting in his official capacity at the time of the alleged conduct and was therefore bound by the Calverton Parish Council Code of Conduct.

The complainant alleges Cllr Nick Quilty is in breach of the following areas of the Code of Conduct: Integrity / honesty and openness; respect for others; selflessness; and leadership. The Calverton Parish Council's code of conduct states it is "is based on the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership"; however there are no specific obligations set out which require a Calverton Parish Councillor to act with integrity, honesty etc. The conduct alleged has to be assessed with reference to the specific obligations set out in the Code of Conduct. Therefore even if Councillor Quilty is found not to have acted with integrity, openness, respect etc. a breach of the Code could not be found. There are 5 obligations in the Code of Conduct; the following are relevant:

1. He/she shall behave in such a way a reasonable person would regard as respectful.
2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.

The complaint and the response are extensive and whilst all these have been read and considered only the key areas are referenced below. Rather than assessing each of the activity alleged, I consider each of the above obligations and assess whether the behaviour alleged could amount to a breach of those obligations.

The Code of Conduct sets out, at paragraph 1 that a Calverton Parish Councillor must behave in a way that others would regard as respectful.

For a breach of the Code to be found following an alleged failure to treat with respect, the behaviour complained of has to be, when viewed objectively by a reasonable man in possession of all the facts, unfair, unreasonable or demeaning. The Code does

allow a councillor to be critical of an individual and a member can even be argumentative, but this must not be done in such a way that is a personal attack on an individual and therefore disrespectful. Councillors can be critical and can challenge, indeed this is intrinsic to the role of a councillor. However, the operation of the Code draws a distinction between being critical and challenging to attacking anyone personally.

Whilst the complainant has now resigned from office, this is a councillor on councillor complaint. When considering an allegation of lack of respect, it is clear that the 'robust political debate' is allowed and case law (Patrick Heesom v The Public Service Ombudsman for Wales) sets out that politicians are subject to wider levels of acceptable criticism than members of the public and are required to have 'thicker skins' and be more tolerant than ordinary citizens.

The complaint alleges that Cllr Nick Quilty subverts the democratic process by insisting forcefully that the council cannot adopt something until perfect, but pushes through own agenda whatever state or form. Examples include:

- Introducing a Street Naming Policy which was not circulated prior to the 12 June 2018 meeting and under his Chairmanship turned it into a motion; and
- Whizzing through the Annual schools football match with no detail.

In his representations, Cllr Quilty states that both of these items were discussion items which were discussed at a meeting the complainant did not attend. They were discussed at length and a motion put forward and passed.

The agenda for the meeting on 12 June 2018 includes the following:

10.13 Calverton Street Naming Policy (tabled by Cllr N J Quilty) (emailed to all Councillors 5.6.18, bar S Harris & J Wood).

10.14 Annual Schools Football Match – St Wilfrid's v Sir John Sherbooke (tabled by Cllr N J Quilty) (emailed to all Councillors 5.6.18, bar S Harris & J Wood).

And the minutes confirm the complainant had given apologies and state:

603 CALVERTON STREET NAMING

Councillors agreed that the Council should write to GBC requesting that new streets/roads in Calverton be named after the surnames of local people who died in WWI as commemorated at St Wilfrid's Church and the Mansfield Lane Cemetery Cenotaph.

604 ANNUAL SCHOOLS FOOTBALL MATCHES – ST WILFRID'S v SIR JOHN SHERBROOKE

Councillors agreed that the schools be invited to take part in annual boys' and girls' matches in July of each year (September for 2018) with the winners of each match being presented with a cup and grant of £50.00 towards schools' sports equipment being provided by the Parish Council.

Based on the agenda and minutes, I am satisfied that the councillors were provided with information prior to the meeting. I am also cognisant of the fact that the Clerk was

present at the meeting to give procedural advice about what decisions could be made and ultimately the whole council has made decisions in respect of these 2 items, not Cllr Quilty on his own. Whilst the complainant may be frustrated by what she considers to be Cllr Quilty pushing through his own agenda and insisting that other matters are 'perfect' there were 6 other councillors in attendance at the meeting who were able to challenge the information being presented and if they were not content that they had sufficient information, request that the matter be adjourned until a later date.

I do not consider that the conduct alleged would amount to demonstrating lack of respect and a breach of the code.

The complainant alleges that Cllr Quilty treats anything complainant says with disdain, examples provided include:

- At the January 2018 meeting scoffing when the complainant said she found the NALC website a mine of information; and
- Ignoring the complainant's hand up to speak at meeting in July 2018 and being rude when she tried to speak twice, when others have spoken freely.

In his representations, Cllr Quilty confirms that he did query the value of the NALC membership which he is entitled to do. He also states that this accusation is not true – he tends to invoke standing orders allowing each councillor the right to speak once on agenda items to cover all the items of business on the agenda.

In addition, the complainant states that Cllr Quilty is rude and often interrupts others in meetings. Examples include:

- At the November 2018 meeting he interrupted a fellow councillor forcefully when she raised issues about employees;
- Being rude to a member of the public at the meeting in July 2018;
- Interrupting a fellow councillors and criticising her for reading out her motion at the meeting in November 2018. Then speaking at length and distracting the motion;
- Aggressively and rudely calling out and demanding the complainant remove her camera at the end of the public part of the August 2018 meeting; and
- At the 31 July 2018 meeting interrupting a fellow councillor and when asked not to, shouted forcefully and aggressively "I will interrupt".

In his representations, Cllr Quilty states that all issues relating to staff behaviour have been dealt with by the line manager, however he does not specifically respond to the allegation of interrupting one of the councillors. He explains that he politely asked the member of public at the July 2018 meeting to repeat himself as he had not understood him. He cannot recall the incident alleged in relation to the other councillor as it is more than 6 months old. He also confirms that he asked the complainant to remove her recording device once the council was in private session, but makes no comment about his tone.

For a breach of this part of the Code to be found it has to be shown that there has been a personal attack made by the councillor. The Code does allow a councillor to be critical of an individual and a councillor can even be argumentative, but this must not

be done in such a way that is a personal attack on an individual and therefore disrespectful. Councillors can be critical and can challenge, indeed this is intrinsic to the role of a councillor. However, the operation of the Code draws a distinction between being critical and challenging to attacking anyone personally.

As set out above, in the case of *Heesom v The Public Services Ombudsman for Wales*, it was noted that:

‘.....politicians are subject to wider limits of acceptable criticism and are required to have thicker skins and to have more tolerance to comment than ordinary citizens.’

Taking this case into account, it is clear that should a personal attack be made on a councillor then there is a higher threshold that needs to be attained before a breach of the Code can be found.

In considering the behaviour alleged objectively, I consider that it could be considered rude and discourteous. When acting as an elected representative, councillors should listen to each other and if they do not agree, challenge the issue under consideration, not belittle the other person. When Chairing meetings, Cllr Quilty should also act in a fair and impartial manner, following standing orders and giving all councillors equal opportunity to put their points across. In addition, interrupting other councillors while they are addressing the meeting is unacceptable and should be controlled by the Chair. Cllr Quilty may be domineering and forceful in his debating style, which other councillors may find challenging to respond to, and his repeated interruption must be frustrating; however I do not consider that the behaviour described meets the threshold to amount to lack of respect and a breach of the code. Clearly the complainant felt strongly enough to make a complaint, however in reviewing the facts as they relate to the complaint and the case law, and taking an objective view of the matter I do not consider on the balance of probabilities that Councillor Quilty has breached the Code of Conduct.

In relation to the alleged rudeness to a member of the public, the complaint does not set out the words used and simply described the behaviour as rude. Cllr Quilty explains why he asked him to repeat himself. Cllr Quilty may have been rude but this does not meet the threshold for a breach of the code.

Whilst I do not consider that this element of the complaint, if proven, would amount to a breach of the code of conduct I would recommend that Cllr Quilty considers the impact of his debating style and how rude, critical or dismissive comments could be regarded by not only his fellow councillors but also members of the public as inappropriate or unacceptable.

The complainant alleges Cllr Quilty pushes himself forward for his own interests, overrides others, dismisses their contributions, dominates discussions, speaks at length off the agenda and is not open to other's views. Examples include:

- Ignoring concerns that he was not impartial when dealing with a grievance and refusing to provide updates;
- Leading the cemetery development group entirely without agenda and controlled and dominated any 'discussion';

- At the meeting in January 2018, dominating discussions about setting up committees defeating the motion to plan for 2 committees in June 2018. Then delaying the meeting to plan for committees and did not turn up for the meeting in September;
- Adjourning the meeting in July 2018 to take an item tabled by the complainant to a future meeting;
- Blocking and delaying the adoption of a Complaints Policy and procedure;
- Ignoring Councillors who spoke in support of filming meetings;
- Launching into a defence of his Media Policy and waving the NALC document dismissively;
- Ignoring repeated reports about inappropriate behaviour of employees, shrugging shoulders and making jests as vice-chair and dominant member of the HR group.

In his representations, Cllr Quilty states that he heard the grievance in accordance with the procedure set out in the Employee Handbook. The complainant tried to discuss the matter in public and was informed that the matter was private and confidential, but she ignored this. He states that he volunteered to lead the cemetery group but resigned the position because he could not work with the complainant. In relation to the setting up of committees, Cllr Quilty states that he disagreed with the complainant, which he is perfectly entitled to do and his opinion is that the introduction of committees would increase the bureaucratic workload on the parish council office. He made the amendment to the resolution which was passed on a valid vote, but was unable to attend the meeting due to work commitments which were not foreseen when the vote was taken. Cllr Quilty is outraged by the complainant's assumptions about the implication of the adjournment of her item in July 2018 to the following meeting. In his representations, he explains that he asked whether the item was valid as it appeared identical to a previous resolution and the meeting was adjourned in accordance with Standing Orders as it had been going on for 3 hours. The following meeting was a week later.

Cllr Quilty submits that the delay in adopting a complaints policy was due to the complainant who took 6 months to draft it. The document she provided was referred to the Clerk to amend because it contained unrealistic timescales. In relation to filming, Cllr Quilty states that a number of councillors were upset by the complainant's belligerent attitude when asked why she was filming. And her demeanour caused a lot of negative feeling. He pointed out to the meeting that she had a legal right to film, but didn't have the right to obstruct the gangway or plug non-PAT tested equipment into the mains. He also reminded the complainant about filming minors. In response to the allegation about the Media Policy, Cllr Quilty stated that he drafted a document based on policies adopted by other authorities. He read through the proposed policy and described it for clarity before councillors voted on it. In his opinion the NALC policy was insufficient as it made no mention of filming of minors or those with limited mental capacity.

In his representations, Cllr Quilty explains that employment matters are deferred to the employee's line manager. Many of the accusations have been investigated and found to be malicious rumour. Advice has been given that anyone with evidence of illegal wrongdoing should report it to the police.

I am satisfied that a reasonable person viewing the conduct alleged objectively would not come to the conclusion that it is behaviour which is not respectful. Cllr Quilty, as a democratically elected member has a right to freedom of speech which includes the right freely and frankly to express his views; this can be forceful but should not be a direct personal attack on another individual. Freedom of speech and expression of views should be allowed. Cllr Quilty is entitled to express his views in a robust fashion and I do not consider that his behaviour went beyond what could reasonably be regarded as fair and reasonable. It is also relevant that the decisions are made by the Parish Council and whilst the complainant may not agree with them, they have been made by the majority of councillors present and voting at a meeting and not by Cllr Quilty alone.

It is evident that Cllr Quilty's style is regarded by the complainant as belligerent, overbearing and dominating, however for it to amount to a breach of the code of conduct it has to demonstrate a lack of respect. I can sympathise with the complainant and other parish councillors if they feel that Cllr Quilty does not listen to their views, talks over them and is focussed on getting his own way, however I am not satisfied that the behaviour complained about is sufficient to amount to show lack of respect and therefore be a breach of the code. As set out above, Cllr Quilty is entitled to freedom of expression and can put forward his opinions in a forceful way. The complainant has provided a recording of the meeting held in September which I have viewed. Although it is only one meeting, it does provide an indication of Cllr Quilty's style of debate at meetings. Considering the recording objectively, whilst Cllr Quilty does laboriously present the Media Policy (about 12 minutes), the complainant speaks for some time (7 minutes), during which Cllr Quilty appears to be listening. The complainant is allowed by the Chair to speak again, as is Cllr Quilty. I would not consider Cllr Quilty's contribution to the meeting as anything other than persuasive and note that he actually concedes a point made by the complainant, offering to amend a time period from 6 to 2 days. Other councillors freely raise their concerns about the wording of the Policy proposed which Cllr Quilty does not interrupt or ignore them; he does however disagree with them. A lengthy and healthy debate takes place with an amendment proposed which is ultimately defeated and Cllr Quilty's policy approved with a minor amendment.

Speaking at length off the agenda is a procedural issue which is a matter for the Chair of the meeting to control. It is recognised that the code is an ethical code not a backstop against poor governance or process. Whilst the complainant may expect fellow councillors to stick to the matter being debated, I consider that this is not a matter which falls within the scope of the code of conduct.

In relation to the allegations about Cllr Quilty ignoring concerns raised by other, I am satisfied with Cllr Quilty's explanation that it would not be appropriate to discuss employment matters in a public forum. If he had a conflict of interest in relation to the grievance, failure to declare it and pass the matter to someone else to deal with, would not be a breach of the code. There is an important difference between breaching the code of conduct and being pre-determined or biased. It is possible for a Councillor to act within the code of conduct and still cause a decision they are involved into be bad for pre-determination or bias. In addition, being dismissive of concerns about employees' behaviour does not amount to disrespect.

The Code of Conduct sets out, at paragraph 2 that a Calverton Parish Councillor must not act in a way which a reasonable person would regard as bullying or intimidatory

The complainant contends that Cllrs Nick and (his wife) Emily Quilty act ‘in tandem’ and so they are supporting and compounding each other’s forceful and intimidating behaviour. Cllr Nick Quilty generally taking the front attacking line, with Cllr Emily Quilty coming in as ‘back up sincere justifier’ ...trying to adopt some sort of ‘moral high ground’, often belittling the people who are raising issues.

In response to the allegation, Cllr N Quilty has stated that this is the complainant’s subjective opinion.

When considering an allegation of bullying, it is accepted that bullying may be characterised as behaviour, or an abuse or misuse of power in a way that undermines, humiliates, unfairly criticises or injures someone. Some examples of bullying behaviour include:

- spreading malicious rumours, or insulting someone by word or behaviour
- ridiculing or demeaning someone-picking on them or setting them up to fail
- exclusion or victimisation
- unfair treatment
- overbearing supervision or other misuse of power or position

Bullying and intimidation are unacceptable and should not be tolerated. It is important to recognise the impact such behaviour can have on any individual experiencing it, as well as on the wider parish council in terms of morale and operational effectiveness.

On balance, the majority of the behaviour alleged demonstrates a distinct difference of opinion between the complainant and Cllrs N and E Quilty. It is understood that being faced with a pair of married councillors, who dominate the debate at parish council meetings in a forceful or obfuscating way could be regarded by the complainant as intimidatory. The complainant may not welcome Cllr Quilty dominating the debate; however I am satisfied that Councillor Quilty’s style of oral communication does not meet the threshold of bullying and intimidatory to amount to a breach of the code of conduct. The examples provided do not meet the threshold to demonstrate that Cllr Quilty’s comments personal and are aimed at undermining, humiliating, unfairly criticising or injuring an individual.

The complaint alleges that Cllrs N and E Quilty support each other and work together to block proposals put forward by others or to progress their own policies and personal missions; examples given include debates and decisions relating to the purchase of the farmland at the south-western edge of the village, the Complaints Policy and procedure, ‘wrongdoings’ by employees, filming of meetings and Media Policy. In his representations, Cllr N Quilty states that the decision relating to the purchase of the land has been subject to a complaint to the external auditors who have found that the parish council has acted lawfully and within its powers. His representations in respect of the policies and ‘wrongdoing’ by employees is set out above.

I am conscious that a democratically elected member has a right to freedom of speech which includes the right freely and frankly to express views about matters. It is also clear in a political environment that members of the same political group will share a common policy, common views and regularly vote in support of the same proposals at meetings. Robustly expressing views in common with others does not amount to a breach of the Code of Conduct and if this was the case, the management of the ethical standards process would become untenable. Councillors must be free to propose what they wish and express their views; it is then for the Parish Council as a corporate body, taking advice from its Clerk, to consider the matter and make a decision. The complainant clearly does not agree with the views expressed by Cllr Quilty at meetings and the decisions of the Parish Council he supported or voted against, however this is part of the democratic process. Councillors are entitled to express different opinions.

Decisions of the Parish Council are not made by consensus, they are made by majority of those present and voting and, on their own, Cllr N and E Quilty cannot carry the vote. There is no allegation in the complaint that Cllr N and E Quilty have bullied or intimidated others, including the complainant, into voting in a particular way. In viewing the recording of the meeting in September 2018, it is clear that the complainant has a different view of the Media Policy proposed to Cllrs N and E Quilty and expresses her support to the NALC model policy. Whilst, I appreciate that the complainant may be frustrated that Cllr N and E Quilty resolutely spoke in support of the draft Media Policy he proposed, I am satisfied that the conduct described and viewed is not bullying or intimidatory in nature.

The complainant mentions the actions of a relative of Cllr E Quilty and a large entourage at the meeting on 20 November 2018 as evidence of bullying and intimidation. The nub of the complaint is about them filming the meeting with a large camera on a tripod and a hand held device. The complainant states that she found the filming distracting and makes no mention of being intimidated by it. Cllr Quilty explains that this was a public meeting and members of the public are allowed to film meetings. In considering this matter objectively, any member of the public is entitled to attend and film a public meeting. In my view the complainant has recorded meetings, which she is entitled to, and which other councillors have clearly expressed their dissatisfaction about. She may have found it distracting when Cllr E Quilty's family recorded the meeting, simply being distracted does not amount to bullying and intimidatory behaviour on the part of Cllr Quilty. In relation to the comment about putting his water bottle in front of another member of the public's camera, Cllr Quilty states that the other camera was only 8 inches away from him: where was he supposed to put his water bottle, pen and notes. This allegation is trivial in nature and appears to demonstrate tit for tat behaviour between councillors who do not agree with each other.

The complainant describes the following behaviour, which she believes occurred at the Parish Council meeting in September. Having viewed the recording of that meeting, it is clear that Cllrs Nick and Emily Quilty are not sat at either side of the complainant and therefore the behaviour alleged must have taken place at a different meeting. The complainant states that Cllr N and E Quilty were sitting either side of the complainant, with Cllr N Quilty picking up his phone and waving it at the complainant whilst saying "we've got to get this one" and Cllr E Quilty sketching the complainant on papers held up high close to her head. Cllr N Quilty in his representations states that as some of

the last councillors to arrive before the meeting started, he and Cllr E Quilty were left with little choice but to sit either side of the complainant. During the meeting he did use his phone to record one of the items involving a local primary school. Simply sitting on either side of the complainant alone would not amount to bullying if there were no other seats available; however waving a phone in front of the complainant whilst making the comment “we’ve got to get this one” and sketching could be personally intrusive and, if proven, could reasonably be regarded as intimidatory and amount to a breach of the code.

The complainant also describes the following behaviour, which has occurred at the last few meetings of 2018; Cllr E Quilty has deliberately set up her phone camera to point across the table usually at the complainant whilst Cllr N Quilty has adopted the habit of sitting next to the complainant and pointedly reading her notes. Cllr Quilty states that this is simply not true.

I am also satisfied that Cllr Quilty adopting the habit of sitting next to the complainant at meetings, leaning forward and pointedly reading her notes, could be personally intrusive and, if proven, could reasonably be regarded as intimidatory and amount to a breach of the code.

I note that Cllr Quilty has denied adopting the habit of sitting next to the complainant at meetings, leaning forward and pointedly reading her notes but has made no specific representations about waving his mobile phone at the complainant whilst saying “we’ve got to get this one”. Where there are 2 versions of events a formal investigation would be able to come to a firm conclusion on these matters and I have considered whether to refer this aspect of the complaint for investigation. However, I consider that this aspect of the complaint is not serious enough to merit an investigation in circumstances where the resources needed to investigate are wholly disproportionate to the allegations and there is no overriding public interest in carrying out an investigation. I recommend that this aspect of the complaint is concluded by way of informal resolution with Cllr Quilty apologising to the complainant.

Potential breaches of the Code of Conduct considered

The Calverton Parish Council code of conduct is based on the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

When a member of the Council acts, claims to act or gives the impression of acting as a representative of the Council, he/she has the following obligations:

3. He/she shall behave in such a way a reasonable person would regard as respectful.

(Note - Failing to treat others with respect might be defined as unfair, unreasonable or demeaning behaviour directed by one person against another. I consider that most reasonable members of the public would take into account the context in which particular language and behaviour has been used in assessing whether it was “disrespectful”. The context might include the place where an incident occurred, who

observed the behaviour, the character and relationship of the people involved, and the behaviour of one or more of the parties that prompted an alleged act of disrespect.)

4. He/she shall not act in a way which a reasonable person would regard as bullying or intimidation.

(Note - Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour.)

Response to Initial Assessment Decision

Councillor Quilty responded to the Initial Assessment Decision Notice. He does not accept the decision on initial assessment and has not apologised as recommended.

A summary of why he does not accept the decision is as follows.

- He considers that he has been found guilty for not explicit refuting one point, which he missed in a very long complaint.
- He does not believe the summary of complaint was in a form that was usable.
- He refutes that this accusation ever occurred and therefore will not be apologising.

Decision and reasons

In accordance with Sections 28 (6) and (7) of the Localism Act 2011, having considered the allegation in accordance with the Council's Arrangements for Dealing with Complaints about breach of the Code of Conduct and in consultation with the Independent Person, I have decided that no further action should be taken in relation to the original complaint and the file should be closed.

The reason for this decision is as follows:

Whilst the complaint discloses a potential breach of the Code, that part of the complaint is not serious enough to merit an investigation in circumstances where the resources needed to investigate are wholly disproportionate to the allegations and there is no overriding public interest in carrying out an investigation.

The potential breach of the Code is not serious enough to merit an investigation. The officer time and costs which would be incurred by the Borough Council to investigate are disproportionate to the breach and any possible sanction which could be imposed in the event of a finding of breach.

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By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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