

# Public Document Pack



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19 October 2012

Dear Councillor

NOTICE IS HEREBY GIVEN THAT a meeting of the **STANDARDS COMMITTEE** will be held in the HMS Brave Room at these Offices on Monday 29 October 2012 at 10.00 am when the following business will be transacted.

Members of the public who require further information are asked to contact Kate Batty-Smith on (01304) 872305 or by e-mail at [kate.batty-smith@dover.gov.uk](mailto:kate.batty-smith@dover.gov.uk).

Yours sincerely

A handwritten signature in black ink, appearing to read "Kate Batty-Smith", written over a white background.

Chief Executive

Standards Committee Membership:

Councillor B W Butcher (Chairman)  
Councillor M A Russell (Vice-Chairman)  
Councillor J A Cronk  
Councillor P J Hawkins  
Councillor S C Manion  
Councillor K Mills  
Councillor C J Smith

AGENDA

- 1 **APOLOGIES**
- 2 **APPOINTMENT OF SUBSTITUTE MEMBERS**

To note appointments of Substitute Members.

- 3 **DECLARATIONS OF INTEREST**

To receive any declarations of interest from Members in respect of business to be transacted on the agenda.

Where a Member has a new or registered Disclosable Pecuniary Interest (DPI) in a matter under consideration they must disclose that they have an interest and, unless the Monitoring Officer has agreed in advance that the DPI is a 'Sensitive Interest', explain the nature of that interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a DPI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation permitting them to do so. If during the consideration of any item a Member becomes aware that they have a DPI in the matter they should declare the interest immediately and, subject to any dispensations, withdraw from the meeting.

Where a Member is declaring an Other Significant Interest (OSI) they must also disclose the interest and explain the nature of the interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a OSI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation to do so or the meeting is one at which members of the public are permitted to speak for the purpose of making representations, answering questions or giving evidence relating to the matter. In the latter case, the Member may only participate on the same basis as a member of the public and cannot participate in any discussion of, or vote taken on, the matter and must withdraw from the meeting in accordance with the Council's procedure rules.

4 **APPOINTMENT OF CHAIRMAN AND VICE-CHAIRMAN**

To note that the Council, at its meeting held on 25 July 2012, appointed Councillor B W Butcher and Councillor M A Russell as Chairman and Vice-Chairman respectively for the remainder of the Council year 2012/13.

5 **MINUTES** (Pages 4 - 7)

To confirm the attached Minutes of the meeting of the Committee held on 20 June 2012.

6 **COMPLAINTS REPORT** (Pages 8 - 20)

To consider the attached report of the Director of Governance.

7 **KENT MODEL - LOCAL CODE OF CONDUCT FOR MEMBERS AND ASSOCIATED ARRANGEMENTS** (Pages 21 - 74)

To consider the attached report of the Monitoring Officer.

**Access to Meetings and Information**

- Members of the public are welcome to attend meetings of the Council, its Committees and Sub-Committees. You may remain present throughout them except during the consideration of exempt or confidential information.
- All meetings are held at the Council Offices, Whitfield unless otherwise indicated on the front page of the agenda. There is disabled access via the Council Chamber

entrance and a disabled toilet is available in the foyer. In addition, there is a PA system and hearing loop within the Council Chamber.

- Agenda papers are published five clear working days before the meeting. Alternatively, a limited supply of agendas will be available at the meeting, free of charge, and all agendas, reports and minutes can be viewed and downloaded from our website [www.dover.gov.uk](http://www.dover.gov.uk). Minutes are normally published within five working days of each meeting. All agenda papers and minutes are available for public inspection for a period of six years from the date of the meeting. Basic translations of specific reports and the Minutes are available on request in 12 different languages.
- If you require any further information about the contents of this agenda or your right to gain access to information held by the Council please contact Kate Batty-Smith, Democratic Support Officer, telephone: (01304) 872305 or email: [kate.batty-smith@dover.gov.uk](mailto:kate.batty-smith@dover.gov.uk) for details.

**Large print copies of this agenda can be supplied on request.**

Minutes of the meeting of the **STANDARDS** Committee held at the Council Offices, Whitfield on Wednesday 20 June 2012 at 10.00 am.

Present:

Chairman: Mr A M Hayes

Councillors: B W Butcher  
J A Cronk  
P J Hawkins  
S C Manion  
K Mills  
C J Smith

Independent Members: Mr B P S Dowley  
Mr G J Fowler  
Mr K C Atkinson

Town and Parish Council  
Representatives: Mr B A C Curtis  
Mrs S Laslett  
Mrs M Cosin  
Mr I Martin

Officers: Director of Governance and Monitoring Officer  
Solicitor to the Council and Deputy Monitoring Officer  
Corporate Complaints and Resilience Officer  
Democratic Support Officer

An apology for absence was received from Mr W G Ferrier.

96 APPOINTMENT OF CHAIRMAN AND VICE-CHAIRMAN

The Committee was advised that Council, at its meeting held on 16 May 2012, had appointed Mr A M Hayes and Mr G J Fowler as Chairman and Vice-Chairman respectively for the Council year 2012/13.

RESOLVED: That the appointment of Mr A M Hayes and Mr G J Fowler as Chairman and Vice-Chairman respectively be noted.

97 MINUTES

The Minutes of the meeting of the Committee held on 7 March 2012 were approved as a correct record and signed by the Chairman.

98 APPOINTMENT OF STANDARDS COMMITTEE SUB-COMMITTEES 2012/13

The Committee received a report on the appointment of sub-committees for the Council year 2012/13. Members noted that these appointments would be for a term of 10 days only since the current Standards Committee and its sub-committees would be dissolved on 30 June 2012.

RESOLVED: (a) That the four Sub-Committees be appointed on the following basis, as set out in the report:

Standards (Initial Assessment and Consideration)  
Sub-Committee

Mr G J Fowler  
Mr W G Ferrier  
Mr A M Hayes  
Councillor B W Butcher  
Councillor J A Cronk  
Councillor P J Hawkins  
Councillor C J Smith  
Mr B A C Curtis

Standards (Review) Sub-Committee

Mr K C Atkinson  
Mr B P S Dowley  
Councillor K Mills  
Councillor S C Manion  
Councillor S Laslett (Sandwich Town Council)

Standards (Hearing) Sub-Committee

Mr G J Fowler  
Mr W G Ferrier  
Mr A M Hayes  
Councillor B W Butcher  
Councillor J A Cronk  
Councillor P J Hawkins  
Councillor C J Smith  
Councillor M Cosin (Deal Town Council)  
Councillor S Laslett (Sandwich Town Council)

Standards Dispensation Sub-Committee

Mr A M Hayes  
Mr K C Atkinson  
Councillor S C Manion  
Councillor K Mills  
Mr B A C Curtis

- (b) That Mr A M Hayes be confirmed as Chairman of the Hearing Sub-Committee and the Dispensation Sub-Committee; Mr G J Fowler as Chairman of the (Initial Assessment and Consideration) Sub-Committee and Mr K C Atkinson as the Chairman of the (Review) Sub-Committee.
- (c) That the Democratic Support Officer be authorised to select substitute members from the full membership of the Standards Committee to serve on any Sub-Committee where it is not possible to obtain a quorum for a Sub-Committee.

99 COMPLAINTS REPORT

The Committee received the report of the Director of Governance on formal complaints received by the Council that had been processed through the Council's Corporate Support Section.

The Corporate Complaints and Resilience Officer (CCRO) reported that eleven complaints had been closed since the last meeting. There were some errors in the report, namely that complaint number WST083 (Shepherdswell) should read DEV108 (Eythorne and Shepherdswell) and complaint number WST083 (Buckland) should read PKG022 (Castle). In respect of complaint number PKG022, the Committee was advised that the CCRO had carried out an investigation and had found no evidence of maladministration. However, the Parking Services Manager had stated that he would be carrying out a review of the district's residents' parking permit scheme.

- RESOLVED: (a) That a report on the outcome of the residents' parking permit scheme review be presented to the Standards Committee.
- (b) That the complaints report be noted and the actions taken endorsed.

100 LESSONS LEARNED FROM COMPLAINTS

The Director of Governance presented the report which had been prepared in response to concerns raised by the Governance and Standards Committees regarding the systems that were in place to learn from complaints by improving processes and procedures. The Committee was advised that improvement measures to address problem areas were logged on to the Covalent database. This was then monitored to ensure that measures were implemented and embedded into team procedures. The Director of Governance advised that the database would be reviewed at the end of the year in order to identify areas that might be incorporated into staff training.

In respect of waste services, the Committee was advised that the Equalities team was working with the Waste team to review waste collection procedures following complaints made by residents with mobility and other problems. It was recognised that the complaints procedure itself could be better publicised, for example on the Council's website. Mr Fowler stressed that it was also important to learn lessons from areas in which the Council was performing well, and complimented the Council on its handling of a green waste issue.

- RESOLVED: That the report, and actions taken to ensure that lessons are learned, be noted.

101 CODE OF CONDUCT – NEW STANDARDS REGIME

The Director of Governance presented the report on a proposed new Code of Conduct for Members and associated standards arrangements which had been developed under the provisions of the Localism Act 2011, and was due to be considered by Council on 26 June. The Standards Committee, as currently constituted, would be dissolved on 30 June, and the report proposed that it should be re-established on 1 July as an ordinary, politically-balanced committee of Council with no independent members.

The new Code of Conduct had been developed with Monitoring Officer and Legal colleagues across Kent, and it was proposed that it should apply to all county, district and parish members in Kent (unless, in the case of the latter, they had adopted a different code). The key changes to the Code were that prejudicial interests had been replaced by a narrower set of disclosable pecuniary interests (DPIs). Failure to register or declare a DPI in accordance with the requirements of the Localism Act would constitute a criminal offence. The Act also placed a duty on the Monitoring Officer to maintain a register of DPIs for town, parish and district Members. Members would now also be required to disclose the DPIs of their spouse or partner.

Under the new arrangements, the Monitoring Officer would consult an independent person and then himself determine whether an allegation of failure to comply with the Code of Conduct merited investigation. This process would replace the Initial Assessment process of the existing regime. The Monitoring Officer would also enjoy greater powers to dismiss vexatious or 'weak' allegations. A hearings panel of three Members would be established to consider the outcome of investigations and determine what sanctions should be applied, although there were no longer powers to suspend or disqualify Members. Concerns were expressed about the possibility that a number of different codes could be adopted by parish councils, and their preparedness for having a Code of Conduct in place by 1 July.

The Monitoring Officer advised that he had written to all towns and parishes requesting that they consider adopting the Kent Model Code of Conduct which the Council had adapted to their needs. Training for all Members would be arranged and information placed on the Council's website. Further changes could be made to the Code and arrangements by the Monitoring Officer, consulting the Council or Standards Committee as appropriate. The Code itself could only be amended by the full Council. In response to a query from Councillor Butcher, it was confirmed that predetermination was no longer a significant consideration, having been largely swept away by Section 25 of the Localism Act 2011.

RESOLVED: That the new Kent Code of Conduct for Members and Associated Arrangements be noted and supported.

102 EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED: That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the remainder of the business on the grounds that the item to be considered involves the likely disclosure of exempt information as defined in paragraph 7C of Part 1 of Schedule 12A of the Act.

103 STANDARDS INITIAL ASSESSMENT AND CONSIDERATION SUB-COMMITTEE

The Committee received the Minutes of the Standards Initial Assessment and Consideration Sub-Committee meeting held in private on 15 February 2012.

RESOLVED: That the Minutes of the Standards Initial Assessment and Consideration Sub-Committee meeting held on 15 February 2012 be received.

The meeting ended at 11.04 am.

DOVER DISTRICT COUNCIL

REPORT OF THE DIRECTOR OF GOVERNANCE

STANDARDS COMMITTEE – 29 OCTOBER 2012

## **COMPLAINTS REPORT**

### **Recommendation**

<i>That the report be noted and the actions taken be endorsed.</i>
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Contact Officer: Sue Carr, extension 2322.

### 1. **UPDATE OF COMPLAINTS RECEIVED BY THE DISTRICT COUNCIL**

Reported below is an update of formal complaints investigated by the Corporate Complaints & Resilience Officer (CC&RO) at stage two of the Council's complaints process since the last Standards Committee meeting of 20 June 2012. Fourteen complaints were investigated none of which led to a finding of maladministration with injustice. There may be issues raised through the complaints process where the Corporate Support Section provides a written explanation of Council policy and procedures but which do not require an investigation. These are not included within this report but are included within the figures in the tables at Appendices A and C.

#### 1.1 **Complaint No. PKG022 – Castle (Closed)**

This complaint related to the residents parking permit scheme. The complainant was unhappy as they had previously been permitted to purchase two permits but when they renewed had been advised that only one permit per household was now permissible. The complaint was not upheld as the Parking Order states that one permit per household will be issued but an apology was given for the lack of notice given to householders regarding not being able to renew the second permit. The Community Safety, CCTV and Parking Services Manager has stated that a review of the permit process will be undertaken and he is proposing to report to Cabinet before the end of the year. The matter is currently being considered by the Local Government Ombudsman.

#### 1.2 **Complaint No. ASB008 – River (Closed)**

The complainant was dissatisfied with the way in which their reports of private land being used by off-road vehicles were dealt with. The matter was reviewed but no maladministration found. The work carried out by Council Officers from Community Safety, Environmental Health and Development Control, in conjunction with the Police, had reduced the problems in the area and had resulted in a proposed off-road event being cancelled. The complainant was advised that they could refer the matter to the Local Government Ombudsman.

#### 1.3 **Complaint No. CTX072 – Sandwich (Closed)**

This complaint related to the council tax recovery process. The complainant, owner of a second home, had elected for correspondence to be sent to the address to which the council tax related but as it was a second home the complainant did not receive the communications relating to debt recovery until the issue of summons



stage. An officer from EKS council tax cancelled the recovery action as soon as the complainant telephoned to discuss the matter but the complainant was of the view that EKS should have tried other means of communication before proceeding with recovery action. It was explained that the recovery action is automated and in view of the number of cases being dealt with each month it is not feasible to contact each householder separately. The complainant was unhappy with the explanation and has referred the matter to the Local Government Ombudsman.

1.4 **Complaint No. DEV124 – Walmer (Closed)**

The complainant alleged that no action was taken by the Council when the builder/owner damaged their fence while constructing an extension for which they had no permission. The matter was investigated and it was ascertained that planning permission had been granted for the extension and any damage to the fence would be a civil matter between them and their neighbour. An ASB Officer from Community Safety had previously been involved with the case and visited the complainant to explain the situation and deliver the letter from the Council responding to the Complaint.

1.5 **Complaint No. DEV130 – Walmer (Closed)**

This complaint related to an allegation that the Council did not advertise a planning application in the manner to which the Town & Country Planning Order intended. The complainant stated that only one notice was put up at the entrance to the site but as the site was situated at the end of a cul-de-sac on a private estate, residents not living on the estate would not be aware of the application. The CC&RO was of the view that the Officer had followed the policy but that one site notice was insufficient to inform neighbouring properties. The CC&RO considered whether an alternative judgement might have led to a different outcome but was of the opinion that no injustice had occurred as any overlooking had been taken into consideration. The CC&RO has recommended that procedures be reviewed with regard to site notices. The complainant was advised that if they were dissatisfied with the outcome they could refer the matter to the Local Government Ombudsman.

1.6 **Complaint No. DEV132 – Sandwich (Closed)**

This complaint related to the processing of the complainant's planning application. The complainant requested direction and guidance as to how to proceed as they had not originally been informed that the application had to be advertised. The case was reviewed and it was ascertained that the Planning Officer had been advised by senior officers that the application would need to be advertised as although the property itself was not a listed building the application was classed as "affecting the setting of a listed building" and therefore required an advertisement to be placed in the local newspaper. This had delayed the process but the Planning Officer had given sketches to the complainant and provided these were returned in sufficient time the matter would be reported to the September Planning Committee. The CC&RO apologised to the complainant for the fact that the application was not advertised initially but explained that it was an unusual case and not something that the case officer had been previously aware of. The complainant was advised that if they were dissatisfied with the outcome they could refer the matter to the Local Government Ombudsman.

1.7 **Complaint No. VAL004 - Aylesham (Closed)**

The complainant alleged that they were being discriminated against as they were being pursued by the Council regarding driving over a piece of council owned land and other residents were not. The CC&RO explained that all reports of unauthorised access over the Council's land by an owner occupier are investigated and dealt with on a case by case basis. Those who were not being pursued were Council tenants who could not gain prescriptive rights against their landlord and therefore these are dealt with differently. The CC&RO was of the view that the complainant had not been discriminated against but could refer the matter to the Local Government Ombudsman if they remained dissatisfied.

1.8 **Complaint No. WST098 - Eythorne & Shepherdswell (Closed)**

This complaint related to the Council's website and communication from Veolia providing contradictory information when certain collection routes within the District were altered. The information was reviewed and the Council apologised on behalf of the Contractor as the information should have been clearer. The calendars provided contained information for June but it was not apparent that the change in the route would not commence until July. The Waste Services Manager advised that this complaint would ensure that improvement would be made to any literature provided in the future. The complainant was satisfied with the outcome of the investigation and advised that they would not be pursuing the matter further.

1.9 **Complaint No. PSH013 - Tower Hamlets (Closed)**

The complainant alleged that they had been denied funding to assist with works to their property by Private Sector Housing. The matter was investigated by the CC&RO who found no evidence of maladministration. The officers had followed procedures and the complainant had been advised not to proceed with the works until a decision had been made but the complainant had arranged for the works to be undertaken before any checks could be made by the Council. The complainant was advised that they could refer the matter to the Local Government Ombudsman.

1.10 **Complaint No. DEV098 - Eythorne & Shepherdswell (Closed)**

The complainant was unhappy with a planning application decision and questioned the way in which their application had been processed. The case was considered by the CC&RO who found that the Officer's report demonstrated that the relevant assessment had been made. The CC&RO advised that the decision could only be challenged by way of an appeal to the Planning Inspectorate. The complainant was informed that if they were dissatisfied with the outcome they could refer the matter to the Local Government Ombudsman.

1.11 **Complaint No. DEV131 - Eythorne & Shepherdswell (Closed)**

The complainant alleged that a Certificate of Lawful Development was illegal as the proposal required the construction of retaining walls and the drawing submitted with the application was inadequate for the officer to make a decision. The CC&RO was of the opinion that the Planning Officer's report demonstrated that the issue of engineering was taken into consideration and that the Planning Officer felt that the plans were sufficient to enable him to assess the application accurately. The Officer had demonstrated that consideration had been given to the relevant legislation and therefore there was no maladministration. The complainant was advised that they could refer the matter to the LGO.

1.12 **Complaint No. PSH013 - Tower Hamlets (Closed)**

This complaint related to the procedures adopted by Private Sector Housing with regard to a home loan for repairs. The Council maintains a waiting list and they are dealt with in case order. Forms are not sent to the applicant as each property is inspected to ascertain whether the works are eligible and also whether there are additional works that must be undertaken. A decision to offer a loan is made once an inspection and relevant checks have been carried out. This is the same procedure adopted by other Authorities.

In this case the applicant was not in receipt of benefits and therefore not eligible for assistance but the Private Sector Housing Manager was willing to carry out a financial means test to see if the Council could assist. The complainant was advised that the Council needed to carry out an inspection prior to approval being granted but the complainant went ahead and arranged for the works to be undertaken. The complainant alleged that they had been treated unfairly but the CC&RO was of the view that the conditions of assistance were publicised and the Council adopted a consistent approach to ensure fairness. The complainant has referred the matter to the LGO.

1.13 **Complaint No. PKG027 - Town & Pier (Closed)**

This complaint related to the increase in charges for residents' permits from £35.00 to £50.00, that there had been no consultation and that the money raised was being used improperly. The matter was investigated by the CC&RO who found that the increase in charges was the first since 2008, the decision had been made correctly and therefore the merits of the decision could not be questioned. There was no requirement for the Council to consult on the cost of parking permits and due consideration had been given to the charge. It was felt that the cost was fair reflecting a daily cost of 15p whereas to park in a car park would amount to £7.00 per day. The complainant was advised that the income from off-street parking or permits was not ring-fenced and could be used by the Local Authority as necessary. The complainant was advised that he could refer the matter to the LGO if he remained dissatisfied.

1.14 **Complaint No. HND042 - North Deal (Closed)**

The complainant felt that they were being overlooked for properties that they had bid for. The matter was investigated by the CC&RO who looked at all the bids made by the complainant since April 2010 and explained the circumstances of each case and why the complainant had not been successful. The CC&RO could find no evidence of maladministration and advised the complainant that they could refer the matter to the LGO should they remain dissatisfied.

1.15 **Complaint No. ENV022 - Eastry (Pending)**

This complaint relates to the way in which reports of smell from sewage on farm land were investigated. The complaint is currently being investigated by the CC&RO.

1.16 **Complaint No. DEV134 - Maxton, Elms Vale & Priory (Pending)**

This complaint relates to the way in which a planning application was processed. The complaint is currently being investigated by the CC&RO.

2. **COMPLAINT DECISIONS ISSUED BY THE LOCAL GOVERNMENT OMBUDSMAN SINCE STANDARDS COMMITTEE MEETING OF 20 JUNE 2012**

- 2.1 **DEV106** – This complaint related to the way in which the Council dealt with breaches of planning controls by a neighbour and the subsequent grant of a retrospective planning application. The complainant was concerned about alleged officers' delay in requiring the applicant to submit a retrospective planning application and officers' and members' failure to take account of relevant material planning considerations including whether the development complied with the Equalities Act 2010 and the effect on the complainant's residential amenity in the form of noise and disturbance. The Local Government Ombudsman (LGO) was of the view that as planning enforcement action is discretionary and intended to be used to remedy actual planning harm it is normal practice to invite a retrospective planning application if they considered that the breach of planning controls were acceptable in principle. The LGO stated she could not question the professional judgement of the planning officers and could not criticise the Council for the length of time it was prepared to allow the applicant to submit the application as this would give the Council the opportunity to regulate the use by attaching suitable planning conditions. The LGO saw no indication that Members of the Planning Committee made their decision based on insufficient or inaccurate information. The decision was classed as "To discontinue investigation".
- 2.2 **PSH011** – This matter related to works requested at a property (a house in multiple occupation) which the complainant claimed the Council would not discuss with them. The LGO stated that as the Council had sought legal advice as to who they should treat as the manager she could not criticise the Council. The LGO stated that the complainant had the right of appeal to the Residential Property Tribunal regarding the Council's decision not to grant him an HMO licence but that as the Council accepted a subsequent application this had resolved the matter. The decision has been classed as "To discontinue investigation".
- 2.3 **HND021** – This complaint related to the processing of a homeless application and a full report was submitted to Full Council on 26 September 2012.
- 2.4 **HND038** – This complaint related to the way in which the Council dealt with a housing transfer application. The Ombudsman found that when the complainant contacted the Council the Housing Options Section acted promptly and the medical points awarded to the complainant were increased. The Officer followed Council Policy and the Ombudsman could find no evidence of maladministration. The decision has been classed as "To discontinue investigation".
- 2.5 **GOV011** – The Ombudsman received a complaint that the Council failed to investigate properly a complaint about the actions of a parish councillor. The Ombudsman took the decision not to initiate an investigation into this complaint because the actions of the Council had not caused sufficient injustice to warrant it.

3 **COMPLAINTS CURRENTLY BEING INVESTIGATED BY THE LOCAL GOVERNMENT OMBUDSMAN**

<b>Date information requested by LGO</b>	<b>Ward</b>	<b>Complaint</b>
4/4/12	Aylesham	Housing repairs
20/8/12	Castle	Residents permit
2/10/12	Sandwich	Council Tax

Date information requested by LGO	Ward	Complaint
25/9/12	Tower Hamlets	Private Sector Housing

#### 4. **COMPLAINT STATISTICS**

Set out below is a table comparing the number of complaints logged by Corporate Support, the number of complaints referred to the second stage of the complaints procedure and the number of investigations carried out by the LGO for the financial years 2009/10, 2010/11 and 2011/12. Appendix A shows the number of complaints received per Ward for the current financial year. Appendix B details the compliments received per Ward and Section from 29 May 2012 to 9 October 2012. Appendix C provides a breakdown of complaints by Ward and Section for the current financial year and Appendix D lists the Lessons Learnt from complaints from 29 May 2012 to 9 October 2012.

Financial Year	Complaints logged by Corporate Support	Complaints investigated by Corporate Support	Investigations carried out by the LGO
2009/10	116	42	15
2010/2011	99	34	18
2011/2012	134	39	15

Set out below is a table showing the number of enquiries dealt with by the Ombudsman's Advice Team in Coventry for the years 2009/10, 2010/11 and 2011/12. Not all enquiries result in an investigation.

Financial Year	Adult Care Services	Benefits	Environmental Services & Public Protection & Regulation	Housing	Planning & Building Control	Public Finance	Transport & Highways	Corporate & Other Services	Education	Total
2009/10	0	2	0	7	9	2	0	5	0	25
2010/11	0	8	10	10	6	0	2	0	0	36
2011/12	2	0	8	6	8	0	0	5	0	29

#### **Background Papers**

File C23/5 – Complaints.

#### **Resource Implications**

None.

#### **Impact on Corporate Objectives**

An effective complaints system supports the delivery of the Council's corporate objectives set out within the Corporate Plan 2008-2020.

**Comment from the Solicitor to the Council:** The Solicitor to the Council has been consulted in the preparation of this report and has no further comments to make.

## **Attachments**

Appendix A – Ward Statistics

Appendix B – Breakdown of compliments by Ward and Section

Appendix C – Breakdown of complaints by Ward and Section

Appendix D – Lessons Learnt

DAVID RANDALL

Director of Governance

The officer to whom reference should be made concerning inspection of the background papers is the Corporate Complaints & Resilience Officer, White Cliffs Business Park, Dover, Kent CT16 3PJ.  
Telephone: (01304) 872322.

### Number of Complaints Received Per Ward and processed through the Complaints System

Ward	No of Complaints		
	1.4.10 to 31.3.11	1.4.11 to 31.3.12	1.4.12 to 9.10.12
Aylesham	5	3	7
Buckland	4	8	6
Capel-le-Ferne	1		1
Castle	3	5	9
Eastry	2	5	5
Eythorne & Shepherdsweil	2	7	4
Little Stour & Ashstone	6	10	3
Lydden & Temple Ewell	2	1	1
Maxton, Elms Vale & Priory	7	3	4
Middle Deal & Sholden	3	7	2
Mill Hill	6	3	3
North Deal	10	11	6
Outside District or N/A	12	10	9
Ringwould	3	5	1
River	4	5	4
Sandwich	6	8	5
St Margaret's-at-Cliffe	3	13	2
St Radigunds	5	7	2
Tower Hamlets	4	7	3
Town & Pier	3	4	1
Walmer	6	10	7
Whitfield	2	2	1
<b>Total</b>	<b>99</b>	<b>134</b>	<b>86</b>

**Details of Compliments Received Per Ward and Section  
From 29 May 2012 – 9 October 2012**

<b>Section</b>	<b>Compliment</b>	<b>Ward</b>
Building Control	Grateful for assistance	River
Corporate	Impressed with the planning for the Olympic Torch Celebrations and Evening Event in Dover.	Outside District
Leadership Support	Nine compliments were received during the period specified regarding presentation and quality of information on the Council's website.	Unknown
Waste Services	Officer in waste services telephoned complainant following receipt of letter and advised of collection dates and arranged for collection of household waste the same day.	Sandwich



**APPENDIX C**

**Complaints by Ward and Section from 1 April to 9 October 2012**

Title	Description	Ward
Business Rates	Lack of communication	Aylesham
Horticulture	Grave not turfed	Aylesham
Housing & Council Tax Benefits	Claim processing	Aylesham
Housing Needs	Querying decision	Aylesham
Housing Needs	Querying decision	Aylesham
Housing Services	Repairs - lack of action	Aylesham
Valuation	Alleged discrimination	Aylesham
Development Control	Objection not listed on website	Buckland
Housing & Council Tax Benefits	Overpayment	Buckland
Housing Services	Noise from tenant – lack of action	Buckland
Waste Services	New scheme - communal bin	Buckland
Waste Services	No response to communications	Buckland
Waste Services	Quality of purple sacks	Buckland
Development Control	Planning - merits of decision	Capel-le-Ferne
Council Tax	Recovery	Castle
Community	Fair in Pencester Gardens	Castle
Development Control	Planning - merits of decision	Castle
Parking Services	Residents permits	Castle
Parking Services	Issue of parking charge notice	Castle
Property Services	Broken glass in play area	Castle
Waste Services	New scheme - assisted collection not taken	Castle
Waste Services	Rubbish in Victoria Park	Castle
Waste Services	New scheme - delay in delivery of bins	Castle
Council Tax	Recovery	Eastry
Development Control	Planning process	Eastry
Environmental Protection	Investigation regarding smell nuisance	Eastry
Waste Services	New scheme - bins not collected	Eastry
Waste Services	New scheme - assisted collection not taken	Eastry
Development Control	Planning - merits of decision	Eythorne & Shepherdswell
Development Control	Planning - merits of decision	Eythorne & Shepherdswell
Development Control	Planning - merits of decision	Eythorne & Shepherdswell
Waste Services	Information provided by DDC and Veolia	Eythorne & Shepherdswell
Environmental Health	Prohibition Notice	Little Stour & Ashstone
Waste Services	New scheme - delay in delivery of bins	Little Stour & Ashstone
Waste Services	New scheme – bins not being collected	Little Stour & Ashstone
Community Safety	Allegation of no action regarding anti-social behaviour	Lydden & Temple Ewell
Development Control	Merits of decision	Maxton, Elms Vale & Priory
Governance	Investigation regarding a Parish Councillor	Maxton, Elms Vale & Priory
Property Services	Staff action	Maxton, Elms Vale & Priory
Waste Services	Non collection	Maxton, Elms Vale & Priory

Waste Services	New scheme - suitability of wheeled bins	Middle Deal & Sholden
Waste Services	Recycling not collected	Middle Deal & Sholden
Housing & Council Tax Benefits	Entitlement and staff attitude	Mill Hill
Waste Services	New scheme	Mill Hill
Waste Services	Broken wheeled bin	Mill Hill
Council Tax	Recovery	North Deal
Development Control	Planning - time taken to process application	North Deal
Housing Needs	Allocation of Housing	North Deal
Leadership Support	Mail room performance	North Deal
Waste Services	Non collection	North Deal
Waste Services	Unaware of new garden waste scheme	North Deal
Housing Needs	Points reduced	Outside District
Housing & Council Tax Benefits	Overpayment	Outside District
Council Tax	Recovery	Outside District
Development Control	Planning - time taken to process application	Outside District
Development Control	Planning - merits of decision	Outside District
Housing Needs	Delay in re-housing	Outside District
Development Control	Planning - enforcement	Outside District
Land Charges	Fees set by Land Charges	Outside District
Development Control	Planning - merits of decision	Outside District
Private Sector Housing	Standard of work carried out under loan	Ringwould-with-Kingsdown
Customer Services	Unable to contact Council by telephone	River
Environmental Health	Use of land by off-road vehicles	River
Customer Services	Staff action	River
Waste Services	Service provided by contractor	River
Development Control	Planning advice	Sandwich
Community	Information not supplied by Department	Sandwich
Council Tax	Recovery	Sandwich
Council Tax	Recovery	Sandwich
Development Control	Time taken to process planning application	Sandwich
Development Control	Decision re advertising	St Margarets-at-Cliffe
Parking Services	Issue of parking charge notice	St Margarets-at-Cliffe
Housing Needs	Length of time on waiting list	St Radigunds
Waste Services	New scheme - delay in delivery of bins	St Radigunds
Environmental Health	Dog warden service	Tower Hamlets
Customer Services	Rent payments	Tower Hamlets
Private Sector Housing	Home Loan	Tower Hamlets
Parking Services	Increase in charges	Town & Pier
Customer Services	Unable to contact Council by telephone	Walmer
Development Control	Advertisement for planning application	Walmer
Development Control	Planning - enforcement	Walmer
Housing & Council Tax Benefits	Overpayment	Walmer
Revenues	Lack of response	Walmer
Waste Services	Unaware of new garden waste scheme	Walmer
Waste Services	Charge for green waste service	Walmer
Development Control	Planning - provision of information	Whitfield

## Lessons Learnt from Complaints/Compliments From 29 May 2012 – 9 October 2012

Section	Complaint/Compliment	Lessons Learnt
Housing & Council Tax Benefit	An appeal was submitted within the stipulated timescales but a Final Demand Notice was sent to the claimant.	Staff instructed to inform other relevant teams of actions taken so correct decisions can be made regarding appeals.
Housing & Council Tax Benefit	Objection received regarding wording of overpayment letter insinuating claimant was aware that the benefit awarded was incorrect.	Wording of repayment clause to be reviewed.
Customer Services	Delays in answering telephone calls.	Telephony system has been replaced.
Development Control	The placement of a planning application site notice.	Procedures regarding the placement of site notices to be reviewed.
Environmental Health	The service of a Prohibition Notice.	Better communication between the inspector and the service user, using plain English and explaining clearly to the service user the actions taken and why
Revenues	A long wait for information and not all correspondence answered.	Customer Service staff requested to forward priority matters to the Benefits Team and if out-of-office responses are received bring to the attention of the Customer Services Manager or Benefits Manager.
Waste Services	Complainant believed that their property could not accommodate the wheeled bins but the Council refused to provide bags.	Officers from Waste Services to meet future complainants on site to discuss the issues in order to endeavour to resolve problems individually.
Waste Services	One complaint received regarding the reporting of a broken wheeled bin, the complainant believed that this should be reported by contractor. Another complainant unhappy that their recycling was not collected.	Veolia will be introducing in-cab technology within the next 12 months so that reports of broken bins and contaminated recycling are automatically recorded.

Section	Complaint/Compliment	Lessons Learnt
Waste Services	A number of calls made requesting a recycling bin but it was not delivered.	Veolia now have access to the Waste Services complaints system so should respond quicker in future.

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**Subject:** KENT MODEL - LOCAL CODE OF CONDUCT FOR MEMBERS AND ASSOCIATED ARRANGEMENTS

**Meeting and Date:** Standards Committee – 29 October 2012

**Report of:** David Randall, Monitoring Officer

**Classification:** Unrestricted

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**Purpose of the report:** The Association of Kent Secretaries Working Group on Standards has recently met to review the new Kent Codes of Conduct for Members and the associated arrangements to deal with alleged non compliance. As a result a number of minor changes to the Code and the associated arrangements have been identified for adoption.

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- Recommendation:**
1. Members adopt the changes to the Kent Model Code of Conduct (District) and (Town and Parish) identified at paragraph 3.1 and 3.2 of this report and detailed at Appendices 1 and 2.
  2. Members adopt the changes to the Notification of Disclosable Pecuniary Interests form identified at paragraph 3.3 of this report and detailed at Appendix 3.
  3. Members note the amendments to arrangements to deal with alleged non compliance with the code, adopted by the Monitoring Officer and identified at paragraphs 3.4 to 3.8 and detailed at Appendix 4 to 8.
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## 1. Summary

- 1.1 On adoption of the new Code and associated arrangements on 26 June 2012, Council resolved that as the Monitoring Officer I be requested to keep the Code and Arrangements under review and report further to the Standards Committee as I considered necessary. I was also authorised to make amendments to the arrangements to reflect the model arrangements intended to be adopted across Kent. This report identifies a number of relatively modest procedural changes to the new Kent Model – Local Code of Conduct for Members – District and Town and Parish Council versions and to the associated arrangements.

## 2. Introduction and Background

- 2.1 The new Kent Model Local Code of Conduct was adopted by this authority on 26 June 2012 for implementation from 1 July 2012 when Council also commended a slightly amended version for adoption by the Town and Parish Councils of this District from 1 July 2012. The Association of Kent Secretaries Working Group on Standards has recently met to review the new Codes and associated procedures. A number of minor changes to the Code and the associated arrangements have been identified by the Working Group for adoption.

### 3. **Proposed and Adopted Changes**

#### Proposed

#### 3.1 Appendix 1 – Kent Code of Conduct for Members (District)

- (a) Minor change to better define a Co-opted Member

#### 3.2 Appendix 2 – Kent Code of Conduct for Members (Town and Parish)

- (a) Minor changes to better define a Co-opted Member and Associated Person.

#### 3.3 Appendix 3 – Notification of Disclosable Interests

- (a) DCLG have provided guidance on this document, suggesting that the notification form should not differentiate between the Councillor and husband/wife or partner. The boxes on the form have therefore been combined, and the new form will be used going forward, but there is no intention of asking councillors who have already notified to resubmit a revised form. However, this would not preclude any members who object to the separate identification of their own interests and those of their husband/wife or partner resubmitting the notification form in the amended format.
- (b) We have also taken the opportunity to further clarify the “Land” definition in the document.

#### Adopted

#### 3.4 Appendix 4 - Arrangements For Dealing With Code Of Conduct Complaints Under The Localism Act 2011

- (a) Extended time frame for appointing an investigating officer, if the Monitoring Officer, in consultation with the Independent Person, decides that the complaint merits formal investigation to reflect the administration involved and available resources.

#### 3.5 Appendix 5 - Procedure On Receipt Of A Complaint

- (a) Time frames for acknowledgements are extended to reflect the administration involved and available resources. The time limit has been removed for the subject member to submit any initial observations to the Monitoring Officer.

#### 3.6 Appendix 6 – Flowchart Procedure on Receipt of a Complaint

- (a) The time frame for the acknowledgement of a complaint increased from 5 to 15 days to reflect the administration involved and available resources.

#### 3.7 Appendix 7 – Procedure For Investigating The Complaint

- (a) No changes proposed.

#### 3.8 Appendix 8 – Hearing Panel Procedure

- (a) Extended time frame for publishing a Hearing Panel decision to reflect administration involved and available resources.

#### **4. Identification of Options**

4.1 Option One – to accept the changes proposed to the Kent Model – Code of Conduct for Members.

4.2 Option Two – to choose not to accept or accept in part the changes proposed to the Kent Model – Code of Conduct for Members.

#### **5. Evaluation of Options**

5.1 Option one is the recommended approach. This will ensure that our Code for the District Council and the slightly adapted Code for those Town and Parish Councils, who adopted it, remain consistent with most other Kent authorities, who have adopted the Kent Model.

5.2 Option 2 is not recommended. The implication would be that this Council would be operating a code slightly out of synchronisation with most other Kent authorities. Although not significant at this stage, it may mean that we gradually lose the benefit of consistency and sharing of best practice.

#### **6. Resource Implications**

6.1 No additional resource implications.

#### **7. Appendices**

Appendix 1 – Kent Code of Conduct for Members (District)

Appendix 2 – Kent Code of Conduct for Members (Town and Parish)

Appendix 3 – Notification of Disclosable Interests

Appendix 4 - Arrangements for Dealing with Code of Conduct Complaints under the Localism Act 2011

Appendix 5 - Procedure on Receipt of a Complaint

Appendix 6 – Flowchart Procedure on Receipt of a Complaint

Appendix 7 – Procedure For Investigating The Complaint

Appendix 8 - Hearing Panel Procedure

#### **8. Background Papers**

None

Contact Officer: David Randall, Director of Governance

## **Dover District Council Kent Code of Conduct for Members**

### **Preamble**

- (A) The Code of Conduct that follows is adopted under section 27(2) of the Localism Act 2011.
- (B) The Code is based on the Seven Principles of Public Life under section 28(1) of the Localism Act 2011, which are set out in Annex 1.
- (C) This Preamble and Annex 1 do not form part of the Code, but you should have regard to them as they will help you to comply with the Code.
- (D) If you need guidance on any matter under the Code, you should seek it from the Monitoring Officer or your own legal adviser – but it is entirely your responsibility to comply with the provisions of this Code.
- (E) In accordance with section 34 of the Localism Act 2011, where you have a Disclosable Pecuniary Interest it is a criminal offence if, without reasonable excuse, you:
  - (a) Fail to notify the authority's Monitoring Officer of the interest before the end of 28 days beginning with the day on which you became a member
  - (b) Fail to disclose the interest at meetings where the interest is not entered in the authority's register
  - (c) Fail to notify the authority's Monitoring Officer of the interest before the end of 28 days beginning with the date of disclosure at a meeting, if the interest is not entered in the authority's register and is not the subject of a pending notification
  - (d) Take part in discussion or votes, or further discussions or votes, at meetings on matters in which you have the interest which are being considered at the meeting.
  - (e) Fail to notify the authority's Monitoring Officer of the interest before the end of 28 days beginning with the date when you become aware that you have such an interest in a matter to be dealt with, or being dealt with, by you acting alone in the course of discharging a function of the authority.
  - (f) Take any step in relation to a matter being dealt with by you acting alone in the course of discharging a function of the Authority, except a step for the purpose of enabling the matter to be dealt with otherwise than by you.
  - (g) knowingly or recklessly provide false or misleading information in any of the above disclosures or notifications.
- (F) Any written allegation received by the Authority that you have failed to comply with the Code will be dealt with under the arrangements adopted by the Authority for such purposes. If it is found that you have failed to comply with the Code, the Authority may have regard to this failure in deciding whether to take action and, if so, what action to take in relation to you.



## THE CODE

### 1. Interpretation

In this Code:

**"Associated Person"** means (either in the singular or in the plural):

- (a) a family member or any other person [or body?] with whom you have a close association, including your spouse, civil partner, or somebody with whom you are living as a husband or wife, or as if you are civil partners; or
- (b) any person or body who employs or has appointed you or such persons, any firm in which you or they are a partner, or any company of which you or they are directors; or
- (c) any person or body in whom you or such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of which you are in a position of general control or management and to which you are appointed or nominated by the Authority; or
- (e) any body in respect of which you are in a position of general control or management:
  - (i) exercising functions of a public nature; or
  - (ii) directed to charitable purposes; or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).

**"Authority"** means Dover District Council.

**"Authority Function"** means any one or more of the following interests that relate to the functions of the Authority:

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

**"Code"** means this Code of Conduct.

**"Co-opted Member"** means a person who is **not an elected** member of the Authority but who is a member of:

- (a) any committee or sub-committee of the Authority, or
- (b) and represents the Authority on, any joint committee or joint sub-committee of the Authority; and
- (c) who is entitled to vote on any question that falls to be decided at any Meeting.

**"Disclosable Pecuniary Interest"** means those interests of a description specified in regulations made by the Secretary of State (as amended from time to time) as set out in Annex 2 and where either it is:

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

**"Interests"** means Disclosable Pecuniary Interests and Other Significant Interests.

**"Meeting"** means any meeting of:

- (a) the Authority;
- (b) the executive of the Authority;
- (c) any of the Authority's or its executive's committees, sub-committees, joint committees and/or joint sub-committees.

**"Member"** means a person who is a member of the Authority and includes a Co-opted Member.

**"Other Significant Interest"** means an interest (other than a Disclosable Pecuniary Interest or an interest in an Authority Function) in any business of the Authority which:

- (a) may reasonably be regarded as affecting the financial position of yourself and/or an Associated Person to a greater extent than the majority of:
  - (i) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
  - (ii) (in other cases) other council tax payers, ratepayers or inhabitants of the Authority's area; or
- (b) relates to the determination of your application (whether made by you alone or jointly or on your behalf) for any approval, consent, licence, permission or registration or that of an Associated Person;

and where, in either case, a member of the public with knowledge of the relevant facts would reasonably regard the interest as being so significant that it is likely to prejudice your judgment of the public interest.

**"Register of Members' Interests"** means the Authority's register of Disclosable Pecuniary Interests established and maintained by the Monitoring Officer under section 29 of the Localism Act 2011.

**"Sensitive Interest"** means information, the details of which, if disclosed, could lead to you or a person connected with you being subject to violence or intimidation.

## Scope

2. You must comply with this Code whenever you act in your capacity as a Member or Co-opted Member of the Authority.

## General obligations

3. (1) You must, when using or authorising the use by others of the resources of the Authority:
- (a) act in accordance with the Authority's reasonable requirements; and
  - (b) ensure that such resources are not used improperly for political purposes (including party political purposes).
- (2) You must not:
- (a) bully any person;
  - (b) intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings, in relation to an allegation that a Member (including yourself) has failed to comply with this Code;
  - (c) do anything that compromises, or is likely to compromise, the impartiality or integrity of those who work for, or on behalf of, the Authority;
  - (d) 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 written consent of a person authorised to give it; or
    - (ii) you are required by law to do so; or
    - (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:
      - reasonable and in the public interest; and
      - made in good faith and in compliance with the reasonable requirements of the Authority;
  - (e) prevent another person from gaining access to information to which that person is entitled by law;
  - (f) conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute;
  - (g) 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.

#### **Registering Disclosable Pecuniary Interests**

4. (1) You must, before the end of 28 days beginning with the day you become a Member or Co-opted Member of the Authority, or before the end of 28 days beginning with the day on which this Code takes effect (whichever is the later), notify the Monitoring Officer of any Disclosable Pecuniary Interest.
- (2) In addition, you must, before the end of 28 days beginning with the day you become aware of any new Disclosable Pecuniary Interest or change to any interest already registered, register details of that new interest or change, by providing written notification to the Monitoring Officer.
- (3) Where you have a Disclosable Pecuniary Interest in any matter to be dealt with, or being dealt with, by you acting alone in the course of discharging a function of the Authority (including making a decision in relation to the matter), then if the interest is not registered in the Register of Members' Interests and is not the subject of a pending notification, you must notify the Monitoring

Officer before the end of 28 days beginning with the day you become aware of the existence of the interest.

### **Declaring Interests**

5. (1) Whether or not a Disclosable Pecuniary Interest has been entered onto the Register of Members' Interests or is the subject of a pending notification, you must comply with the disclosure procedures set out below.
- (2) Where you are present at a Meeting and have a Disclosable Pecuniary Interest or Other Significant Interest in any matter to be considered, or being considered, at the Meeting, you must:
  - (a) disclose the Interest; and
  - (b) explain the nature of that Interest at the commencement of that consideration or when the Interest becomes apparent (subject to paragraph 6, below); and unless you have been granted a dispensation or are acting under paragraph 5(4):
  - (c) not participate in any discussion of, or vote taken on, the matter at the Meeting; and
  - (d) withdraw from the Meeting room in accordance with the Authority's Procedure Rules whenever it becomes apparent that the business is being considered; and
  - (e) not seek improperly to influence a decision about that business.
- (3) Where you have a Disclosable Pecuniary Interest or Other Significant Interest in any business of the Authority where you are acting alone in the course of discharging a function of the Authority (including making an executive decision), you must:
  - (a) notify the Monitoring Officer of the interest and its nature as soon as it becomes apparent; and
  - (b) 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 you; and
  - (c) not seek improperly to influence a decision about the matter.
- (4) Where you have an Other Significant Interest in any business of the Authority, you may attend a Meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the Meeting for the same purpose. Having made your representations, given evidence or answered questions you must:
  - (a) not participate in any discussion of, or vote taken on, the matter at the Meeting; and
  - (b) withdraw from the Meeting room in accordance with the Authority's Procedure Rules.

### **Sensitive Interests**

6. (1) Where you consider that the information relating to any of your Disclosable Pecuniary Interests is a Sensitive Interest, and the Monitoring Officer agrees, the Monitoring Officer will not include details of the Sensitive Interest on any copies of the Register of Members' Interests which are made available for

inspection or any published version of the Register, but may include a statement that you have an interest, the details of which are withheld under this paragraph.

- (2) You must, before the end of 28 days beginning with the day you become aware of any change of circumstances which means that information excluded under paragraph 6(1) is no longer a Sensitive Interest, notify the Monitoring Officer asking that the information be included in the Register of Members' Interests.
- (3) The rules relating to disclosure of Interests in paragraphs 5(2) and (3) will apply, save that you will not be required to disclose the nature of the Sensitive Interest, but merely the fact that you hold an interest in the matter under discussion.

### **Gifts and Hospitality**

7. (1) You must, before the end of 28 days beginning with the day of receipt/acceptance, notify the Monitoring Officer of any gift, benefit or hospitality with an estimated value of £100 or more, or a series of gifts, benefits and hospitality from the same or an associated source, with an estimated cumulative value of £100 or more, which are received and accepted by you (in any one calendar year) in the conduct of the business of the Authority, the business of the office to which you have been elected or appointed or when you are acting as representative of the Authority. You must also register the source of the gift, benefit or hospitality.
- (2) Where any gift, benefit or hospitality you have received or accepted relates to any matter to be considered, or being considered at a Meeting, you must disclose at the commencement of the Meeting or when the interest becomes apparent, the existence and nature of the gift, benefit or hospitality, the person or body who gave it to you and how the business under consideration relates to that person or body. You may participate in the discussion of the matter and in any vote taken on the matter, unless you have an Other Significant Interest, in which case the procedure in paragraph 5 above will apply.
- (3) You must continue to disclose the existence and nature of the gift, benefit or hospitality at a relevant Meeting, for 3 years from the date you first registered the gift, benefit or hospitality.
- (4) The duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the Authority for this purpose.

### **Dispensations**

8. (1) The [Standards] Committee, or any sub-committee of the [Standards] Committee, or the Monitoring Officer (where authorised) may, on a written request made to the Monitoring Officer (as appointed Proper Officer for the receipt of applications for dispensation) by a Member with an Interest, grant a dispensation relieving the Member from either or both of the restrictions on participating in discussions and in voting (referred to in paragraph 5 above).

- (2) A dispensation may be granted only if, after having had regard to all relevant circumstances, the [Standards] Committee, its sub-committee, or the Monitoring Officer (where authorised) considers that:
  - (a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business; or
  - (b) without the dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business; or
  - (c) granting the dispensation is in the interests of persons living in the Authority's area; or
  - (d) without the dispensation each member of the Authority's executive would be prohibited from participating in any particular business to be transacted by the Authority's executive; or
  - (e) it is otherwise appropriate to grant a dispensation.
- (3) A dispensation must specify the period for which it has effect, and the period specified may not exceed four years.
- (4) Paragraph 5 above does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this paragraph 8.

## THE SEVEN PRINCIPLES OF PUBLIC LIFE

In accordance with the Localism Act 2011, and in order to help maintain public confidence in this Authority, you are committed to behaving in a manner that is consistent with the following principles. However, it should be noted that these Principles do not create statutory obligations for Members and do not form part of the Code. It follows from this that the Authority cannot accept allegations that they have been breached.

**SELFLESSNESS:** You should act solely in terms of the public interest and never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

**INTEGRITY:** You should exercise independent judgment and not compromise your position by placing yourself under obligations to outside individuals or organisations who might seek to influence you in the performance of your official duties. You should behave in accordance with all legal obligations, alongside any requirements contained within this Authority's policies, protocols and procedures, including on the use of the Authority's resources. You should value your colleagues and staff and engage with them in an appropriate manner and one that underpins the mutual respect that is essential to good local government. You should treat people with respect, including the organisations and public you engage with and those you work alongside.

**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. You should deal with representations or enquiries from residents, members of the communities and visitors fairly, appropriately and impartially. You should champion the needs of the whole community and especially your constituents, including those who did not vote for you.

**ACCOUNTABILITY:** You are accountable to the public for your decisions and actions and should fully co-operate with whatever scrutiny is appropriate to your office.

**OPENNESS:** You should be as open and as transparent as possible about all the decisions and actions that you take to enable residents to understand the reasoning behind those decisions and to be informed when holding you and other Members to account. You should give reasons for your decisions and restrict information only when the wider public interest or the law clearly demands it. You should listen to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.

**HONESTY:** You have a duty to declare interests relating to your public duties and to take steps to resolve any conflicts arising in a way that protects the public interest. You should not allow other pressures, including the financial interests of yourself or others connected to you, to deter you from pursuing constituents' casework, the interests of the Authority's area or the good governance of the Authority in a proper manner.

**LEADERSHIP:** Through leadership and example you should promote and support high standards of conduct when serving in your public post. You should provide leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this Authority.

**Disclosable Pecuniary Interests, as prescribed by regulations, are as follows:**

The descriptions on Disclosable Pecuniary Interests are subject to the following definitions:

**"the Act"** means the Localism Act 2011

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

**"director"** includes a member of the committee of management of an industrial and provident society

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

**"M"** means a member of the relevant authority

**"member"** includes a co-opted member

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

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

**"relevant person"** means M or any other person referred to in section 30(3)(b) of the Act (the Member's spouse, civil partner, or somebody with whom they are living as a husband or wife, or as if they were civil partners).

**"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

<b>Interest</b>	<b>Description</b>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority: (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.



<b>Interest</b>	<b>Description</b>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge): (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where: (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

**[Name of Authority]**  
**Town/Parish Council**

**Kent Code of Conduct for Members**

**Preamble**

- (A) The Code of Conduct that follows is adopted under section 27(2) of the Localism Act 2011.
- (B) The Code is based on the Seven Principles of Public Life under section 28(1) of the Localism Act 2011, which are set out in Annex 1.
- (C) This Preamble and Annex 1 do not form part of the Code, but you should have regard to them as they will help you to comply with the Code.
- (D) If you need guidance on any matter under the Code, you should seek it from your Clerk, the Monitoring Officer or your own legal adviser – but it is entirely your responsibility to comply with the provisions of this Code.
- (E) In accordance with section 34 of the Localism Act 2011, it is a criminal offence if, without reasonable excuse, you:
  - (a) Fail to notify the authority's Monitoring Officer of the interest before the end of 28 days beginning with the day on which you became a member
  - (b) Fail to disclose the interest at meetings where the interest is not entered in the authority's register
  - (c) Fail to notify the authority's Monitoring Officer of the interest before the end of 28 days beginning with the date of disclosure at a meeting, if the interest is not entered in the authority's register and is not the subject of a pending notification
  - (d) Take part in discussion or votes, or further discussions or votes, at meetings on matters in which you have the interest which are being considered at the meeting.
  - (e) Fail to notify the authority's Monitoring Officer of the interest before the end of 28 days beginning with the date when you become aware that you have such an interest in a matter to be dealt with, or being dealt with, by you acting alone in the course of discharging a function of the authority.
  - (f) knowingly or recklessly provide false or misleading information in any of the above disclosures or notifications.
- (F) Any written allegation received by the Authority that you have failed to comply with the Code will be dealt with under the arrangements adopted by Dover District Council for such purposes. If it is found that you have failed to comply with the Code, the Authority may have regard to this failure in deciding whether to take action and, if so, what action to take in relation to you.

## THE CODE

### 1. Interpretation

In this Code:

**“Associated Person”** means (either in the singular or in the plural):

- (a) a family member or any other person [or body?] with whom you have a close association, including your spouse, civil partner, or somebody with whom you are living as a husband or wife, or as if you are civil partners; or
- (b) any person or body who employs or has appointed you or such persons, any firm in which you or they are a partner, or any company of which you or they are directors; or
- (c) any person or body in whom you or such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of which you are in a position of general control or management and to which you are appointed or nominated by the Authority; or
- (e) any body in respect of which you are in a position of general control or management:
  - (i) exercising functions of a public nature; or
  - (ii) directed to charitable purposes; or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).

**“Authority”** means [*name of Authority*].

**“Authority Function”** means any one or more of the following interests that relate to the functions of the Authority:

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

**“Code”** means this Code of Conduct.

**“Co-opted Member”** means a person who is **not an elected** member of the Authority but who is a member of:

- (a) any committee or sub-committee of the Authority, or
- (b) and represents the Authority on, any joint committee or joint sub-committee of the Authority; and
- (c) who is entitled to vote on any question that falls to be decided at any Meeting.

**“Disclosable Pecuniary Interest”** means those interests of a description specified in regulations made by the Secretary of State (as amended from time to time) as set out in Annex 2 and where either it is:

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

**“Interests”** means Disclosable Pecuniary Interests and Other Significant Interests.

**"Meeting"** means any meeting of:

- (a) the Authority;
- (b) any of the Authority's or its committees, sub-committees, joint committees and/or joint sub-committees.

**"Member"** means a person who is a member of the Authority and includes a Co-opted Member.

**“Other Significant Interest”** means an interest (other than a Disclosable Pecuniary Interest or an interest in an Authority Function) in any business of the Authority which:

- (a) may reasonably be regarded as affecting the financial position of yourself and/or an Associated Person to a greater extent than the majority of: -
  - (i) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
  - (ii) (in other cases) other council tax payers, ratepayers or inhabitants of the Authority's area; or
- (b) relates to the determination of your application (whether made by you alone or jointly or on your behalf) for any approval, consent, licence, permission or registration or that of an Associated Person;

and where, in either case, a member of the public with knowledge of the relevant facts would reasonably regard the interest as being so significant that it is likely to prejudice your judgment of the public interest.

**“Register of Members’ Interests”** means the register of Disclosable Pecuniary Interests established and maintained by the Monitoring Officer under section 29 of the Localism Act 2011.

**"Sensitive Interest"** means information, the details of which, if disclosed, could lead to you or a person connected with you being subject to violence or intimidation.

## **Scope**

2. You must comply with this Code whenever you act in your capacity as a Member or Co-opted Member of the Authority.

## **General obligations**

3. (1) You must, when using or authorising the use by others of the resources of the Authority:

- (a) act in accordance with the Authority's reasonable requirements; and
- (b) ensure that such resources are not used improperly for political purposes (including party political purposes).

(2) You must not:

- (a) bully any person;
- (b) intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings, in relation to an allegation that a Member (including yourself) has failed to comply with this Code;
- (c) do anything that compromises, or is likely to compromise, the impartiality or integrity of those who work for, or on behalf of, the Authority;
- (d) 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 written consent of a person authorised to give it; or
  - (ii) you are required by law to do so; or
  - (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:
    - reasonable and in the public interest; and
    - made in good faith and in compliance with the reasonable requirements of the Authority;
- (e) prevent another person from gaining access to information to which that person is entitled by law;
- (f) conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute;
- (g) 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.

#### **Registering Disclosable Pecuniary Interests**

4. (1) You must, before the end of 28 days beginning with the day you become a Member or Co-opted Member of the Authority, or before the end of 28 days beginning with the day on which this Code takes effect (whichever is the later), notify the Monitoring Officer of any Disclosable Pecuniary Interest.
- (2) In addition, you must, before the end of 28 days beginning with the day you become aware of any new Disclosable Pecuniary Interest or change to any interest already registered, register details of that new interest or change, by providing written notification to the Monitoring Officer.
- (3) Where you have a Disclosable Pecuniary Interest in any matter to be dealt with, or being dealt with, by you acting alone in the course of discharging a function of the Authority (including making a decision in relation to the matter), then if the interest is not registered in the Register of Members' Interests and is not the subject of a pending notification, you must notify the Monitoring Officer before the end of 28 days beginning with the day you become aware of the existence of the interest.

## **Declaring Interests**

5. (1) Whether or not a Disclosable Pecuniary Interest has been entered onto the Register of Members' Interests or is the subject of a pending notification, you must comply with the disclosure procedures set out below.
- (2) Where you are present at a Meeting and have a Disclosable Pecuniary Interest or Other Significant Interest (and you are aware that you have such an interest) in any matter to be considered, or being considered, at the Meeting, you must:
  - (a) disclose the Interest; and
  - (b) explain the nature of that Interest at the commencement of that consideration or when the Interest becomes apparent (subject to paragraph 6, below); and unless you have been granted a dispensation:
  - (c) not participate in any discussion of, or vote taken on, the matter at the Meeting; and
  - (d) withdraw from the Meeting room in accordance with the Authority's Procedure Rules whenever it becomes apparent that the business is being considered; and
  - (e) not seek improperly to influence a decision about that business.
- (3) Where you have a Disclosable Pecuniary Interest or Other Significant Interest in any business of the Authority where you are acting alone in the course of discharging a function of the Authority, you must:
  - (a) notify the Monitoring Officer of the interest and its nature as soon as it becomes apparent; and
  - (b) 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 you; and
  - (c) not seek improperly to influence a decision about the matter.
- (4) Where you have an Other Significant Interest in any business of the Authority, you may attend a Meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the Meeting for the same purpose. Having made your representations, given evidence or answered questions you must:
  - (a) not participate in any discussion of, or vote taken on, the matter at the Meeting; and
  - (b) withdraw from the Meeting room in accordance with the Authority's Standing Orders.

## **Sensitive Interests**

6. (1) Where you consider that the information relating to any of your Disclosable Pecuniary Interests is a Sensitive Interest, and the Monitoring Officer agrees, the Monitoring Officer will not include details of the Sensitive Interest on any copies of the Register of Members' Interests which are made available for inspection or any published version of the Register, but may include a statement that you have an interest, the details of which are withheld under this paragraph.
- (2) You must, before the end of 28 days beginning with the day you become aware of any change of circumstances which means that information excluded under paragraph 6(1) is no longer a Sensitive Interest, notify the Monitoring Officer asking that the information be included in the Register of Members' Interests.

- (3) The rules relating to disclosure of Interests in paragraphs 5(2) and (3) will apply, save that you will not be required to disclose the nature of the Sensitive Interest, but merely the fact that you hold an interest in the matter under discussion.

### **Gifts and Hospitality**

7. (1) You must, before the end of 28 days beginning with the day of receipt/acceptance, notify the Clerk of any gift, benefit or hospitality with an estimated value of £100 or more, or a series of gifts, benefits and hospitality from the same or an associated source, with an estimated cumulative value of £100 or more, which are received and accepted by you (in any one calendar year) in the conduct of the business of the Authority, the business of the office to which you have been elected or appointed or when you are acting as representative of the Authority. You must also register the source of the gift, benefit or hospitality.
- (2) Where any gift, benefit or hospitality you have received or accepted relates to any matter to be considered, or being considered at a Meeting, you must disclose at the commencement of the Meeting or when the interest becomes apparent, the existence and nature of the gift, benefit or hospitality, the person or body who gave it to you and how the business under consideration relates to that person or body. You may participate in the discussion of the matter and in any vote taken on the matter, unless you have an Other Significant Interest, in which case the procedure in paragraph 5 above will apply.
- (3) You must continue to disclose the existence and nature of the gift, benefit or hospitality at a relevant Meeting, for 3 years from the date you first registered the gift, benefit or hospitality.
- (4) The duty to notify the Clerk does not apply where the gift, benefit or hospitality comes within any description approved by the Authority for this purpose.

### **Dispensations**

- 8.(1) The Authority or any committee, or sub-committee of the Authority, or the Clerk (where authorised) may, on a written request made to the Clerk (as appointed Proper Officer for the receipt of applications for dispensation) by a Member with an Interest, grant a dispensation relieving the Member from either or both of the restrictions on participating in discussions and in voting (referred to in paragraph 5 above).
- (2) A dispensation may be granted only if, after having had regard to all relevant circumstances, the Authority or any committee, or sub-committee of the Authority, or the Clerk (where authorised) [considers that:
- (a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business; or
  - (b) without the dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business; or
  - (c) granting the dispensation is in the interests of persons living in the Authority's area; or
  - (d) it is otherwise appropriate to grant a dispensation.

- (3) A dispensation must specify the period for which it has effect, and the period specified may not exceed four years.
- (4) Paragraph 5 above does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this paragraph 8.



## THE SEVEN PRINCIPLES OF PUBLIC LIFE

In accordance with the Localism Act 2011, and in order to help maintain public confidence in this Authority, you are committed to behaving in a manner that is consistent with the following principles. However, it should be noted that these Principles do not create statutory obligations for Members and do not form part of the Code. It follows from this that the Authority cannot accept allegations that they have been breached.

**SELFLESSNESS:** You should act solely in terms of the public interest and never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

**INTEGRITY:** You should exercise independent judgment and not compromise your position by placing yourself under obligations to outside individuals or organisations who might seek to influence you in the performance of your official duties. You should behave in accordance with all legal obligations, alongside any requirements contained within this Authority's policies, protocols and procedures, including on the use of the Authority's resources. You should value your colleagues and staff and engage with them in an appropriate manner and one that underpins the mutual respect that is essential to good local government. You should treat people with respect, including the organisations and public you engage with and those you work alongside.

**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. You should deal with representations or enquiries from residents, members of the communities and visitors fairly, appropriately and impartially. You should champion the needs of the whole community and especially your constituents, including those who did not vote for you.

**ACCOUNTABILITY:** You are accountable to the public for your decisions and actions and should fully co-operate with whatever scrutiny is appropriate to your office.

**OPENNESS:** You should be as open and as transparent as possible about all the decisions and actions that you take to enable residents to understand the reasoning behind those decisions and to be informed when holding you and other Members to account. You should give reasons for your decisions and restrict information only when the wider public interest or the law clearly demands it. You should listen to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.

**HONESTY:** You have a duty to declare interests relating to your public duties and to take steps to resolve any conflicts arising in a way that protects the public interest. You should not allow other pressures, including the financial interests of yourself or others connected to you, to deter you from pursuing constituents' casework, the interests of the Authority's area or the good governance of the Authority in a proper manner.

**LEADERSHIP:** Through leadership and example you should promote and support high standards of conduct when serving in your public post. You should provide leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this Authority.

**Disclosable Pecuniary Interests, as prescribed by regulations, are as follows:**

The descriptions on Disclosable Pecuniary Interests are subject to the following definitions:

**“the Act”** means the Localism Act 2011

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

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

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

**“M”** means a member of the relevant authority

**“member”** includes a co-opted member

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

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

**“relevant person”** means M or any other person referred to in section 30(3)(b) of the Act (the Member’s spouse, civil partner, or somebody with whom they are living as a husband or wife, or as if they were civil partners).

**“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

<b>Interest</b>	<b>Description</b>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.  This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority:</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to M's knowledge):</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where:</p> <p>(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

## Notification of Disclosable Pecuniary Interests Dover District Council

### To the Monitoring Officer:

Surname:

Forename(s) (*in full*):

Address:

I am completing this form because on

- I was elected as a member of the Dover District Council\*
- I was co-opted as a member of a committee or sub-committee of the Dover District Council\*
- the Council adopted a new code of conduct on\*
- there was a change in my interests and this form supersedes and replaces the form registered by you on\*

*\*Delete as appropriate*

### **IMPORTANT NOTES**

**(1) The requirement to notify the Monitoring Officer of a disclosable pecuniary interest applies not only to your own interests but also those of your husband/wife/civil partner, or a person with whom you are living as husband/wife or as if you are civil partners, where you are aware that the other person has the interest.**

**The term 'relevant person' therefore means you and any other person referred to above.**

**(2) Details of your notified interests will appear in the Members' Register of Interests and will be published on the Dover District Council's website, and open to public inspection.**

**(3) If you consider that the disclosure of the details of any of your interests could lead to you, or a person connected with you, being subject to violence or intimidation, and you would like to withhold these details from the register of interests, please provide this information to the Monitoring Officer and explain your concerns regarding the disclosure of the sensitive information, including why it is likely to create such a risk. If the Monitoring Officer agrees, the information will not be included in copies of the register made available for inspection, or any published version of the register.**

# Notification of Disclosable Pecuniary Interests Dover District Council

Further explanatory notes are included at the end of this Notification.

## Part A: Employment

1. Any employment, office, trade, profession or vocation carried on for profit or gain

## Part B: Sponsorship

Any payment or provision of any other financial benefit (other than from the Dover District Council) made or provided within the relevant period\* in respect of any expenses incurred by you in carrying out duties as a member, or towards the election expenses of yourself. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992

\*'relevant period' means the period of 12 months ending with the day on which you give a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Localism Act 2011

# Notification of Disclosable Pecuniary Interests Dover District Council

## Part C: Contracts

Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest\*) and Dover District 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

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

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

## Part D: Land

Any beneficial interest in land\* which is within the area of the Dover District Council

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

## Notification of Disclosable Pecuniary Interests Dover District Council

### Part E: Licences

Any licence (alone or jointly with others) to occupy land\* in the area of the relevant authority for a month or longer

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

### Part F: Corporate Tenancies

Any tenancy where (to your knowledge)—

(a) the landlord is Dover District Council; and

(b) the tenant is a body in which the relevant person has a beneficial interest

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

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

“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

### Part G: Securities

Any beneficial interest in securities\* of a body where—

## Notification of Disclosable Pecuniary Interests Dover District Council

(a) that body (to your knowledge) has a place of business or land in the area of the Dover District Council; and

(b) either—

(i) the total nominal value of the securities exceeds £25,000 (face value) or one hundredth (1/100<sup>th</sup>) of the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class

\*“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

### Part H: Declarations

#### IMPORTANT

**It is a criminal offence to fail to notify the monitoring officer of any disclosable pecuniary interests (DPIs). This requirement arises in each of the following circumstances:**

- (a) before the end of 28 days beginning with the day on which you become a member or co-opted member of the authority (*s30(1) Localism Act 2011*);
- (b) where the DPI is not entered in the authority’s register and is not the subject of a pending notification, but is disclosed at a meeting of the authority (or any committee, sub-committee, joint committee or joint sub-committee) as required by s31(2) of the Localism Act, within 28 days beginning with the date of the disclosure (*s31(3) Localism Act 2011*);
- (c) where the DPI is not entered in the authority’s register and is not the subject of a pending notification, within 28 days beginning with the date when you become aware that you have a DPI in any matter to be dealt with, or being dealt with, by you acting



## Notification of Disclosable Pecuniary Interests Dover District Council

alone in the course of discharging a function of the authority (s31(7) *Localism Act 2011*)).

It is also a criminal offence to knowingly provide information that is false or misleading (or being reckless as to whether the information is true and not misleading)

In addition to the above, Dover District Council has adopted a Code of Conduct for Members which requires you to notify the Monitoring Officer of any DPIs before the end of 28 days beginning with the day on which the Code takes effect. Failure to comply with this requirement would not of itself be a criminal offence but could render you liable to action being taken against you under the Code.

To the best of my knowledge, the information given in this form is complete and correct.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

**This form is to be returned direct to the Monitoring Officer at Dover District Council,  
White Cliffs Business Park, Dover, Kent, CT16 3PJ**

This notification has been registered by me:

Monitoring Officer: \_\_\_\_\_

Date: \_\_\_\_\_

*You may use this space as a continuation sheet or, if necessary, attach another sheet of paper:*

# Notification of Disclosable Pecuniary Interests

## Dover District Council

### EXPLANATORY NOTES:

#### 1. Employment - detail:

- (a) the nature of every employment, business, office, trade, profession or vocation that you or your husband/wife/civil partner or a person with whom you are living as husband/wife or as if you are civil partners have, with a short description of the job concerned
- (b) the name and address of the employer
- (c) if you or your husband/wife/civil partner or a person with whom you are living as husband/wife or as if you are civil partners, are employed by a company, the name and address of the company paying your or their wages or salary, not that of the ultimate holding company
- (d) the name and address of any company for which you or your husband/wife/civil partner or a person with whom you are living as husband/wife or as if you are civil partners, are a paid director
- (e) the name and address of any firm in which you or your husband/wife/civil partner or a person with whom you are living as husband/wife or as if you are civil partners have, are a partner.
- (f) where you or your husband/wife/civil partner or a person with whom you are living as husband/wife or as if you are civil partners hold an office, the name of the person or body which appointed you or your husband/wife/civil partner or a person with whom you are living as husband/wife or as if you are civil partners.
- (g) if you or your husband/wife/civil partner or a person with whom you are living as husband/wife or as if you are civil partners let any land or property to other people, you should state that you are a "landlord".

If you consider that the disclosure of the details of any of your interests could lead to you, or a person connected with you, being subject to violent or intimidation (e.g. certain scientific research or the Special Forces), and you would like to withhold these details from the register of interests, please provide this information to the Monitoring Officer and explain your concerns regarding the disclosure of the sensitive information, including why it is likely to create such a risk. If the Monitoring Officer agrees, the information will not be included in copies of the register made available for inspection, or any published version of the register.

**2. Sponsorship** - Name any person or body (other than the Council) who has made a payment to you in respect of your election or any expenses you have incurred in carrying out your duties as a Member.

**3. Contracts with the Council** - Describe the subject matter and the length of all contracts (goods, services or works) which are not fully discharged:

- (a) between you or your husband/wife/civil partner or a person with whom you are living as husband/wife or as if you are civil partners, and the Council;
- (b) between you and a firm in which you are a partner, or a company of which you are a paid director or a corporate body in which you have shares of a value described in para. 7 below;
- (c) between your husband/wife/civil partner or a person with whom you are living as husband/wife or as if you are civil partners and a firm in which they are a partner, or a company of which they are a paid director or a corporate body in which they have shares of a value described in para. 7 below.

**4. Land** - The address or a brief description of the property (e.g. houses, land and buildings) in the area of the Council, which you or your husband/wife/civil partner or a person with whom you are living as husband/wife or as if you are civil partners, own, lease or rent (including Council tenancies unless they fall within Part 6 as tenancies of a corporate body in which you have a beneficial interest).

## Notification of Disclosable Pecuniary Interests Dover District Council

**5. Licences** - The address or a brief description of the property (e.g. houses, land and buildings) in the area of your authority, which you or your husband/wife/civil partner or a person with whom you are living as husband/wife or as if you are civil partners, occupy under licence (alone or jointly with others), for a month or longer.

**6. Corporate tenancies** - The address or a brief description of the property where:

(a) you, or a firm in which you are a partner, a company of which you are a paid director or a person or a corporate body in which you have shares of a value described in para. 7 below, are lessees or tenants of the Council;

(b) your husband/wife/civil partner or a person with whom you are living as husband/wife or as if you are civil partners or a firm in which they are a partner, or a company of which they are a paid director or a corporate body in which they have shares of a value described in para. 7 below, are lessees or tenants of the Council.

**7. Securities** - Name the company or other body which to your knowledge has a place of business or land in the area of the Council in which you or your husband/wife/civil partner or a person with whom you are living as husband/wife or as if you are civil partners have a shareholding of more than £25,000 (face value) or have a stake of more than 1/100<sup>th</sup> of the total issued share capital (whichever is the lower).

## **ARRANGEMENTS FOR DEALING WITH CODE OF CONDUCT COMPLAINTS UNDER THE LOCALISM ACT 2011**

### **Context**

- 1.1 These Arrangements are made under section 28 of the Localism Act 2011. They set out the process that Dover District Council has adopted for dealing with complaints that an elected or co-opted member or parish/town councillor has failed to comply with the Code of Conduct.

### **Interpretation**

- 2.1 District Council' means Dover District Council.
- 2.2 'Code of Conduct' means the Code of Conduct, which the District [and Parish Council] [has] [have] adopted under section 27(2) of the Localism Act 2011.
- 2.3 'Complainant' means a person who has submitted a complaint in accordance with these Arrangements alleging that a Subject Member has breached the Code of Conduct.
- 2.4 'Disclosable Pecuniary Interest' means those disclosable pecuniary interests that meet the definition prescribed by regulations (as amended from time to time) as set out in Annex 2 to the Code of Conduct.
- 2.5 'Hearing Panel' means the panel appointed by the District Council to determine the outcome of any complaint alleging a breach of the Code of Conduct by a Subject Member in accordance with these Arrangements.
- 2.6 'Independent Person' means a person or persons appointed by the District] Council under section 28(7) of the Localism Act 2011:
- (a) whose views must be sought and taken into account by the District Council before a decision is made on any complaint alleging a breach of the Code of Conduct by a Subject Member;
  - (b) who may be consulted by the Subject Member about the complaint.
- 2.7 'Investigating Officer' means the person appointed by the Monitoring Officer to undertake a formal investigation of a complaint alleging a breach of the Code of Conduct by a Subject Member. The Investigating Officer may be another senior officer of the District Council, an officer of another authority or an external investigator.
- 2.8 'Monitoring Officer' is a senior officer of the District Council who has statutory responsibility for maintaining the Register of Members' Interests and who is responsible for administering the arrangements for dealing with any complaint alleging a breach of the Code of Conduct by a Subject Member. It includes any other officer of the District Council nominated by the Monitoring Officer to act on their behalf.

[2.9 'Parish Council' means the relevant parish/town council within the District of Dover.]

2.10 'Parties' means the Complainant, Subject Member and the Investigating Officer, as appropriate.

2.11 'Subject Member' means an elected member or co-opted member of the District [or Parish Council] against whom a complaint has been made alleging a breach the Code of Conduct.

### **3. Appointment of Independent Person**

3.1 The Council shall appoint the Independent Person (and any substitute) in accordance with the requirements of section 27 of the Localism Act 2011 upon such terms as to remuneration and expenses as may be determined by the District Council from time to time.

3.2 The Independent Person (and any substitute) shall be treated as if they were a member of the District Council for the purposes of the District Council's arrangements for indemnifying and insuring its Members.

### **4. Making a complaint**

4.1 A complaint alleging a breach of the Code of Conduct by a Subject Member must be made in writing and addressed to the Monitoring Officer using the Complaint Form at Annex 2 to these Arrangements. Complainants who find difficulty in making their complaint in writing (e.g. because of a disability), will be offered assistance.

4.2 The Subject Member will normally be informed of the identity of the Complainant and details of the complaint made against them, but the Complainant's identity and/or details of their complaint may be withheld at the Complainant's request if it appears to the Monitoring Officer that there are sound reasons for granting such a request (refer to paragraph 5 of Annex 2 to these Arrangements).

4.3 The Monitoring Officer will normally acknowledge receipt of a complaint within 15 working days of receiving it. At the same time (and subject to para. 3.2 above), the Monitoring Officer will send a copy of the complaint to the Subject Member in accordance with paragraph 2 of Annex 2 to these Arrangements.

### **5. Criminal conduct**

5.1 In accordance with section 34 of the Localism Act 2011, it is a criminal offence if, without reasonable excuse, you:

(a) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days beginning with the day you become, or are re-elected or re-appointed, a Member or Co-opted Member of the Authority;

(b) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days beginning with the day you become aware of it, where you are acting alone in the course of discharging a function of the Authority (including making a decision in relation to the matter) and the interest is not already registered or is not the subject of a pending notification to the Monitoring Officer;

- (c) fail to disclose a Disclosable Pecuniary Interest at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
  - (d) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days beginning with the day you disclose it at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
  - (e) take part in discussions or votes at meetings that relate to the Disclosable Pecuniary Interest, unless a dispensation has been granted;
  - (f) knowingly or recklessly provide false or misleading information in any of the above disclosures or notifications.
- 5.2 Where a complaint against a Subject Member relates to conduct of a criminal nature referred to above, the Monitoring Officer will deal with the complaint in accordance with paragraph 4(4) of Annex 2 to these Arrangements.
- 6. Anonymous complaints**
- 6.1 Complainants must provide their full name and address. An anonymous complaint will only be accepted by the Monitoring Officer in consultation with the Independent Person, providing it is accompanied by corroborating evidence that indicates to the Monitoring Officer that it is in the public interest to accept the complaint.
- 7. Role of Independent Person**
- 6.1 The Independent Person must be consulted and have their views taken into account before the Authority makes a finding as to whether a Member has failed to comply with the Code or decides on action to be taken in respect of that Member. At any other stage of the complaints process under these Arrangements, the Independent Person may be consulted by the Monitoring Officer and/or the Subject Member.
- 8. Preliminary tests**
- 8.1 The Monitoring Officer will, in consultation with the Independent Person, put the complaint through a number of preliminary tests, in accordance with paragraph 1 of Annex 2 to these Arrangements.
- 8.2 In the event that the Independent Person is unavailable or unable to act, the time limits specified in paragraph 1 of Annex 2 may either be extended by the Monitoring Officer or the Monitoring Officer may act alone in taking the decision or action.
- 9. Informal resolution**
- 9.1 The Monitoring Officer, in consultation with the Independent Person, may consider that the complaint can be resolved informally at any stage in accordance with paragraph 6 of Annex 2 to these Arrangements.
- 10. Investigation**
- 10.1 If the Monitoring Officer, in consultation with the Independent Person, decides that the complaint merits formal investigation, they will, normally within 30 working days of receiving it, appoint an Investigating Officer to undertake the investigation, and inform the Parties of the appointment.

10.2 The Investigating Officer will investigate the complaint in accordance with Annex 3 to these Arrangements.

11. **Hearing**

11.1 If the Monitoring Officer, in consultation with the Independent Person, considers that informal resolution is not appropriate or is unlikely to be achieved, then they will convene a meeting of the Hearing Panel to determine the outcome of the complaint in accordance with Annex 4 to these Arrangements.

12. **Sanctions**

12.1 Where a Subject Member has been found by the Hearing Panel to have breached the Code of Conduct, the Hearing Panel may apply any one or more sanctions in accordance with paragraph 4 of Annex 4 to these Arrangements.

13. **Appeal**

13.1 There is no right of appeal for the Complainant or the Subject Member against decisions of either the Monitoring Officer or the Hearing Panel.

14. **Revision of these Arrangements**

14.1 The District Council may by resolution agree to amend these Arrangements and has delegated to the Monitoring Officer [and the Hearing Panel] the right to depart from these Arrangements, where considered expedient to do so in order to secure the effective and fair consideration of any matter.

## PROCEDURE ON RECEIPT OF A COMPLAINT

### 1. Preliminary tests

1.1 The complaint will be assessed by the Monitoring Officer in consultation with the Independent Person against the legal jurisdiction test in paragraph 1.2 and, if applicable, the local assessment criteria test in paragraph 1.4 below.

### 1.2 Legal jurisdiction criteria test:

- (a) Did the alleged conduct occur before the adoption of the Code of Conduct?
- (b) Was the person complained of a member of the District or Parish Council at the time of the alleged conduct?
- (c) Was the person complained of acting in an official capacity at the time of the alleged conduct?
- (d) Did the alleged conduct occur when the person complained of was acting as a member of another authority?
- (e) If the facts could be established as a matter of evidence, could the alleged conduct be capable of a breach of the Code of Conduct?
- (f) The complaint is about dissatisfaction with the District or Parish Council's decisions, policies and priorities, etc.

1.3 If the complaint fails one or more of the jurisdiction tests, no further action will be taken by the Monitoring Officer and the complaint will be rejected. The Complainant will be notified accordingly with reasons, normally within 30 working days of receipt of the complaint by the Monitoring Officer. There is no right of appeal against the Monitoring Officer's decision.

### 1.4 Local assessment criteria test:

If the complaint satisfies the jurisdiction test, the Monitoring Officer will then apply the following local assessment criteria test:

- (a) The complaint is a 'repeat complaint', unless supported by new or further evidence substantiating or indicating that the complaint is exceptionally serious or significant;
- (b) The complaint is anonymous, unless supported by independent documentary evidence substantiating or indicating that the complaint is exceptionally serious or significant;
- (c) No or insufficient information/evidence to substantiate the complaint has been submitted by the Complainant;
- (d) The complaint is malicious, trivial, politically motivated or 'tit-for-tat';
- (e) The Complainant is unreasonably persistent, malicious and/or vexatious;
- (f) The alleged misconduct happened more than 3 months ago;
- (g) The complaint is relatively minor and/or dealing with the complaint would have a disproportionate effect on both public money and officers' and Members' time;
- (h) The circumstances have changed so much that there would be little benefit arising from an investigation or other action;



- (i) The complaint has been the subject of an investigation or other action and there is nothing more to be gained by further action being taken;
- (j) The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter, e.g. where there is no firm evidence on the matter;
- (k) The complaint is about a deceased person;
- (l) The complaint is about a person who is no longer a District or Parish Councillor or Co-opted Member.

1.5 If one or more of the local assessment criteria applies to the complaint, no further action will be taken by the Monitoring Officer and the complaint will be rejected. The Complainant will be notified accordingly with reasons, normally within 30 working days of receipt of the complaint by the Monitoring Officer. There is no right of appeal against the Monitoring Officer's decision.

## **2. Notification of complaint to Subject Member**

2.1 Subject to any representations from the Complainant on confidentiality (see paragraph 5 below), the Monitoring Officer will notify the Subject Member [and, if applicable, the Parish Clerk] of the complaint.

2.2 The Monitoring Officer may invite the Subject Member [and, if applicable, the Parish Clerk] to submit initial views on the complaint, which will be taken into account by the Monitoring Officer when they decide how to deal with the complaint (see paragraph 4 below).

## **3. Asking for additional information**

3.1 The Monitoring Officer may ask the Complainant and the Subject Member [and, if applicable, the Parish Clerk] for additional information before deciding how to deal with the complaint.

## **4. What process to apply - informal resolution or investigation and/or no action?**

4.1 The Monitoring Officer may at any stage seek to resolve the complaint informally in accordance with paragraph 6 below. Where the Subject Member or the Monitoring Officer or the District or Parish Council make a reasonable offer of informal resolution, but the Complainant is not willing to accept this offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

4.2 The Monitoring Officer in consultation with the Independent Person may refer the complaint for investigation when:

- (a) it is serious enough, if proven, to justify the range of sanctions available to the Standards Committee (see paragraph 4 of Annex 4 to these Arrangements);
- (b) the Subject Member's behaviour is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the District or Parish Council and there is no other avenue left to deal with it short of investigation. In considering this, the Monitoring Officer may take into account the time that has passed since the alleged conduct occurred.

- 4.3 Where the complaint is referred for investigation, the Monitoring Officer will appoint an Investigating Officer who will conduct the investigation in accordance with the procedure at Annex 3 to these Arrangements.
- 4.4 If the complaint identifies potential criminal conduct or potential breach of other regulations by the Subject Member or any other person, the Complainant will be advised by the Monitoring Officer to report the complaint to the police or other prosecuting or regulatory authority. In such cases, the complaints process under these Arrangements will be suspended, pending a decision/action by the police or other prosecuting or regulatory authority. Where the police or other prosecuting or regulatory authority decide to take no action on the complaint, the Monitoring Officer will lift the suspension and, in consultation with the Independent Person, will apply the local assessment criteria test in paragraph 1.4 above.
- 4.5 The Monitoring Officer in consultation with the Independent Person, will take no action on the complaint when one or more of the following apply:
- (a) on-going criminal proceedings or a police investigation into the Subject Member's conduct or where the complaint is suspended in accordance with paragraph 4.4 above;
  - (b) investigation cannot be proceeded with, without investigating similar alleged conduct or needing to come to conclusions of fact about events which are also the subject of some other investigation or court proceedings;
  - (c) the investigation might prejudice another investigation or court proceedings;
  - (d) genuine long term (3 months or more) unavailability of a key party;
  - (e) serious illness of a key party.
- 4.6 Normally within 60 working days of receipt of the complaint, the Monitoring Officer will notify the Complainant, Subject Member [and, if applicable, the Parish Clerk] of their decision and reasons for applying one of the following processes in the format of the Decision Notice template (appended to this Annex 2):
- (a) not to refer the complaint for investigation; or
  - (b) to refer the complaint for investigation; or
  - (c) to apply the informal resolution process either before or after an investigation; or
  - (d) to refer the complaint to the relevant political group leader for action.
- 4.7 The decision notice will be published on the [Borough] [City] [County] [District] Council's website. There is no right of appeal against the Monitoring Officer's decision. However, in the event that the Complainant submits additional relevant information, the Monitoring Officer will consider and decide if the matter warrants further consideration under these Arrangements, in which case it shall be treated as a fresh complaint.

## **5. Confidentiality**

- 5.1 If the Complainant has asked for their identity to be withheld, this request will be considered by the Monitoring Officer in consultation with the Independent Person when they initially assess the complaint (see paragraph 1 above).
- 5.2 As a matter of fairness and natural justice, the Subject Member will usually be told who the Complainant is and will also receive details of the complaint. However, in exceptional circumstances, it may be appropriate to keep the Complainant's identity confidential or not disclose details of the complaint to the Subject Member during the early stages of an investigation. The Monitoring Officer may withhold the Complainant's identity and/or details of the complaint if they are satisfied that there are reasonable grounds for believing that the Complainant or any other person (e.g. a witness):
- (a) is either vulnerable or at risk of threat, harm or reprisal;
  - (b) may suffer intimidation or be victimised or harassed;
  - (c) works closely with the Subject Member and are afraid of the consequences, e.g. fear of losing their job;
  - (d) suffers from a serious health condition and there are medical risks associated with their identity being disclosed (medical evidence will need to be provided to substantiate this);
  - (e) may receive less favourable treatment because of the seniority of the person they are complaining about in terms of any existing [Borough] [City] [County] [District] [or Parish] Council service provision or any tender/contract they may have with or are about to submit to the District or Parish Council.

OR where early disclosure of the complaint:

- (a) may lead to evidence being compromised or destroyed; or
- (b) may impede or prejudice the investigation; or
- (c) would not be in the public interest.

5.3 Relevant public interest factors favouring disclosure (not an exhaustive list) include:

- (a) to facilitate transparency and ethical governance accountability: recognising that decision-making may be improved by constructive contributions from others;
- (b) to raise public awareness: disclosing the complaint or part of it may inform the community about matters of general concern;
- (c) justice to an individual: the balance of the public interest may favour disclosure of the complaint to the Subject Member when it may not be in the public interest to disclose it to the world at large;
- (d) bringing out in the open serious concerns about the behaviour/conduct of an individual.

- 5.4 The Monitoring Officer, in consultation with the Independent Person, will balance whether the public interest in accepting the complaint outweighs the Complainant's wish to have their identity (or that of another person) withheld from the Subject Member. If the Monitoring Officer decides to refuse the Complainant's request for confidentiality, they will offer the Complainant the option to withdraw their complaint. The Complainant will be notified of the Monitoring Officer's decision, with reasons by the Monitoring Officer. There is no right of appeal against the Monitoring Officer's decision to refuse the Complainant's request for confidentiality.

## **6. Informal resolution**

- 6.1 The Monitoring Officer may, after consultation with the Independent Person, seek to resolve a complaint informally at any stage in the process, whether without the need for an investigation or before or after an investigation has been commenced or concluded. In so doing, the Monitoring Officer will consult with the Complainant and the Subject Member to agree what they consider to be a fair resolution, which will help to ensure higher standards of conduct for the future.

- 6.2 Informal resolution may be the simplest and most cost effective way of resolving the complaint and may be appropriate where:

- (a) The Subject Member appears to have a poor understanding of the Code of Conduct and/or related District or Parish Council procedures; or
- (b) There appears to be a breakdown in the relationship between the Complainant and the Subject Member; or
- (c) The conduct complained of appears to be a symptom of wider underlying conflicts which, if unresolved, are likely to lead to further misconduct or allegations of misconduct; or
- (d) The conduct complained of appears common to a number of members of the [Borough] [City] [County] [District] [or Parish] Council, demonstrating a lack of awareness, experience or recognition of the particular provisions of the Code of Conduct and/or other District or Parish Council procedures, etc; or
- (e) The conduct complained of appears to the Monitoring Officer not to require a formal sanction; or
- (f) The complaint appears to reveal a lack of guidance, protocols and procedures within the District or Parish Council; or
- (g) The Complainant and the Subject Member are amenable to engaging in an informal resolution; or
- (h) The complaint consists of allegations and retaliatory allegations between councillors; or
- (i) The complaint consists of allegations about how formal meetings are conducted; or
- (j) The conduct complained of may be due to misleading, unclear or misunderstood advice from officers.

- 6.3 Informal resolution may consist of one or more of the following actions, which do not have to be limited to the Subject Member, but may extend to other councillors including the whole District or Parish Council where it may be useful to address systemic behaviour:

- (a) training;
- (b) conciliation/mediation;
- (c) mentoring;
- (d) apology;

- (e) instituting changes to the District or Parish Council's procedures;
- (f) conflict management;
- (g) development of the District or Parish Council's protocols;
- (h) other remedial action by the District or Parish Council;
- (i) other steps (other than investigation) if it appears appropriate to the Monitoring Officer in consultation with the Independent Person.

6.4 If the Subject Member is agreeable to and complies with the informal resolution process, the Monitoring Officer will report the matter to the Standards Committee [and, if applicable, the Parish Council] for information, but will take no further action.

6.5 Where the Subject Member will not participate in the informal resolution process or if, having agreed to one or more actions under the informal resolution process, the Subject Member refuses or fails to carry out any agreed action, the Monitoring Officer will report the matter to the Standards Committee.

**EXAMPLE TEMPLATE – COMPLAINT FORM**

[To be inserted]

## **EXAMPLE TEMPLATE - DECISION NOTICE (of the Monitoring Officer): e.g. REFERRAL FOR INVESTIGATION**

*Parties should take care when passing on information that is in the notice or about the notice. For example, some details such as names and addresses may be confidential or private in nature, or may be personal information.*

### **Complaint No:**

### **Complaint**

On [insert date], the Monitoring Officer considered a complaint from [insert name of complainant] concerning the alleged conduct of [insert name of councillor], a member of [insert authority name]. A general summary of the complaint is set out below.

### **Complaint summary**

[Summarise complaint in numbered paragraphs]

### **Consultation with Independent Person**

[Summarise the Independent Person's views in numbered paragraphs]

### **Decision**

Having consulted and taken into account the views of the Independent Person, the Monitoring Officer decided to refer the complaint for investigation.

### **Potential breaches of the Code of Conduct identified**

At this stage, the Monitoring Officer is not required to decide if the Code of Conduct has been breached. They are only considering if there is enough information which shows a potential breach of the Code of Conduct that warrants referral for investigation.

The Monitoring Officer considers that the alleged conduct, if proven, may amount to a breach of the following paragraphs of the Code of Conduct. The Monitoring Officer has appointed [insert name] as the Investigating Officer.

Please note that it will be for the Investigating Officer to determine which paragraphs are relevant, during the course of the investigation.

[detail relevant Code of Conduct paragraphs]

### **Notification of decision**

This decision notice is sent to the:

- Complainant
- Member against whom the complaint was made
- [Clerk to the relevant Parish or Town Council]
- Kent County Council's Monitoring Officer (*applicable only where the Subject Member is serving at both District and County level*)

### **What happens now**

The complaint will now be investigated under the District] Council's Arrangements for Dealing with Code of Conduct Complaints under the Localism Act 2011.

### **Appeal**

There is no right of appeal against the Monitoring Officer's decision.

### **Additional Help**

If you need additional support in relation to this decision notice or future contact with the District Council, please let us know as soon as possible. If you have difficulty reading this notice, we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010. We can also help if English is not your first language. Please refer to the attached Community Interpreting Service leaflet or contact our Customer Services on [insert telephone number] or email [insert email address].

**Signed:**

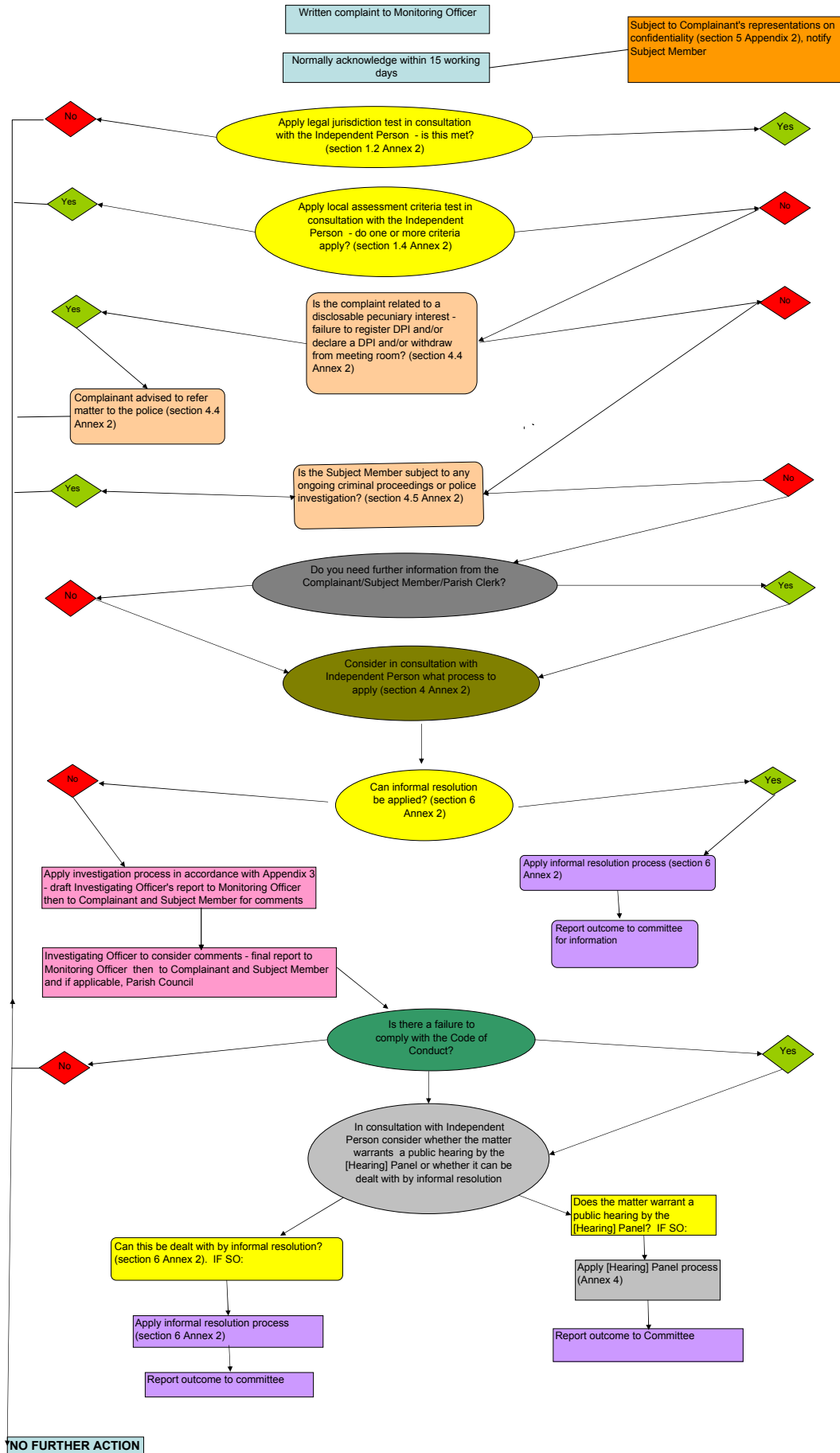
**Date**

**Print name:**

Monitoring Officer of Dover District Council

Address xxx





## **PROCEDURE FOR INVESTIGATING THE COMPLAINT**

### **1. Preliminaries**

- 1.1 The Investigating Officer will be appointed by the Monitoring Officer and will be aware of their obligations under the Data Protection Act 1998, Equalities Act 2010, the Human Rights Act 1998 and other relevant legislation.
- 1.2 The Investigating Officer is responsible for gathering all the facts, documents and, where applicable, for interviewing witnesses with knowledge of the facts, and they should remain objective, impartial and unbiased at all times.
- 1.3 The Subject Member and the Complainant will be advised that the investigation is for fact finding purposes only.
- 1.4 Witnesses will be identified at the investigation stage and their evidence supported by signed and dated witness statements and/or notes of interview with the Investigating Officer. The Investigating Officer cannot compel the attendance of witnesses or their co-operation.
- 1.5 The Investigating Officer will not make recommendations on sanctions.
- 1.6 Within 20 working days of being appointed, the Investigating Officer will notify the Subject Member and the Complainant of their appointment and:
  - (a) provide details of the complaint to the Subject Member;
  - (b) detail the procedure to be followed in respect of the investigation and the relevant timescales for responses and concluding the investigation;
  - (c) detail the sections of the Code of Conduct that appear to be relevant to the complaint;
  - (d) request contact details of any potential witnesses;
  - (e) require that confidentiality is maintained and that details of the complaint not be disclosed to any third party, unless disclosure is to a representative, witness, immediate family members or otherwise as may be required by law or regulation. However, the fact that an investigation is being conducted does not need to remain confidential.
- 1.7 It may be necessary for the Investigating Officer to agree with the Subject Member which documents will be submitted in evidence. This will generally include documents that will be relied on, or in support of, the Subject Member's case and which are relevant to the complaint.
- 1.8 The Investigating Officer may terminate their investigation at any point, where they are satisfied that they have sufficient information to enable them to report to the [Monitoring Officer] [Hearing Panel].

### **2. The draft report**

- 2.1 On the conclusion of their investigation the Investigating Officer will issue a draft report (clearly labelled 'DRAFT') to the Monitoring Officer for review.

2.2 Following review by the Monitoring Officer, the draft report will be sent in confidence to the Subject Member and the Complainant (not witnesses) for comment. The draft report will be clearly labelled 'CONFIDENTIAL' and will detail:

- (a) the relevant provisions of the law and the relevant paragraphs of the Code of Conduct;
- (b) a summary of the complaint;
- (c) the Subject Member's response to the complaint;
- (d) relevant information, explanations, etc, which the Investigation Officer has obtained in the course of the investigation;
- (e) a list of any documents relevant to the matter;
- (f) a list of those persons/organisations who have been interviewed;
- (g) a statement of the Investigating Officer's draft findings of fact and reasons;
- (h) the Investigating Officer's conclusion as to whether the Subject Member has or has not failed to comply with the Authority's Code of Conduct;
- (i) that the Investigating Officer will present a final report once they have considered any comments received on the draft.

2.3 Once the Investigating Officer has received any responses from the Subject Member and/or the Complainant, they will finalise the draft report and make their final conclusions and recommendations to the Monitoring Officer. The report will be clearly labelled 'FINAL'.

### **3. Consideration of Investigating Officer's final report**

3.1 The Monitoring Officer will review the Investigating Officer's final report and any comments submitted by the Parties, in consultation with the Independent Person.

3.2 Where, on the basis of the Investigating Officer's report, the Monitoring Officer, having consulted with the Independent Person, concludes that there is no evidence of a failure to comply with the Code of Conduct; they will inform the Parties in writing that no further action is considered necessary. There is no right of appeal against the Monitoring Officer's decision.

3.3 Where, on the basis of the Investigating Officer's report, the Monitoring Officer, having consulted with the Independent Person, concludes that there is evidence of a failure to comply with the Code of Conduct, they will either:

- (a) take no action or
- (b) seek informal resolution or
- (c) refer the matter for consideration by the Hearing Panel in accordance with the relevant procedure detailed in Annex 2 to these Arrangements.

## Hearing Panel Procedure

### 1. Rules of procedure

- 1.1 The Hearing Panel consists of three voting elected Members drawn from the Standards Committee, one of whom shall be elected as Chairman
- 1.2 The quorum for a meeting of the Hearing Panel is three elected Members.
- 1.3 The Independent Person's views must be sought and taken into consideration before the Hearing 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 sanction to be taken following a finding of failure to comply with the Code of Conduct. The Independent Person should normally be present throughout the hearing (but not during the deliberations of the Hearing Panel in private) but in the event that this is not possible, may instead submit their views on the complaint to the Hearing Panel in writing.
- 1.4 The legal requirements for publishing agendas, minutes and calling meetings, will apply to the Hearing Panel. The hearing will be held in public no earlier than 14 working days after the Monitoring Officer has copied the Investigating Officer's final report to the complainant and the Subject Member. Schedule 12A Local Government Act 1972 (as amended) will be applied to exclude the public and press from meetings of the Hearing Panel where it is likely that confidential or exempt information will be disclosed.
- 1.5 Once a hearing has started, the District Council's Rules of Substitution do not apply to the Hearing Panel's proceedings.
- 1.6 All matters/issues before the Hearing Panel will be decided by a simple majority of votes cast, with the Chairman having a second or casting vote.
- 1.7 Where the Subject Member fails to attend the Hearing Panel and where the Hearing Panel is not satisfied with their explanation for their absence from the hearing, the Hearing Panel may in the first instance, have regard to any written representations submitted by the Subject Member and may resolve to proceed with the hearing in the Subject Member's absence and make a determination or, if satisfied with the Subject Member's reasons for not attending the hearing, adjourn the hearing to another date. The Hearing Panel may resolve in exceptional circumstances, that it will proceed with the hearing on the basis that it is in the public interest to hear the allegations expeditiously.<sup>1</sup>

### 2. Right to be accompanied by a representative

The Subject Member may choose to be accompanied and/or represented at the Hearing Panel by a fellow councillor, friend or colleague.

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<sup>1</sup> Janik v Standards Board for England & Adjudication Panel for England (2007)

### **3. The conduct of the hearing**

3.1 Subject to paragraph 3.2 below, the order of business will be as follows:

- (a) elect a Chairman;
- (b) apologies for absence;
- (c) declarations of interests;
- (d) in the absence of the Subject Member, consideration as to whether to adjourn or to proceed with the hearing (refer to paragraph 1.11 above);
- (e) introduction by the Chairman, of members of the Hearing Panel, the Independent Person, Monitoring Officer, Investigating Officer, legal advisor, complainant and the Subject Member and their representative;
- (f) to receive representations from the Monitoring Officer and/or Subject Member as to whether any part of the hearing should be held in private and/or whether any documents (or parts thereof) should be withheld from the public/press;
- (g) to determine whether the public/press are to be excluded from any part of the meeting and/or whether any documents (or parts thereof) should be withheld from the public/press.

3.2 The Chairman may exercise their discretion and amend the order of business, where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

3.3 The Hearing Panel may adjourn the hearing at any time.

#### **3.4 Presentation of the complaint**

- (a) The Investigating Officer presents their report including any documentary evidence or other material and calls their witnesses. No new points will be permitted;
- (b) The Subject Member or their representative may question the Investigating Officer and any witnesses called by the Investigating Officer;
- (c) The Hearing Panel may question the Investigating Officer upon the content of their report and any witnesses called by the Investigating Officer.

#### **3.5 Presentation of the Subject Member's case**

- (a) The Subject Member or their representative presents their case and calls their witnesses;
- (b) The Investigating Officer may question the Subject Member and any witnesses called by the Subject Member;
- (c) The Hearing Panel may question the Subject Member and any witnesses called by the Subject Member.

#### **3.6 Summing up**

- (a) The Investigating Officer sums up the complaint;
- (b) The Subject Member or their representative sums up their case.

### 3.7 Views/Submissions of the Independent Person

The Chairman will invite the Independent Person to express their view on whether or not they consider that on the facts presented to the Hearing Panel, there has been a breach of the Code of Conduct.

### 3.8 Deliberations of the Hearing Panel

#### Deliberation in private

- (a) The Hearing Panel will adjourn the hearing and deliberate in private (assisted on matters of law by a legal advisor) to consider whether or not, on the facts found, the Subject Member has failed to comply with the Code of Conduct.
- (b) The Hearing Panel may at any time come out of private session and reconvene the hearing in public, in order to seek additional evidence from the Investigating Officer, the Subject Member or the witnesses. If further information to assist the Panel cannot be presented, then the Panel may adjourn the hearing and issue directions as to the additional evidence required and by whom.

#### Announcing decision on facts found

- 3.9 (a) The Hearing Panel will reconvene the hearing in public and the Chairman will announce whether or not on the facts found, the Panel considers that there has been a breach of the Code of Conduct.
- (b) Where the Hearing Panel considers that there has been a breach of the Code of Conduct, the Chairman will invite the Independent Person, the Subject Member and the Monitoring Officer to make their representations as to whether or not any sanctions should be applied and, if so, what form they should take.
- (c) When deciding whether to apply one or more sanctions, the Hearing Panel will ensure that the application of any sanction is reasonable and proportionate to the Subject Member's behaviour. The Hearing Panel will consider the following questions along with any other relevant circumstances or other factors specific to the local environment:
  - (i) What was the Subject Member's intention and did they know that they were failing to follow the District or Parish Council's Code of Conduct?
  - (ii) Did the Subject Member receive advice from officers before the incident and was that advice acted on in good faith?
  - (iii) Has there been a breach of trust?
  - (iv) Has there been financial impropriety, e.g. improper expense claims or procedural irregularities?
  - (v) What was the result/impact of failing to follow the District or Parish Council's Code of Conduct?
  - (vi) How serious was the incident?
  - (vii) Does the Subject Member accept that they were at fault?
  - (viii) Did the Subject Member apologise to the relevant persons?
  - (ix) Has the Subject Member previously been reprimanded or warned for similar misconduct?
  - (x) Has the Subject Member previously breached of the District or Parish]Council's Code of Conduct?

- (xi) Is there likely to be a repetition of the incident?
- (d) Having heard the representations of the Independent Person, the Subject Member and the Monitoring Officer on the application of sanctions, the Hearing Panel will adjourn and deliberate in private.
- (e) If evidence presented to the Hearing Panel highlights other potential breaches of the District or Parish Council's Code of Conduct, then the Chairman will outline the Hearing Panel's concerns and recommend that the matter be referred to the Monitoring Officer as a new complaint.

### **Final Decision**

- 3.10
- (a) Where the complaint has a number of aspects, the Hearing Panel may reach a finding, apply a sanction and/or make a recommendation on each aspect separately.
  - (b) The Hearing Panel will make its decision on the balance of probabilities, based on the evidence before it during the hearing.
  - (c) Having taken into account the Independent Person, the Subject Member and the Monitoring Officer's representations on the application of sanctions, the Hearing Panel will reconvene the hearing in public and the Chairman will announce:
    - (i) the Panel's decision as to whether or not the Subject Member has failed to comply with the Code of Conduct, and the principal reasons for the decision;
    - (ii) the sanctions (if any) to be applied;
    - (iii) the recommendations (if any) to be made to the District or Parish Council or Monitoring Officer;
    - (iv) that there is no right of appeal against the Panel's decision and/or recommendations.

## **4. Range of possible sanctions**

- 4.1 Subject to paragraph 4.4 below, where the Hearing Panel determines that the Subject Member has failed to comply with the Code of Conduct, any one or more of the following sanctions may be applied/recommended:
- (a) Recommending to the District or Parish Council that the Subject Member be issued with a formal censure (i.e. the issue of an unfavourable opinion or judgement or reprimand) by motion;
  - (b) Recommending to the Subject Member's Group Leader or Parish Council, or in the case of a ungrouped Subject Member, to the District or Parish Council that they be removed from committees or sub-committees of the Council;
  - (c) Recommending to the Leader of the District Council that the Subject Member be removed from the Cabinet or removed from particular Portfolio responsibilities;
  - (d) Instructing the Monitoring Officer [or recommendation to the Parish Council] to arrange training for the Subject Member;
  - (e) Recommending to the District or Parish Council that the Subject Member be removed from one or more outside appointments to which they have been appointed or nominated by the District or Parish Council;

- (f) Recommending to the District or 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;
  - (g) Recommending to the District or Parish Council the exclusion of the Subject Member from the District or Parish Council's offices or other premises, with the exception of meeting rooms as necessary for attending District or Parish Council committee and sub- committee meetings;
  - (h) Reporting the Panel's findings to the District or Parish Council for information;
  - (i) Instructing the Monitoring Officer to apply the informal resolution process;
  - (j) Sending a formal letter to the Subject Member;
  - (k) Recommending to the District Parish Council to issue a press release or other form of publicity;
  - (l) Publishing its findings in respect of the Subject Member's conduct in such manner as the Panel considers appropriate.
- 4.2 The Hearing Panel has no power to suspend or disqualify the Subject Member or to withdraw basic or special responsibility allowances.
- 4.3 The Hearing Panel may specify that any sanction take effect immediately or take effect at a later date and that the sanction be time limited.
- 5. Publication and notification of the Hearing Panel's decision and recommendations**
- 5.1 Within 20 working days of the Hearing Panel's announcement of its decision and recommendations, the Monitoring Officer will publish the name of the Subject Member and a summary of the Hearing Panel's decision and recommendations and reasons for the decision and recommendations on the District Council's website.
- 5.2 Within 20 working days of the announcement of the Hearing Panel's decision, the Monitoring Officer will provide a full written decision and the reasons for the decision, including any recommendations, in the format of the Decision Notice template below to:
- (a) the Subject Member;
  - (b) the Complainant;
  - (c) [the Clerk to the Parish Council;]
  - (d) Kent County Council's Standards Committee (*applicable only where the Subject Member is serving at both District and County level*);
  - (e) District Council's Standards Committee (*applicable only where the Subject Member is serving at both District and County level*).
- 5.3 The Monitoring Officer will report the Hearing Panel's decision and recommendations to a meeting of the Standards Committee for information.



## TEMPLATE – DECISION NOTICE (of Hearing Panel)

### Complaint No: xxxx

On [insert date], the Hearing Panel of Dover District Council considered a report of an investigation into the alleged conduct of [insert name of councillor], a member of [insert authority name]. A general summary of the complaint is set out below.

### Complaint summary

[Summarise complaint in numbered paragraphs as set out in the Investigating Officer's report to the Hearing Panel]

### Consultation with Independent Person

[Summarise the Independent Person's views in numbered paragraphs]

### Findings

After considering the submissions of the parties to the hearing and the views of the Independent Person, the Hearing Panel reached the following decision(s):

[Summarise the finding of facts and the Hearing Panel's decision against each finding of fact in numbered paragraphs as set out in the Investigating Officer's report to the Hearing Panel, but substitute the Investigating Officer for the Hearing Panel. Please note that the Hearing Panel's findings may differ from that of the Investigating Officer]

The Hearing Panel also made the following recommendation(s)

[Detail recommendations]

### Sanctions applied

The breach of the [insert authority name] Code of Conduct warrants a [detail sanctions applied].

### Appeal

There is no right of appeal against the Hearing Panel's decision.

### Notification of decision

This decision notice is sent to the:

- Councillor [name of councillor]
- Complainant
- Monitoring Officer
- [Clerk to the xxxx Parish/Town Council];
- Kent County Council's Monitoring Officer *[applicable only where the Councillor is serving at both District and County level]*

**Additional help**

If you need additional support in relation to this decision notice or future contact with the District Council, please let us know as soon as possible. If you have difficulty reading this notice, we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010. We can also help if English is not your first language. Please refer to the attached Community Interpreting Service leaflet or contact our Customer Services on [insert telephone number] or email [insert email address].

**Signed:****Date****Print name:**

Chairman of the Hearing Panel  
Dover District Council  
White Cliffs Business Park  
Dover  
Kent  
CT16 3PJ