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To: County Council – 19 July 2012

Subject: Localism Act 2011 – Adoption of a New Standards Regime

Classification: Unrestricted

FOR DECISION

SUMMARY

Under the provisions of the Localism Act 2011 the existing Standards regime ceased to operate from midnight on 30 June 2012. The transitional arrangements are very limited and do not allow for the old arrangements to continue. The Act puts in place a system of requiring Members to notify the Monitoring Officer of a new category of interests (Disclosable Pecuniary Interests "DPI") and requires him to maintain a public register of those interests. Additionally, the Council must, with effect from 1 July 2012 adopt a new code of conduct and put in place arrangements for investigating allegations of failure to comply with the Code and for making decisions in respect of those allegations. This report was considered at a meeting of the County Council's former Standards Committee on 26 June 2012 and the recommendations contained within this report reflect the deliberations and conclusions of that Committee and further discussions with the Deputy Leader.

1. Introduction and Background

(1) As a result of the recommendations of the Committee on Standards in Public Life, the Local Government Act 2000 put in place a regime for regulating the conduct required of elected Members. This was developed from the seven "Nolan Principles of Standards in Public Life". Central to the regime was a Model Code of Conduct containing mandatory provisions which councils were required to adopt and procedures for dealing with complaints, which were prescribed by law. This was all overseen by Standards for England (previously known as the Standards Board for England) which variously had regulatory, investigatory and advisory functions together with an overall co-ordinating role.

(2) It was a manifesto commitment of the Conservative party, which also featured in the publication "The Coalition – Our Programme for Government", to abolish the Standards Board regime. Early indications that the review would result in the total abolition of a statutory standards regime for elected members did not materialise. The vehicle for the delivery of the changes to the regime was the Localism Bill. Early drafts of the Bill proposed the almost wholesale repeal of those parts of the Local Government Act 2000 dealing with standards. However, during the late stages of its passage through the parliamentary process, the Bill was significantly revised resulting in the requirement to have in place a formal standards regime that has more locally determined aspects but which still operates within a statutory framework.

(3) The new draft Code of Conduct has therefore been brought about as a result of recent changes in the law arising out of the Localism Act 2011 and subsequent regulations plus ministerial guidance. The old Standards Board regime has been abolished, alongside the old Standards Committee and old Code. In its place, will be a new code and new investigation procedure, but within a different regulatory framework and accompanied by different sanctions. Some of these are more onerous (criminal offences) but others are much lighter than before.

(4) The striking feature of the new code is the fact that it is Kent-wide. For the first time, all Kent districts worked closely with the County Council and the Fire Authority to create together a single code that would apply to all four tiers of local authority in the county. This is the only example of its kind nationwide. It will ensure that those Members who are twin, triple or even quadruple hatted, all operate to the same standards and principles, whether that be at Town/Parish, District, County or Fire Authority level.

(5) Each authority gave its officers a clear mandate to incorporate some of the more valuable provisions of the old code into the new one and were tasked with reaching agreement with others across Kent to deliver a single unified code that Members in all tiers of local government could recognise and abide by. In KCC, that mandate was given by the Standards Committee and the Deputy Leader, who were keen to ensure that the public perception of standards and ethics within KCC was maintained at the highest possible level.

(6) A great many hours of detailed work was put in by all concerned aimed at enhancing and protecting the reputations of the Kent authorities and their Members as well as bringing all the authorities closer together.

(7) What follows has been developed adopting that joint approach, which has already been (or is about to be) formally adopted by 12 out of the 14 Kent authorities. The new code is shorter, simpler and less onerous than the old one. It is, however, longer than the government's draft code and that of the Local Government Association because of:

- (a) inconsistencies between the draft code and the legislation
- (b) the requirements placed on officers by their respective authorities and
- (c) the need to build in safeguards to promote and protect the authority and its Members in terms of public perception and against false or malicious accusations of wrongdoing

(8) The new code is robust and fit for purpose, and is designed to maintain public confidence in its elected Members, but reduce significantly the number of spurious complaints that can be made, thus protecting Members from unscrupulous and damaging attacks on their integrity, reputation and standing. Under the new code, spiteful, politically motivated or anonymous complaints can all be dismissed without further attention - which the old code did not allow.

2. Features of the New Arrangements.

As enacted, the Localism Act 2011 puts in place a standards regime which includes the following features and requirements:

- (a) A duty to promote and maintain high standards of conduct by elected and co-opted members of the authority.
- (b) A requirement to have a Code of Conduct dealing with the conduct that is expected of members when they are acting in that capacity
- (c) A requirement for the Code of Conduct, when viewed as a whole, to be consistent with the principles of selflessness; integrity; objectivity; accountability; openness; honesty and leadership (the Model Code attached to this report at **Appendix 1** sets out these seven principles together with a commentary on each).
- (d) A requirement to have in place arrangements under which allegations that a Member has failed to comply with the Code can be investigated and also under which decisions relating to those allegations can be made.
- (e) A requirement for the authority to appoint an 'independent person' whose views must be sought and taken into account by the authority before it makes its decision on an allegation that it has decided to investigate. Additionally, the views of the independent person may be sought by the authority and by a Member in other limited circumstances specified in the Act.
- (f) A regime for requiring the notification to the Monitoring Officer of Disclosable Pecuniary Interests (DPIs) to enable him to establish and maintain a register of interests, backed by criminal sanctions. Under the new regime it is not only the interests of the Member that must be notified and registered, but also those of a spouse or civil partner; a person with whom the Member is living as husband or wife, or as civil partners.
- (g) The authority must also secure that its Code of Conduct includes appropriate provisions in respect of the registration of DPIs and interests other than DPIs.
- (h) As with the current regime, the new provisions allow for the withholding of sensitive information from the register where the Member concerned and the Monitoring Officer consider that the disclosure of details of the interest could lead to violence or intimidation.
- (i) As with the existing regime there are provisions for obtaining dispensations to allow a Member to speak and vote notwithstanding an interest.

3. Significant Departures from the Current Arrangements

(1) In accordance with the underlying policy intentions behind the legislation, there are some significant differences from the current regime. These can be summarised as follows:

- (a) The 10 general principles are replaced by 7. This has some consequences, for example, the statutory underpinning for codes of conduct dealing with 'respect' has gone.
- (b) The Model Codes and undertakings to comply with them have gone, although the requirement to have a Code remains.
- (c) Standards for England has been abolished together with its various functions.
- (d) The jurisdiction of the First Tier Tribunal to hear appeals has gone.
- (e) The classification of personal and prejudicial interests under the existing code has gone and is replaced by new registration and disclosure requirements. The legislation itself introduces the concept of DPIs and

- other interests which, under the Kent Model, are referred to as 'Other Significant Interests' ('OSIs').
- (f) The new registration requirements for DPs are wider in that they apply to the interests of spouses, etc. It should be noted that where known about, a Member must register these interests otherwise a criminal offence is committed. There are no exemptions other than for sensitive information. These criminal offences are automatically matters for police investigation.
 - (g) The concept of a statutory standards committee no longer features. The consequence of this is that any committee now appointed to deal with standards issues is now an ordinary local authority committee subject to all of the usual procedure rules, including a requirement for it to be politically balanced (although the Council can resolve to dis-apply proportionality). This means that its processes will be more open to public scrutiny because of the application of Schedule 12A of the Local Government Act 1972. A further consequence is that the role of independent members no longer exists as we have known it.
 - (h) It follows from the abolition of the statutory standards committee that the statutory processes of initial assessment of complaints, review, consideration and hearing have all now gone. It is now solely for the authority to determine how allegations are to be received and processed.
 - (i) The powers of the Council to impose specific sanctions for breach of the Code have been removed. Particularly, no facility exists to disqualify or suspend a Member for a breach of the code. In effect, the powers of a standards committee dealing with a complaint will be limited to censure and making recommendations to the authority (or political leaders where the political balance rules apply) that a Member be removed from a particular office or committee.

4. Implementation

(1) The law requires the authority to adopt a new Code of Conduct in furtherance of its duty to promote and maintain high standards of conduct by Members and co-opted members. This Code must be retrospectively effective from 1 July 2012.

(2) It was hoped that a single national 'model' code would be produced that could be commended to the council for adoption. This has not happened and the situation has become complicated because there are now at least three Model Codes in circulation. These comprise a model produced by the Local Government Association; what is described as an illustrative text produced by the Department for Communities and Local Government; and a template Model Code produced by the National Association of Local Councils (NALC).

(3) In the absence of a single national Model Code, it was proposed that a Model Code of Conduct be designed for use by Kent authorities of all tiers. Many councillors are members of different councils operating at different tiers and this, together with the increased incidence of shared working, led to the conclusion that it would simplify matters for all if members of authorities of all tiers were operating in accordance with a common code of conduct. This is attached at **Appendix 1** and has already been endorsed by the former Standards Committee and the Deputy Leader, and is recommended to the Council for adoption.

(4) Earlier this year, 1 July was indicated by the Department of Communities and Local Government (DCLG) as the commencement date for the new code and arrangements. However, the extreme lateness of the regulations dealing with interests, transitional arrangements and commencement led to the assumption that implementation was to be delayed. It was therefore with some surprise when it was discovered that the necessary regulations were tabled in parliament on 6 June to bring the provisions into force on 1 July. Significantly, the early drafts of the regulations were not made generally available so as to be able to inform the earlier preparation of codes of conduct and arrangements. Without the detail of the regulations it was impossible for authorities to frame their codes in advance of the 1 July deadline.

(5) In addition to the Code, the authority must also have in place "Arrangements" which set out:

- (a) How it will deal with allegations
- (b) How it will decide whether an allegation requires investigation
- (c) How it will decide whether there has been a failure to comply with the relevant code (i.e. a local hearing)
- (d) What actions it might take as a result of the failure to comply with the local code.

(6) The intention is to gain experience and within a year to review the operation of the Kent Code and arrangements and, if necessary, make recommendations for change. However, it is recognised that experience may demonstrate that more urgent review of the provisions of the code or the arrangements may be necessary on a local basis, in which case the Monitoring Officer will report to the Council or Standards Committee as appropriate.

5. The Code and the Arrangements

Kent Code

(1) The Kent Code is attached at **Appendix 1**. It only applies to conduct when acting as a Member. There is no application of the Code to a Member's private life. In terms of statutory requirements, the Code complies with the 7 principles mentioned above and sets out the provisions the authority considers appropriate in respect of the registration in its register and disclosure of Disclosable Pecuniary Interests and Other Significant Interests.

(2) The approach taken by the Kent Code is only to require the registration of DPIs as prescribed under the Localism Act 2011. However, it was recognised that in view of the categories of persons by reference to which DPIs arise, this would not address the issue of disclosure to meetings of interests relating to those of wider family and friends. By way of example, if the Kent Code did not expand on the disclosure requirements there would be nothing to require a Member to disclose to a meeting and withdraw from the consideration of his brother's planning application or interest in a contract. In the preparation of the Kent Code it was felt that both Members and the wider public would consider it necessary, in the interests of good governance, to address such issues, which are defined as Other Significant Interests. The overall effect of this is to require Members to disclose to meetings the nature of interests and to withdraw in much the same circumstances as maintained in the case

of personal and prejudicial interests under the current regime. Therefore, if a Member needs to declare an interest in accordance with the requirements of the new code they will, in nearly all circumstances, be required to leave the meeting. For legal reasons this needs to be reinforced by a Procedure Rule requiring a Member to declare and withdraw. **Appendix 3** includes proposals for a Procedure Rule which it is suggested should be included in the County Council's Constitution.

(3) Provisions in the Code will require Members to notify the Monitoring Officer of all DPIs within 28 days of the Code coming into effect, i.e. by 28 July 2012. These provisions have been included because, under the Localism Act itself, Members would not be required to register DPIs until re-elected unless a matter came before a meeting which concerned a DPI. In such a case, the Member would be required to declare the interest at the meeting and notify the Monitoring Officer within 28 days so as to enable registration of the specific DPI.

(4) Members are reminded that there are criminal sanctions for failure to declare and notify DPIs. Additionally, Members' attention is drawn to the attached arrangements at **Appendix 2** (Arrangements for Dealing with Code of conduct complaints under the Localism Act 2011), which consider the relationship between an allegation of a criminal matter and a breach of the Code and how this would be dealt with in practice.

(5) All Members have been asked to complete a new Disclosable Pecuniary Interest form as required by the legislation within 28 days of the implementation of the new regime, i.e. by 28 July 2012.

(6) Questions have already arisen as to whether or not membership of another local authority, e.g. a district or parish council or the fire authority, constitutes a Disclosable Pecuniary Interest. This is one of those questions that the government in all its deliberations, drafting and guidance, failed to make clear. Especially where Members are in receipt of an allowance, it is arguable that being a member of another local authority is "an office...carried on for...gain". In order to remove any doubt, it is proposed that a dispensation be granted to all County Council multi-hatted members, relieving them of the restrictions on participating in discussions and voting. A dispensation under this section must specify the period for which it has effect, which may not exceed four years. The wording of the dispensation is set out below for endorsement:

In accordance with section 33 of the Localism Act 2011 ("the Act"), the Council grants a dispensation from section 31(4) of the Act to all those members of the County Council who are members of another local authority, or public body, or who have been appointed as the Council's representative on an outside body on the grounds that:

- (i) without the dispensation the number of persons prohibited by section 31(4) 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*
- (ii) it is in the interests of persons living in the authority's area*
- (iii) it is otherwise appropriate to grant such a dispensation*

The dispensation granted above will last for a period of four years.

(7) The general obligations in the Kent Code will be familiar to Members as they are not dissimilar to the existing code. One notable exception is the non-inclusion of a provision relating to respect. This is because the statutory underpinning for this is regarded as weak but, perhaps more significantly, because experience has shown that this provision has generated some of the more trivial and time consuming complaints under the current regime. The retention of the bullying provision and the disrepute provision is aimed at adequately addressing those cases which should properly be investigated.

(8) Declaration and registration of gifts and hospitality is also included, even though not statutorily required. It is highly likely that a member of the public would not expect a Member, who has received gifts and hospitality from an individual or organisation, to also be able to take part in decisions in respect of that individual or organisation without being in any way biased or prejudiced in their favour. Far better that such things are made open and transparent, in order to protect Members from damaging attacks on the credibility and reputation.

Standards Committee

(9) The Localism Act 2011 contains no requirement for the establishment of a Standards Committee. Notwithstanding this, Members will note that the Kent Code does provide for the establishment of such a committee in order to allow investigations into allegations to be considered by Members in a fair and transparent way. However, unlike the Standards Committee as formerly known (which owed its existence and derived its rules of procedure from specific statutory provision contained in the Local Government Act 2000), the new Standards Committee will be an ordinary local authority committee established under the Local Government Act 1972.

(10) The Localism Act requires the Code of Conduct to be adopted by the full council. It is also a requirement that the Independent Person (see below) is appointed by the full council. These two functions excepted, it is proposed that the Standards Committee will discharge all functions associated with the new standards regime that have not been delegated to the Monitoring Officer (or ascribed to him by statute) once they have been established by council. **Appendix 3** sets out the proposed terms of reference/delegations to the Standards Committee.

(11) In order to consider reports into any allegations that are investigated, the Kent Code provides for the Standards Committee to establish sub-committees (Hearing Panels) from amongst its membership.

(12) **Appendix 2** comprises the Kent Model Arrangements (plus Annex 1 Procedure on receipt of a Complaint, Annex 2 Procedure for Investigating the Complaint and Annex 3 the Hearing Panel Procedure). The length of the Model Arrangements arises from the necessity to encapsulate within them material that is contained in statutory regulations and guidance.

(13) The former Standards Committee was of the view that a new Standards Committee should comprise three elected Members (one from each political group) and three independent persons. If the County Council chose to appoint independent persons to a re-constituted Standards Committee that independent person could only be in terms of the law a co-opted person with no voting rights. The views of the

former Standards Committee about the size of the new Standards Committee have been given further consideration by the Deputy Leader and it is considered that the new Committee should be small in number, but of a sufficient size to be able to form Hearing Panels as and when required to consider investigations, which would be difficult if one or more Members were absent for any reason, including being conflicted from considering a particular case. Accordingly, the County Council is recommended to re-constitute a Standards Committee dis-applying the proportionality arrangements. The suggested size of the Committee is 5 elected Members, 3 Conservative 1 Liberal Democrat and 1 Labour.

Independent Person

(14) The intention of the Localism Act 2011 is to secure impartial input into the standards regime through the requirement placed upon the authority to appoint an 'Independent Person' (IP). The Act requires that arrangements are put in place for the investigation of allegations, including provision for the appointment of at least one independent person. The role of the Independent Person is prescribed by section 28(7) of the Act as follows:

- "(7) Arrangements put in place...by a relevant authority must include provision for the appointment by the authority of at least one independent person –*
- (a) whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and*
 - (b) whose view may be sought –*
 - (i) by the authority in relation to an allegation in circumstances not within paragraph (a)*
 - (ii) by a member, or co-opted member of the authority if that person's behaviour is the subject of an allegation, and*
 - (iii) by a member, or co-opted member, of a parish council if that person's behaviour is the subject of an allegation and the authority is the parish council's principal authority.*

Thus, the independent person's functions are all related to 'allegations' and the independent person does not have a role in advising generally upon or monitoring the operation of the standards regime. This is fundamentally different from the role previously fulfilled by the independent representatives on the Standards Committee."

(15) The Localism Act 2011 contains detailed provisions as to who may and may not be regarded as an Independent Person. It also prescribes that an appointment as an Independent Person can only be made after public advertisement of a vacancy and receipt of an application by a candidate. The appointment must be approved by the majority of members of the authority. It should be noted that, as enacted, the Localism Act prohibited the appointment of an existing independent member of a Standards Committee as an Independent Person. However, the transitional arrangements (which are extremely limited) relaxed this to allow the appointment of a former independent member, provided that they only serve until 30 June 2013.

(16) Discussions have taken place with the Kent & Medway Fire Authority about the possibility of sharing an IP, and these have resulted in a proposal that the

Fire Authority and KCC should each appoint its own separate IP, but with the Council's IP acting as a substitute for the Fire Authority's (if theirs should be unable to act through, for example, holiday, illness, or a conflict of interest) and vice versa. The appointments would be for an initial period of four years (except if it was decided to appoint a former independent member of the Standards Committee, in which case the appointment would be until 30 June 2013).

(17) It is proposed that the Council and the Fire Authority would jointly advertise their IP posts by publishing a notice on their websites; circulating the notice to former independent members of Standards Committees throughout Kent and Medway, using the good offices of the Kent and Medway Independent Standards Committee Members' Liaison Group; and sending the notice to individuals who may potentially be interested in applying. Applicants would complete a single form, but would be able to indicate whether they wished only to be considered for the Council's IP post or the Fire Authority's IP post. There would then be a collaborative shortlisting process (so that neither authority appointed an IP who was unacceptable to the other), but the Council and the Fire Authority would interview their own shortlisted candidates separately.

(18) It is proposed that the appointment of the Council's IP is recommended by a Panel (not comprising Members of the Council) appointed by the Selection and Member Services Committee. The Council is asked to authorise the Director of Governance and Law, in consultation with the three Group Leaders and the Chairman of the Selection and Member Services Committee, to agree the composition of the appointment Panel for the IP. The IP selected for appointment will be recommended to the County Council at its meeting on 13 September 2012.

(19) Discussions with the Fire Authority have also covered the remuneration to be paid to the two authorities' IPs. The Standards Committee proposed that the Council's IP be paid an annual retainer of £500, plus a daily rate of £100 (pro rata for part of a day) when the IP is required to undertake any duties, and travel expenses at the same rate as for elected Members. The Fire Authority proposes to pay its IP an annual retainer of £250 (it is, of course, a much smaller authority), plus the same daily rate (plus travel expenses) as the Council, so each IP will receive the same daily rate whether acting for the Council or the Fire Authority. Naturally, if the Council's IP should be required to undertake any duties for the Fire Authority, the Fire Authority would pay the daily rate, and vice versa.

Training for all Elected Members and Independent Person(s)

(20) All Members will be invited to attend a training session on the new Standards regime. The following dates have been set aside to deliver this training: 20 July (pm), 24 July (all day) and 25 July (pm).

(21) In addition a 'webinar' is being prepared and will be delivered on a regular basis. This will enable Members/officers to engage in training at a time that is convenient to them.

Role of the Monitoring Officer

(22) The role of the Monitoring Officer is key to the administration of the registration of interests requirements of the new regime. However, whereas under

the existing arrangements the Monitoring Officer's role is to maintain the register and for Members to register their own interests, under the new arrangements, Members must notify the Monitoring Officer of their interests and it is the duty of the Monitoring Officer to register them.

(23) The proposed Kent Model Arrangements place responsibility on the Monitoring Officer for deciding, in consultation with the Independent Person and the Chairman of the Standards Committee, which allegations should be investigated and which should not (the equivalent of the process currently known as 'Initial Assessment'). Members will recall that under the previous regime this was a function that the law placed on the Standards Committee (and its sub-committees).

(24) The previous arrangements for initial assessment were bureaucratic, unwieldy and unnecessarily resource intensive. They did not admit of the possibility of trivial or ill-founded allegations being dismissed at a very early stage. They also required the process of initial assessment to be held in public.

(25) The proposed Kent Model Arrangements have the benefit of simplicity of operation in its treatment of the receipt of allegations, but at the price of placing considerable responsibilities on the Monitoring Officer. In recognition of this, the Kent Model Arrangements lay down comprehensive criteria by reference to which the Monitoring Officer will be required to exercise his judgment and includes the involvement of the Independent Person and the Chairman of the new Standards Committee.

6. Resource Implications

It is too early to assess the overall resource implication of the introduction of the new standards regime on the Council. On the one hand it can be anticipated that the new registration of interest requirements will create additional administrative work for the Monitoring Officer and his office support, particularly in its initial stages. However, other changes to the Code and a streamlined procedure for the assessment of allegations in their initial stages should reduce the need for meetings of the Standards Committee and any sub-committees.

7. Recommendations

1. That the Council adopts the Kent Model Code of Conduct as set out at Appendix 1 which deals with the conduct expected of members and co-opted members of this authority when they are acting in that capacity. The Code to be retrospectively effective from 1 July 2012.
2. That the Council notes the requirements of the Localism Act 2011 for members to notify the Monitoring Officer of any disclosable pecuniary interests ("DPs") by 28 July 2012 and the duty of the Monitoring Officer to establish and maintain a register of members' interests.
3. That the Council adopts the arrangements contained within Appendix 2, under which allegations of non-compliance with the Code can be investigated and under which decisions can be made. The arrangements shall be retrospectively effective from 1 July 2012.
4. That the dispensation set out in paragraph 5(6) be endorsed.
5. That the existing Standards Committee be formally dissolved with retrospective

effect from midnight on 30 June. 2012.

6. That as from 1 July 2012 a new Standards Committee be established with the Terms of Reference/Delegations set out in Appendix 3.
7. That Council appoints 5 members (3:1:1) to serve on the Standards Committee and dis-applies the proportionality arrangements.
8. That the Director of Governance and Law in consultation with the three Group Leaders and the Chairman of the Selection and Member Services Committee be authorised to undertake the recruitment of an independent person as set out in paragraphs 5(18)-(20) to this report and appoints an independent person to discharge the functions ascribed by section 28 of the Localism Act 2011.
9. That the arrangements set out in paragraph 21 for the remuneration, expenses and insurance of the independent person and substitute be approved.
10. That the Scheme of Officer Delegations with regard to Council functions be amended as from 1 July 2012, so as to confer on the Monitoring Officer the delegation of functions set out in Appendix 3 and incorporated in the County Council Constitution.
11. That the Procedure Rules set out in Appendix 3 be adopted with effect from 1 July 2012 and incorporated in the County Council Constitution.
12. That the Monitoring Officer be requested to keep the Code and Arrangements under review and to report further to the Council or Standards Committee as necessary.

Kent County 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 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 such persons, any firm in which they are a partner, or any company of which they are directors; or
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (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 the Kent County 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 an elected 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:
 - (i) the majority of other council tax payers, ratepayers or inhabitants of the electoral division affected by the decision; or
 - (ii) (in other cases) the majority of 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 para 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. Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

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

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

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

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

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

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

The Committee on Standards in Public Life was established by the then Prime Minister in October 1994, under the Chairmanship of Lord Nolan, to consider standards of conduct in various areas of public life, and to make recommendations.

Disclosable Pecuniary Interests

(as prescribed by regulations)

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

Interest	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority:

	<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>

Arrangements For Dealing With Code Of Conduct Complaints Under The Localism Act 2011

1. Context

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

2. Interpretation

- 2.1 'County Council' means the Kent County Council.
- 2.2 'Code of Conduct' means the Code of Conduct, which the County Council has 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 Standards Committee 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 County Council under section 28(7) of the Localism Act 2011:
- (a) whose views must be sought and taken into account by the County 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 County Council, an officer of another authority or an external investigator.
- 2.8 'Monitoring Officer' is a senior officer of the County 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 County Council nominated by the Monitoring Officer to act on their behalf.
- 2.9 'Parties' means the Complainant, Subject Member and the Investigating Officer, as appropriate.

- 2.10 'Subject Member' means an elected member or co-opted member of the County Council against whom a complaint has been made alleging a breach the Code of Conduct.

3. Appointment of Independent Person

- 3.1 The County Council will 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 County Council from time to time.
- 3.2 The Independent Person (and any substitute) will be treated as if they were a member of the County Council for the purposes of the County 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 1 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 1 to these Arrangements).
- 4.3 The Monitoring Officer will normally acknowledge receipt of a complaint within 5 working days of receiving it. At the same time (and subject to para. 4.2 above), the Monitoring Officer will send a copy of the complaint to the Subject Member in accordance with paragraph 2 of Annex 1 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, a Member of the Authority:
- (a) fails to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days beginning with the day on which the Member becomes, or is re-appointed, a Member or Co-opted Member of the Authority;
 - (b) fails to disclose a Disclosable Pecuniary Interest at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
 - (c) fails to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days beginning with the day on which the Member discloses it at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
 - (d) takes part in discussions or votes at meetings that relate to the Disclosable Pecuniary Interest, unless a dispensation has been granted;
 - (e) knowingly or recklessly provides 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 1 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 independent documentary evidence substantiating or indicating to the Monitoring Officer that the complaint is exceptionally serious or significant.

7. Role of Independent Person

- 7.1 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 1 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 1 to these Arrangements (whether without the need for an investigation or before or after an investigation has been commenced or concluded) may be extended as necessary.

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 1 to these Arrangements.

10. Investigation

- 10.1 If the Monitoring Officer, in consultation with the Independent Person and the Chairman of the Standards Committee, decides that the complaint merits formal investigation, they will, within 10 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 2 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 3 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 3 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 County 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 alone or 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 County 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 County 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, within 10 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 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 County 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, within 10 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 of the complaint.

2.2 The Monitoring Officer may invite the Subject Member to submit initial views on the complaint within 10 working days, which will be taken into account by the Monitoring Officer when they decide how to deal with the complaint (see paragraph 4 below). Views received from the Subject Member after the 10 working day time limit may be taken into account at the discretion of the Monitoring Officer, providing the views are received before the Monitoring Officer issues their written decision on how the complaint will be dealt with.

3. Asking for additional information

3.1 The Monitoring Officer may ask the Complainant and the Subject Member 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 (whether without the need for an investigation or before or after the commencement or conclusion of an investigation) seek to resolve the complaint informally in accordance with paragraph 6 below. Where the Subject Member or the Monitoring Officer 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 and the Chairman of the Standards Committee, 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 3 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 County 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 2 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 Within 20 working days of receipt of the complaint, the Monitoring Officer will notify the Complainant, Subject Member of their decision and reasons for applying one of the following processes in the format of the Decision Notice template (appended to this Annex 1:
- (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 County 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 County Council service provision or any tender/contract they may have with or are about to submit to the County 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, within 15 working days of receipt of the complaint 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 County 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 County Council, demonstrating a lack of awareness, experience or recognition of the particular provisions of the Code of Conduct and/or other County 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 County 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 members, including the whole County Council where it may be useful to address systemic behaviour:

- (a) training;
- (b) conciliation/mediation;
- (c) mentoring;
- (d) apology;
- (e) instituting changes to the County Council's procedures;
- (f) conflict management;
- (g) development of the County Council's protocols;
- (h) other remedial action by the County 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 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.

Kent County Council

Code of Conduct Complaint Form

Your Details

1. Please provide us with your name and contact details.

Title:	
First name:	
Last name:	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile telephone:	
Email address:	

2. Please tell us which complainant type best describes you:

- Member of the public
- An elected or co-opted member of an authority
- An independent member of the Standards Committee
- Member of Parliament
- Local authority Monitoring Officer
- Other council officer or authority employee
- Other (please give details) _____

3. Please provide us with the name of the councillor(s) you believe has breached the Code of Conduct and the name of their authority:

Title	First name	Last name	Council or authority name

4. Please explain in this section what the councillor has done that you believe breaches the Code of Conduct. If you are complaining about more than one councillor you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

5. It is important that you provide all the information you wish to have taken into account by the Monitoring Officer when he (acting in consultation with the Independent Person and the Chairman of the Standards Committee) decides whether to take any action on your complaint. For example:
 - (a) You should be specific about exactly what you are alleging the councillor said or did. For instance, instead of writing that the councillor has conducted himself in a manner which could reasonably be regarded as bringing his office or the Authority into disrepute you, you should state what it was they said or did.
 - (b) You should provide the dates of the alleged incidents.
 - (c) You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details.
 - (d) You should provide any relevant background information.

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

6. **Only complete this next section if you are requesting that your identity is kept confidential. Please see the notes in the accompanying leaflet "How to make a complaint".**

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

Signed: _____

Date: _____

Return Address: The Monitoring Officer
 c/o The Head of Democratic Services
 Kent County Council
 Sessions House
 County Hall
 Maidstone
 Kent ME14 1XQ

Complaints Form – Monitoring Information

In order to ensure we target our services in the most effective way for our community, we would appreciate if it you would give answers to the following questions:

Q1. Ethnic Group

- White:**
 - British
 - Irish
 - Any other white background
- Black or black British:**
 - Caribbean
 - African
 - Any other black background
- Asian or Asian British:**
 - Indian
 - Pakistani
 - Bangladeshi
 - Any other Asian background

Q2. Sex

- Male
- Female

Q3. Partnership Status

- Single
- Married/Civil Partner
- Separated
- Divorced
- Widow/Widower

Q4. Age Group

- Under 16
- 16-19
- 20-24
- 25-59
- 60-64
- 65 and above

Q5. Do you have a disability?

- Yes
- No

Q6. What is the nature of your disability?

- Difficulty getting around
- Mental health problems
- Learning difficulty
- Difficulty seeing
- Hearing difficulty
- Other

Q7. To help us monitor issues for different sections of our community, we would appreciate it if you would tell us which faith group, if any, you belong to. If lack of faith is an issue in itself we would also like to know.

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 Kent County Council. 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 has 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
- [Borough] [District] [City] Council's Monitoring Officer (*applicable only where the Subject Member is serving at both [Borough] [District] [City] and County level*).

What happens now?

The complaint will now be investigated under the County 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 County 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:

Send to:

G D Wild
Monitoring Officer
Kent County Council
Sessions House
County Hall
Maidstone
Kent ME14 1XQ

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, Equality 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 10 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 or 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 1 to these Arrangements.

Hearing Panel Procedure

1. Rules of procedure

- 1.1 The Hearing Panel consists of the Members of the Standards Committee.
- 1.2 The quorum for a meeting of the Hearing Panel is three.
- 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 County Council 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.¹

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.

3. The conduct of the hearing

¹ Janik v Standards Board for England & Adjudication Panel for England (2007)

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 from 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 finds 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 County 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 County 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 County 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 County 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.

Formal Announcement of 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 representations of the Independent Person, the Subject Member and the Monitoring Officer's 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 County 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 County 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 in the case of a ungrouped Subject Member, to the County Council that they be removed from committees or sub-committees of the Council;
- (c) Recommending to the Leader of the County Council that the Subject Member be removed from the Cabinet or removed from particular Portfolio responsibilities;
- (d) Instructing the Monitoring Officer to arrange training for the Subject Member;
- (e) Recommending to the County Council that the Subject Member be removed from one or more outside appointments to which they have been appointed or nominated by the County Council;
- (f) Recommending to the County 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 County Council the exclusion of the Subject Member from the County Council's offices or other premises, with the exception of meeting rooms as necessary for attending County Council committee and sub-committee meetings;
- (h) Reporting the Panel's findings to the County 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 County 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 10 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 County Council's website.

5.2 Within 10 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 relevant Borough, District or City Council's Standards Committee (*applicable only where the Subject Member is serving at both Borough/District/City and County level*).

5.3 The Monitoring Officer will report the Hearing Panel's decision and recommendations to the next ordinary meeting of the Standards Committee for information.

TEMPLATE - DECISION NOTICE (of Hearing Panel)

Complaint No: xxxx

On [insert date], the Hearing Panel of the Kent County Council considered a report of an investigation into the alleged conduct of [insert name of councillor], a member of Kent County Council. 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 Kent County Council's 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
- the relevant Borough, District or City Council's Standards Committee (*applicable only where the Subject Member is serving at both Borough/District/City and County level*).

Additional help

If you need additional support in relation to this decision notice or future contact with the County 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:

Send to:

Chairman of the Hearing Panel
Kent County Council
Sessions House
County Hall
Maidstone
Kent ME14 1XQ

Standards Committee Terms of Reference

To discharge the functions (other than those which are reserved to Council) as set out in Part 1, Chapter 7 of the Localism Act 2011 including:

1. To promote and maintain high standards of conduct by Members and Co-opted Members of the County Council and to make recommendations to Council on improving standards.
2. To advise the County Council on the adoption of or revisions to its Code of Conduct.
3. To advise, train or arrange to train County Members and Co-opted Members on matters relating to the Code of Conduct.
4. To assist the County Councillors and Co-opted Members to observe their respective Codes of Conduct.
5. To monitor and assess the operation and effectiveness of the Code of Conduct and to review and manage the Arrangements for dealing with Code of Conduct Complaints.
6. To advise on local ethical governance protocols and procedures.
7. To maintain oversight of the County Council's arrangements for dealing with Code of Conduct complaints.
8. To act as an advisory body in respect of ethical governance matters.
9. To monitor and review the procedures for the Register of Members' Interests and declaring gifts and hospitality.
10. To receive reports from the Monitoring Officer on the number and nature of complaints received and action taken as a result in consultation with the Independent Person.
11. To receive an annual report on the County Council's ethical governance arrangements.
12. To appointment a sub-committee to deal with Code of Conduct complaints, following investigation.
13. To grant dispensations pursuant to section 33(2) of the Localism Act 2011 and paragraph 8 of the adopted Code of Conduct where:
 - (i) without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter.
 - (ii) that the authority considers that the dispensation is in the interests of persons living in its area; or
 - (iii) where the Committee considers that it is otherwise appropriate to grant a dispensation.

PROCEDURE RULES

1. A Member with a Disclosable Pecuniary Interest or Other Significant Interest in a matter to be considered, or being considered at a meeting must:
 - (b) disclose the interest; and
 - (c) explain the nature of that interest at the commencement of that consideration or when the interest becomes apparent (subject to paragraph 5 of this Procedure Rule); and unless they have been granted a dispensation:
 - (d) not participate in any discussion of, or vote taken on, the matter at the meeting; and
 - (e) withdraw from the meeting room whenever it becomes apparent that the business is being considered; and
 - (f) not seek improperly to influence a decision about that business.

2. A Member with an Other Significant Interest, 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, whether under a statutory right or otherwise. The Member will withdraw from the meeting room immediately after making representations, answering questions or giving evidence.
3. Where a Member with a Disclosable Pecuniary Interest or Other Significant Interest in a matter under discussion (unless a dispensation has been granted in accordance with paragraph 1 of this Procedure Rule), chooses to participate in the discussion and vote, the Chairman will refuse to count the 'vote' of the Member concerned, for the 'vote' will have been cast illegally and cannot be considered to be a vote at all.
4. The Chairman may request that a Member declare a Disclosable Pecuniary Interest or an Other Significant Interest and, if appropriate, leave the meeting room, should they have reason to believe that the provisions of the Code of Conduct and/or this Procedure Rule are being breached.
5. Where a Disclosable Pecuniary Interest, or an Other Significant Interest has been agreed by the Monitoring Officer as being a Sensitive Interest, the Member need only disclose the existence of the interest but not its nature.
6. This Procedure Rule applies to a Cabinet member acting alone under portfolio powers and to a local Member who discharges functions at divisional level.
7. Disclosable Pecuniary Interests and Other Significant Interests will be reported to the Standards Committee on an annual basis.

MONITORING OFFICER DELEGATIONS

1. Appointed as Proper Officer for the purposes of receiving applications for dispensation pursuant to section 33(1) of the Localism Act 2011.
2. To grant dispensations to Members pursuant to section 33(2) of the Localism Act 2011 and paragraph 8 of the adopted Code of Conduct to speak only or to speak and vote where:
 - (iv) so many members of the decision-making body have disclosable pecuniary interests in a matter that it would impede the transaction of the business; or
 - (v) without a dispensation, no member of the executive would be able to participate on a particular item of business.
3. Appointed to receive complaints relating to alleged breaches of the adopted Code of Conduct and to process complaints in accordance with the adopted Arrangements for dealing with Code of Conduct Complaints.
4. The right to depart from the arrangements for dealing with code of conduct complaints, where considered expedient to do so in order to secure the effective and fair consideration of any matter.