

Committee	STANDARDS	Item A1	Page 1
Report Originator	Statutory Officers (Head of Paid Service, Monitoring Officer, Responsible Finance Officer)	<i>Fwd Plan Ref No:</i> -	
Wards Affected	All	28 th June 2012	
Title	THE LOCALISM ACT 2011 – THE NEW STANDARDS REGIME		

1. PURPOSE OF REPORT

- (i) To provide an overview of the new Standards Regime introduced by the Localism Act 2011
- (ii) To enable the Committee to consider proposals for a new Code of Conduct for recommendation to Council for adoption, and
- (iii) To consider a range of proposals required to implement the new standards Regime for adoption by Council

2. INFORMATION

- 2.1 At its meeting on 30 January 2012, the Standards Committee received a brief report on the implications of the Localism Act 2011 in relation to the Standards Regime. It was noted that the provisions of the Act will require changes to be made to the Member Code of Conduct and also to the Council's Standards framework.
- 2.2 As far back as the year 2000 Kettering Borough Council gave very careful thought to its standards arrangements. It pioneered the concept of the key role of independent members including the importance of an independent chair. Since then, different statutory frameworks have come and gone but those arrangements which have served us well have been retained to great effect.
- 2.3 In January, this Committee agreed that the current arrangements in operation at the Council should continue and that any subsequent changes that may be required (to comply with the regulations) should be kept to a minimum so as to mirror the current arrangements as close as possible.
- 2.4 The Council's Constitution (Article 12) recognises the role of the Statutory Officers in collectively providing a governance framework. The three Statutory Officers of Head of Paid Service, Monitoring Officer, Responsible Finance Officer (commonly referred to as the Statutory Officers Group) will continue to have responsibilities in the new requirements. This report recommends that a number of delegations are created to enable the amended arrangements to operate effectively. In practice, where delegations are made to officers in

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relation to standards issues, the issue will be discussed by the Statutory Officer Group and actions agreed collectively.

- 2.5 The Committee indicated its support for retaining a Standards Committee to maintain high standards of conduct by members and favoured the retention of independent members on the Committee.
- 2.6 The following table was included in the report to Standards Committee on 30 January. The table highlights that whilst the *means* to achieve the objectives were more flexible the *ends* remain the same.

Current	Proposed
A Register of Interests	A Register of Interests
Adopt a national code	Adopt a code
Have a Standards Committee	Have a means of considering complaints and taking action where necessary
A Formal Complaints Procedure	To promote and maintain a high standard of conduct.

- 2.7 The Council also received a report on the Localism Act at its February meeting: It was resolved that:
- "(i) the work of the Standards Committee on the new regime be endorsed;*
- (ii) the position in respect of the standards regime be noted and the commitment to the highest standards of conduct be confirmed; and*
- (iii) the continuation of the existing standards regime until at least July 2012 be noted."*
- 2.8 It was reported to the Committee and Council that further reports would be presented following the publication of Regulations. The Regulations were published on 12 June 2012 and the Government requires new schemes to be in operation by 1 July 2012 – a rather optimistic timetable since they need to be considered by full Council.
- 2.9 This report details the actions needed to adjust arrangements in order to comply with legislative requirements whilst continuing to promote and maintain high standards of conduct.
- 2.10 The following sections of the report concentrate on the key changes that need to be made to enable a new scheme to operate as closely as we can to the current arrangements whilst complying with statutory changes. The following issues will be considered: -

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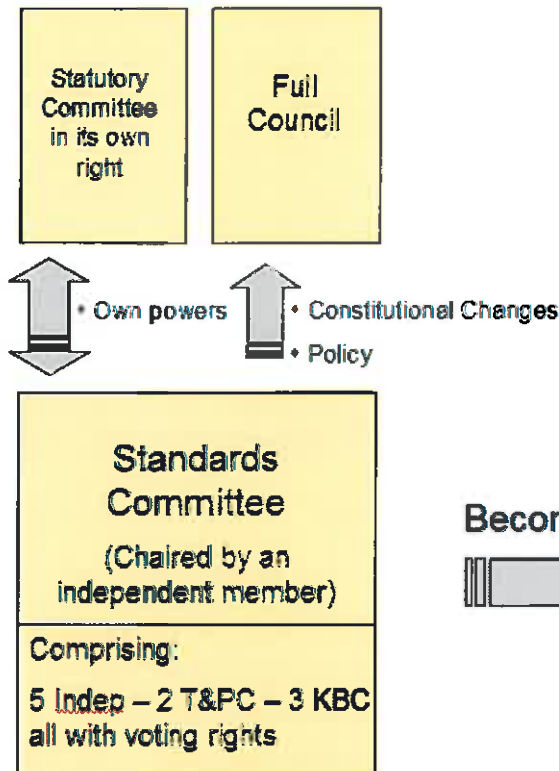
- A. The Standards Committee
- B. Members Code of Conduct
- C. Complaints
- D. Independent Persons
- E. Interests
- F. Dispensations

A. THE STANDARDS COMMITTEE

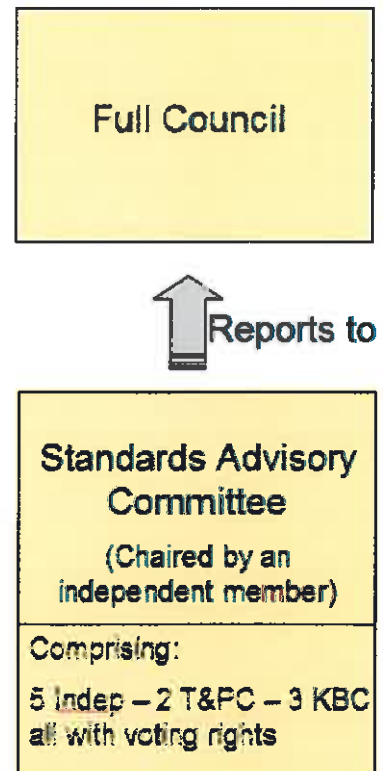
- 3.1 The Act disapplies the old standards regime as from 1st July 2012.
- 3.2 The Council is, however, under a duty to promote and maintain high standards of conduct and there will still be a need to deal with standards issues and casework. This Committee and Council have recently indicated their support for the retention of the Standards Committee and favoured the retention of independent members on the Committee.
- 3.3 As previously mentioned, the current arrangements have served the Council well – they help strengthen public confidence by having externality at their core. The retention of a high degree of independence is seen as a key attribute of any standards system and is something that should be retained by the Council.
- 3.4 Due to the change in legislation, a Standards Committee reverts back to being a normal committee of the Council. In doing so, it effectively loses its 'independent' nature because it would only have Borough Councillors as its members. As such the external perspective and independent nature of the current committee arrangements would effectively be lost.
- 3.5 Given the importance that the Council has previously given to the independent role of the Standards regime, the Committee are recommended to consider a 'new' arrangement whereby the current level of independent representation is retained as far as it is possible.
- 3.6 In short, it is proposed that the current Standards Committee becomes the 'Standards Advisory Committee'. This new advisory committee will report directly to Council (as was the case with the previous Standards Committee) and has the same composition of the current Standards Committee with the same voting rights.

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Current Arrangements



Proposed Arrangements



3.7 Under general local government law non-Councillors may be co-opted on to committees but they cannot enjoy voting rights unless the Committee is constituted as an advisory committee. As one of the main purposes of a Standards Committee is (and will continue to be) to secure public confidence that complaints against Members are considered fairly and without reference to political affiliations it is considered appropriate that the Council should continue to have independent persons appointed to a Standards Committee and that they should have voting rights. On that basis a newly constituted Standards Committee would have to be an advisory committee which would (inter alia) consider complaints and make recommendations to full Council. For such an arrangement to work effectively it would have to be on the firm understanding that the recommendations of the Standards Committee would be accepted and implemented.

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- 3.8 The terms of reference for the new Standards Advisory Committee and its Sub Committees will be worked up and reported to full Council – they will be based as closely as possible to the existing terms of reference for the Standards Committee. By reference to the historical level of referrals that the current Standards Committee has made, the suggested way forward whereby a Standards Advisory Committee reports directly to Council should be a workable arrangement. It is recommended that this is kept under review to ensure that the arrangement is effective and continues to achieve the objective of promoting and maintaining high standards of conduct for its elected and co-opted members.

B. THE CODE OF CONDUCT

- 4.1 From 1 July 2012 there is no longer a National Code of Conduct. Instead, Local Authorities have discretion as to what they include in their own 'local Code' – provided that it reflects the Nolan Principles. The Council's new Code of Conduct must, when viewed as a whole, continue to be consistent with the following seven principles –
- i. Selflessness
 - ii. Integrity
 - iii. Objectivity
 - iv. Accountability
 - v. Openness
 - vi. Honesty
 - vii. Leadership
- 4.2 The Council's existing Code does comply with these requirements and therefore much of it can be rolled forward.
- 4.3 At the last meeting of this Committee it was generally agreed that any new scheme should operate as closely as possible to the current arrangements whilst complying with statutory changes. That will necessitate some adjustments and strengthening of the various models codes that are around. The model codes do not contain the same clarity or transparency that has been the hallmark of our existing arrangements.
- 4.4 In line with the Committee's previous comments, an amended Code of Conduct is attached at Appendix 1 for the Committee's consideration. When compared to the existing Code, the main difference is in relation to Members interests, with the Code having been updated to reflect the statutory requirements for the new category of 'Disclosable Pecuniary Interests' (DPI's). The remainder of the Code has as far as possible remained true to the existing Code. The provisions of the Act also require an authority's code to contain appropriate requirements

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for the registration (and disclosure) of other pecuniary interests and non-pecuniary interests.

- 4.5 The National Association of Local Councils (NALC) has also produced its own draft Code for Town and Parish Councils, as it does not consider the LGA or DCLG Code meets the needs of its members. The Northamptonshire branch of NALC has advised its members to adopt the Borough or District Councils' Code, wherever possible to provide some consistency.
- 4.6 Once adopted the Code must be publicised in such a manner as the Council thinks is likely to bring the code to the attention of persons living in the area. It is proposed to publish the Code on the Council's website and advertise in the local press.
- 4.7 The Standards Committee currently has two outstanding complaints that require determination. The cases have been referred to the Referrals Sub –Committee and have been or are in the process of investigation. For transparency it is advisable to formally refer them to be completed under the new regime.

5. ARRANGEMENTS FOR DEALING WITH COMPLAINTS UNDER THE CODE

- 5.1 The Act requires that the Council adopt “arrangements” for dealing with complaints of breach of Code of Conduct - both by Borough Council members and by Town/Parish Council members. Any such complaints can only be dealt with in accordance with such arrangements.
- 5.2 The arrangements must set out in some detail the process for dealing with complaints of misconduct and the actions which may be taken against a member who is found to have failed to comply with their Council's Code of Conduct.
- 5.3 The Act repeals the requirements for separate Referrals, Review and Hearings Sub-Committees, and requires the Council to establish its own process, which can include delegation of decisions on complaints. Arrangements which need to be agreed by full Council.
- 5.4 The Arrangements for dealing with Standards Allegations under the Localism Act are set out at Appendix 2.

Decision whether to investigate a complaint

- 5.5 The new flexibility means the decision whether to investigate a complaint can now be delegated. It is recommended that this is delegated to the Council's Head of Paid Service (in consultation with the other members of the Statutory

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Officer Group - as set out in paragraph 2.4). This would also be subject to consultation with the Independent Person (see section 6) and the reference of particular complaints to the Standards Advisory Committee if the head of Paid Service feels that it would be inappropriate for him to take a decision, for example where they had previously advised the matter on a complaint or if it was particularly sensitive.

- 5.6 The arrangements should also offer the opportunity for the Head of Paid Service to seek to resolve a complaint informally, before taking a decision on whether the complaint merits formal investigation. It is, therefore, recommended that the Head of Paid Service (in consultation with the other members of the Statutory Officer Group) be given delegated authority to deal with these matters.
- 5.7 A quarterly report will be submitted to the Standards Advisory Committee on the number and nature of complaints and to draw to the Committee's attention areas where training or other action may be required to avoid further complaints, and keep the Committee advised of progress on investigations and costs.

“No Breach of Code” Finding on Investigation

- 5.8 Where a formal investigation finds no evidence of failure to comply with the Code of Conduct, the current requirement is that this is reported to Referrals Sub-Committee and the Sub-Committee take the decision to take no further action.
- 5.9 Under the new arrangements this has been amended. It is suggested that this decision is delegated to the Head of Paid Service (in consultation with the other members of the Statutory Officer Group) but with the power to refer a matter to Standards Advisory Committee if they deem appropriate. Copies of all investigation reports would be provided to the Independent Person to enable him/her to get an overview of current issues and pressures, and that a summary report of each such investigation to Standards Advisory Committee for information.

“Breach of Code” Finding on Investigation

- 5.10 Where a formal investigation finds evidence of failure to comply with the Code of Conduct, it would seem sensible to provide an opportunity for local resolution (avoiding the necessity of a local hearing) if and only if that were appropriate in the view of the Head of Paid Service..
- 5.11 However, it is suggested that at this stage it would only be appropriate for the Head of Paid Service (in consultation with the other statutory officers) to agree a local resolution after consultation with the Independent Person where the

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complainant is satisfied with the outcome. A summary report for information would be given to the Standards Advisory Committee. If the complainant does not agree the matter must be referred to the Hearings Panel.

- 5.12 In all other cases, where the formal investigation finds evidence of a failure to comply with the Code of Conduct, it would be necessary to hold a hearing at which the member against whom the complaint has been made can respond to the investigation report, and the Hearings Panel can determine whether the member did fail to comply with the Code of Conduct and what action, if any, is appropriate as a result.

Action in response to a Hearing finding a failure to comply with the Code

- 5.13 The Act significantly changes the sanctions available to the Committee where a breach of the code is proved. Where a failure to comply with the Code of Conduct is found, the range of actions which the authority can take in respect of the member is more limited than previously. The Committee is requested to consider recommending to Council that the Hearings Panel be authorised to recommend to Council any of the following sanctions –
- a) Censure or reprimand of the Member;
 - b) Reporting its findings to Council or to the relevant Parish Council for information.
 - c) Recommending to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees), that he/she be removed from any or all Committees or Sub-Committees of the Council;
 - d) Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
 - e) Instructing the Monitoring Officer to or recommend that the Parish Council arrange training for the member;
 - f) Removing [or recommend to the Parish Council that the member be removed] from all outside appointments to which he/she has been appointed or nominated by the authority or by the Parish Council;
 - g) Withdrawing or recommend to the Parish Council that it withdraws facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
 - h) Excluding or recommend that the Parish Council exclude the member from the Council's offices or other premises, with the exception of meeting

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rooms as necessary for attending Council, Committee and Sub-Committee meetings.

Note: In respect of Parish Councils, under the Localism Act the Council has no power to do any more in respect of a member of a Parish Council than make a recommendation to the Parish Council on action to be taken in respect of the member. Parish Councils will be under no obligation to accept any such recommendation.

Appeals

5.14 As with the current arrangements, there is no internal appeal process.

6. INDEPENDENT PERSON(S)

- 6.1 The “arrangements” adopted by Council must include provision for the appointment by Council of at least one Independent Person. It is considered sensible to appoint a minimum of two independent persons to ensure availability and to avoid potential conflicts of interest which may arise as a result of their functions which are outlined below.
- 6.2 The Independent Person must be appointed through a process of public advertisement, application and appointment by a positive vote of a majority of all members of the Borough Council (not just of those present and voting).
- 6.3 Appendix 3 contains further information about the criteria for being considered as an Independent Person as well as their key functions.
- 6.4 The Act gives discretion to appoint at least one Independent Person. The Committee should be aware that the Regulations governing transitional arrangements as currently drafted permit the appointment of current independent members of the Standards Committee as Independent Persons. The requirement for the five year gap has been omitted from the provisions. There is, however, still a requirement to advertise the position. It is suggested that the Independent Persons be appointed by a panel comprising of two members of the Committee, and the Statutory Officer Group (or their delegated representatives)
- 6.5 As the Independent Person is not a member of the authority or of its Committees or Sub-Committees, the remuneration of the Independent Person no longer comes within the scheme of members’ allowances. It can therefore be determined without reference to the Independent Remuneration Panel. Since, in essence the Standards Advisory Panel will undertake the same functions as the previous Standards Committee and the Independent Person will play an

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important role, it is suggested that they receive the same standard allowance as an independent member of the Committee.

7. THE REGISTER OF MEMBERS' INTERESTS

- 7.1 The Localism Act replaces the concepts of personal and prejudicial interests with "Disclosable Pecuniary Interests" (DPis). The Monitoring Officer is required to maintain a register of interests, which must be available for inspection and available on the Council's website. The Monitoring Officer is also responsible for maintaining the register for Town and Parish Councils, which also have to be open for inspection at the Borough Council offices and on the Borough Council's website.
- 7.2 The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 specify what DPI's are. They are broadly equivalent to the current prejudicial interests. The intention was to simplify the registration requirement, but in fact the Act extends the requirement for registration to cover not just the member's own interests, but also those of the member's spouse or civil partner, or someone living with the member in a similar capacity.
- 7.3 The following table illustrates the categories of interests are very similar when you compare the current arrangements with the new requirements. There have however been some changes to detailed definitions and the nature of disclosures – further details are included by reference to the Code of Conduct at Appendix 1.

	Existing Regulations	New Regulations
Bodies to which you are appointed or nominated (incl Public Bodes and Charitable)	✓	✓
Any body whose principal purposes include the influence of public opinion or policy	✓	✓
Employment and Business interests	✓	✓
Election Expenses and payments	✓	✓
Interests in persons or bodies which have a place of business or land within the district	✓	✓
Contracts with the Council	✓	✓
Land in the Borough in which you have a beneficial interest	✓	✓

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Tenancies in which you have an interest where the council is the landlord	✓	✓
Land within the Council's area which you have a licence to occupy for 28 days or longer	✓	✓
Gifts and Hospitality	✓	✓
Registration not only of member's own interests, but also those of the member's spouse or civil partner, or someone living with the member in a similar capacity.		✓
Failure to register DPI's within 28 days of becoming a member is a criminal offence		✓

7.4 To continue to uphold the principles of good governance, the Code of Conduct contained at Appendix 1 also provides for the following;

- a) The continuing registration of interests as currently prescribed;
- b) A provision requiring that the Register of Interests is constantly kept up to date
- c) A continuation of the current arrangements for members to make declarations at meetings

It is also recommended that the Committee Procedure Rules be amended to allow withdrawal from the Chamber in the event a member has a DPI in the matter being discussed.

8. **SENSITIVE INTERESTS**

8.1 The Act effectively re-enacts the existing Code of Conduct provisions on Sensitive Interests. Where a member is concerned that disclosure of the detail of an interest (either a DPI or any other interest which he/she would be required to disclose) at a meeting or on the register of members' interests would lead to the member or a person connected with him/her being subject to violence or intimidation, he/she may make a request to the Monitoring Officer that the interest is a "sensitive interest". If the Monitoring Officer agrees, the member then merely has to disclose the existence of an interest, rather than the detail of it, at a meeting, and the Monitoring Officer can exclude the detail of the interest from the published version of the register of members' interests.

9. **DISPENSATIONS**

9.1 The provisions on dispensations are significantly changed by the Localism Act.

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9.2 In future, a dispensation will be able to be granted in the following circumstances: –

- ◆ That so many members of the decision-making body have DPIs in a matter that it would “impede the transaction of the business”. In practice, this means that the decision-making body would be inquorate as a result;
- ◆ That, 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.
- ◆ That the authority considers that the dispensation is in the interests of persons living in the authority’s area;
- ◆ That, without a dispensation, no member of the Executive would be able to participate on this matter; or
- ◆ That the authority considers that it is otherwise appropriate to grant a dispensation.

9.3 Any grant of a dispensation must specify how long it lasts for, up to a maximum of four years.

9.4 The next significant change is that, where the Local Government Act 2000 required that dispensations be granted by Standards Committee, the Localism Act gives discretion for this power to be delegated. It is recommended that this power is delegated to the Head of Paid Service in consultation with the Statutory Officers, however it is also recommended that dispensations should firstly be considered by the Standards Advisory Committee who’s recommendation should be endorsed by the Statutory Officer Group.

10. CONSULTATION AND CUSTOMER IMPACT

None

11. POLICY IMPLICATIONS

None

12. FINANCIAL RESOURCE IMPLICATIONS

None at this stage.

13. HUMAN RESOURCE IMPLICATIONS

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None

14. LEGAL IMPLICATIONS

The Council will be required to comply with the provisions of the Localism Act and adopt a Code of Conduct and establish arrangements to consider complaints.

15. RECOMMENDATIONS (to Council)

Standards Committee

- (i) That the Council create a Standards Advisory Committee with independent Members with voting rights operating in the same way as the current Standards Committee but advising full Council. The Members of the existing Standards Committee would be appointed to the Committee.

Code of Conduct

- (ii) That the proposed Code of Conduct for Members attached at Appendix 1 be adopted
- (iii) It is recommended that current Standards Case be referred to be determined by the new Standards Advisory Committee or other arrangements adopted or agreed by the Council in accordance with the provisions of Paragraph 7 (4) of the of The Localism Act 2011 (Commencement No6 and Transitional, savings and Transitory Provisions) Order 2012

Arrangements for dealing with Complaints

- (iv) That the Monitoring Officer be appointed as the proper officer to receive complaints of failure to comply with the Code of Conduct
- (v) That the arrangements for dealing with allegations under the Localism Act as set out in Appendix 2 be approved
- (vi) That the delegations outlined in section 5 of this report, be agreed
- (vii) That a provision to appoint a minimum of two Independent Persons is approved and that the remuneration for an Independent Person is set at the same current allowance level as that of an independent member of Standards Committee

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Register of Interests

- (viii) That authority is delegated to the Monitoring Officer to take the necessary steps to establish a Register of Interests for Borough, Town And Parish Members
- (ix) Amendment to Procedure Rules to allow withdrawal from Chamber
- (x) Delegation for granting of dispensations (as outlined in section 9.5 of this report)

Background Papers:

Title of Document:

Date:

Contact Officer:

Previous Reports/Minutes:

Ref:

Date:

KETTERING BOROUGH COUNCIL MEMBERS' CODE OF CONDUCT

The Members' Code of Conduct is intended to promote high standards of behaviour amongst the elected and co-opted members of the council.

The Code is underpinned by the following principles of public life which should be borne in mind when interpreting the meaning of the Code:-

- i. **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 benefits for themselves, their family or their friends.
- ii. **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.
- iii. **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.
- iv. **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.
- v. **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.
- vi. **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.
- vii. **Leadership** Holders of public office should promote and support these principles by leadership and example.

PART 1 GENERAL PROVISIONS

1. Introduction and interpretation

- 1.1 This Code applies to **you** as a member of Kettering Borough Council ("KBC")

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1.2 The term “**the Authority**” used in this Code refers to Kettering Borough Council.

1.3 “**Member**” means any person being an elected or co-opted member of the Authority.

1.4 It is **your** responsibility to comply with the provisions of this Code.

1.5 In this code –

“**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, joint sub-committees;
- d) Any of the Authority’s advisory groups and executive boards, working parties and panels
- e) Any other discussions and meetings that are attended

1.6 In this Code “relevant authority” has the meaning given to it by section 27(6) of the Localism Act 2011.

2. Scope

2.1 You must comply with this Code whenever you are acting in your official capacity as a Member of the Authority.

2.2 Where you act as a representative of the Authority:-

- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or

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(b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

3. General obligations

3.1 You must treat others with respect.

3.2 You must not:-

- (a) do anything which may cause the Authority to breach UK equalities legislation;
- (b) bully any person
- (c) intimidate or attempt to intimidate any person who is or is likely to be:-
 - (i) a complainant;
 - (ii) a witness; or
 - (iii) involved in the administration of any investigation or proceedings,
- (d) in relation to an allegation that a Member (including yourself) has failed to comply with his or her authority's code of conduct, do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.
- (e) conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

4. You must not:-

4.1 disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:-

- (a) you have the consent of a person authorised to give it;
- (b) you are required by law to do so;

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(c) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

(d) the disclosure is:-

(i) reasonable and in the public interest; and

(ii) made in good faith and in compliance with the reasonable requirements of the authority; or

4.2 prevent another person from gaining access to information to which that person is entitled by law.

5. You must not:-

5.1 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; and

6. You must:-

6.1 when using or authorising the use by others of the resources of your authority:-

(a) act in accordance with your authority's reasonable requirements;

(b) ensure that such resources are not used improperly for political purposes (including party political purposes); and

6.2 have regard to any Local Authority Code of Publicity made under the Local Government Act 1986.

6.3 when taking decisions pay due regard to the advice of officers, and in particular to the advice of statutory officers namely the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer.

6.4 You must give reasons for all decisions in accordance with statutory requirements and any reasonable additional re

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PART 2 INTERESTS

7. Disclosable Pecuniary Interests

7.1 Breaches of the rules relating to Disclosable Pecuniary Interests may lead to criminal sanctions being imposed.

7.2 You have a disclosable pecuniary interest if it is of a description specified in regulations made by the Secretary of State as set out below and either:

(a) it is an interest of yours, or

(b) it is an interest of:

(i) your spouse or civil partner;

(ii) a person with whom you are living as husband and wife, or

(iii) a person with whom you are living as if you were civil partners

and you are aware that that other person has the interest.

7.3 Disclosable Pecuniary Interests are:

Subject:

Employment, office, trade, profession
or vocation
Sponsorship

Description:

Any employment, office, trade, profession or vocation carried on by you for profit or gain.
Any payment or provision of any other financial benefit (other than from Kettering Borough Council) made or provided to you within 12 months ending with the day on which you notified the Council's Monitoring Officer of any disclosable pecuniary interests in respect of any expenses you incurred in carrying out your duties as a member, or towards your election expenses. (This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.)

Contracts

Any contract that Kettering Borough Council has with you or your partner (or a body in which you or your partner have a beneficial interest, and a) under which goods or services are to be provided or works executed: and b) which has not been fully discharged.

Land

Any beneficial interest in land which is within the Borough of Kettering

Licences

Any licence (alone or jointly with others) to occupy

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Corporate tenancies	land within the Borough of Kettering for a month or longer.
Securities	<p>Any tenancy where to your knowledge—</p> <p>(a) the landlord is Kettering Borough Council; and</p> <p>(b) the tenant is a body in which you or your partner have a beneficial interest.</p> <p>Any beneficial interest in securities of a body where—</p> <p>(a) that body (to your knowledge) has a place of business or land within the Borough of Kettering 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>

For the purpose of the Regulations the following definitions apply:

“Body” means a firm in which you are a partner or a body corporate of which you are a director (which includes a member of the committee of management of an industrial and provident society), or in the securities of which you have a beneficial interest.

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

“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

8. Personal Interests

8.1 You have a personal interest in any business of your authority where either: -

- (a) it relates to or is likely to affect:
 - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
 - (ii) any body:

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(aa) exercising functions of a public nature;
 (bb) directed to charitable purposes; or

(cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;

- (iii) any easement, servitude, interest or right over land which does not carry with it a right for you (alone or jointly with another) to occupy land or receive income.
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision.

8.2 In sub-paragraph (1)(b), a relevant person is—

- (a) a member of your family or any person with whom you have a close association; 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;
- (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 a type described in sub-paragraph (1)(a)(i) or (ii).

9. Registration of Disclosable Pecuniary Interests and Personal Interests

9.1 Subject to paragraph **Error! Reference source not found.** (sensitive interests), you must, within 28 days of:

- (a) this Code being adopted or applied by the Authority; or
- (b) your election or appointment (where that is later),

notify the Authority's Monitoring Officer in writing of any Disclosable Pecuniary Interests that are notifiable and/or Personal Interests you have at that time.

9.2 Subject to paragraph **Error! Reference source not found.** (sensitive interests), you must, within 28 days of becoming aware of any new Disclosable Pecuniary Interest or Personal Interests or any change to any such interest, notify the Authority's Monitoring Officer in writing of that new pecuniary interest or change.

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10. Disclosure of interests

10.1 Disclosable Pecuniary Interests

10.1.1 If you attend a meeting and have and are aware that you have a disclosable pecuniary interest in any matter to be considered, or being considered, at that meeting, –

(a) if the interest is not entered in the Authority's register of members' interests, you must, subject to sub-paragraph 11.1 below, disclose to the meeting the fact that you have a Disclosable Pecuniary Interest in that matter. If you have not already done so, you must notify the Authority's Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure, and

(b) whether the interest is registered or not you must not – unless you have obtained a dispensation from the Authority's Monitoring Officer –

(i) apart from making representations, giving evidence or answering questions, prior to the commencement of the debate on that matter, participate, or participate further, in any discussion of the matter at the meeting; or

(ii) remain in the meeting room whilst the matter is being debated or participate in any vote taken on the matter at the meeting.
(Procedure rule required)

10.2 Personal Interests

10.2.1 Where you have a personal interest described in paragraph 8 above in any business of the Council authority, and where you are aware or ought reasonably to be aware of the existence of the personal interest, and you attend a meeting of the Council at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

10.2.2 Where you have a personal interest in any business of the Council which relates to or is likely to affect a person described in paragraph 8), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business

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10.2.3 Where you have a personal interest but, by virtue of paragraph 4, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

10.2.4 Where you have a personal interest in any business of the Council and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

10.3 Non participation in case of pecuniary interest

(1) Where you have a personal interest in any business of the Council you also have a pecuniary interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgment of the public interest and where that business—

(a) affects your financial position or the financial position of a person or body described in paragraph 8.;or

(b) relates to the determining of any approval, consent, license, permission or registration in relation to you or any person or body described in paragraph.

(2) Subject to paragraph (3) and (4), where you have a pecuniary interest in any business of the Council—

a) You may not participate in any discussion of the matter at the meeting.

b) You may not participate in any vote taken on the matter at the meeting.

c) If the interest is not registered, you must disclose the interest to the meeting.

d) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

e) in accordance with Committee procedure Rules you must to leave the room where the meeting is held while any discussion or voting takes place.

(3) Where you have a pecuniary interest in any business of the Council, 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, whether under a statutory right or otherwise and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

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- (4) Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a pecuniary interest that relates to the functions of the Council:
- (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
 - (ii) 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 the child attends;
 - (iii) 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;
 - (iv) an allowance, payment or indemnity given to members;
 - (v) any ceremonial honour given to members; and
 - (vi) setting council tax or a precept under the Local Government Finance Act 1992.
- (5) Where, as an executive member, you may discharge a function alone, and you become aware of a pecuniary interest in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

10.4 Interests arising in relation to overview and scrutiny committees

In any business before an overview and scrutiny committee of the Council (or of a sub-committee of such a committee) where—

- (a) that business relates to a decision made (whether implemented or not) or action taken by the executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken,

You may only attend a meeting of the overview and scrutiny committee for the purpose of answering questions or giving evidence relating to the business, and you must leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

11. Sensitive Interests

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- 11.1 Where you consider (and the Authority's Monitoring Officer agrees) that the nature of a Disclosable Pecuniary or Personal Interest is such that disclosure of the details of the interest could lead to you or a person connected with you being subject to intimidation or violence, it is a "sensitive interest" for the purposes of the Code, and the details of the sensitive interest do not need to be disclosed to a meeting, although the fact that you have a sensitive interest must be disclosed, in accordance with paragraph 0 above.

12. Gifts and Hospitality

- 12.1 You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £50 which you have accepted as a member from any person or body other than the authority.

The Monitoring Officer will place your notification on a public register of gifts and hospitality.

This 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.

You must also disclose the offer of gifts or hospitality that you are offered even if you do not accept it.

PART 3

RELATED DOCUMENTS

13. Arrangements for dealing with alleged breaches of the KBC Members' Code of Conduct.

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KETTERING BOROUGH COUNCIL MEMBERS' CODE OF CONDUCT

The Members' Code of Conduct is intended to promote high standards of behaviour amongst the elected and co-opted members of the council.

The Code is underpinned by the following principles of public life which should be borne in mind when interpreting the meaning of the Code:-

- i. **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 benefits for themselves, their family or their friends.
- ii. **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.
- iii. **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.
- iv. **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.
- v. **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.
- vi. **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.
- vii. **Leadership** Holders of public office should promote and support these principles by leadership and example.

PART 1

GENERAL PROVISIONS

1. Introduction and interpretation

- 1.1 This Code applies to **you** as a member of Kettering Borough Council (“KBC”)
- 1.2 The term “**the Authority**” used in this Code refers to Kettering Borough Council.
- 1.3 “**Member**” means any person being an elected or co-opted member of the Authority.
- 1.4 It is **your** responsibility to comply with the provisions of this Code.
- 1.5 In this code –
- “**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, joint sub-committees;
 - d) Any of the Authority’s **advisory groups** and **executive boards**, working parties and panels
 - e) Any other discussions and meetings that are attended
- 1.6 In this Code “**relevant authority**” has the meaning given to it by section 27(6) of the Localism Act 2011.

2. Scope

- 2.1 You must comply with this Code whenever you are acting in your official capacity as a Member of the Authority.

2.2 Where you act as a representative of the Authority:-

- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
- (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

3. General obligations

3.1 You must treat others with respect.

3.2 You must not:-

- (a) do anything which may cause the Authority to breach UK equalities legislation;
- (b) bully any person
- (c) intimidate or attempt to intimidate any person who is or is likely to be:-
 - (i) a complainant;
 - (ii) a witness; or
 - (iii) involved in the administration of any investigation or proceedings,
- (d) in relation to an allegation that a Member (including yourself) has failed to comply with his or her authority's code of conduct, do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.
- (e) conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

4. You must not:-

4.1 disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:-

- (a) you have the consent of a person authorised to give it;
- (b) you are required by law to do so;
- (c) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- (d) the disclosure is:-

- (i) reasonable and in the public interest; and
 - (ii) made in good faith and in compliance with the reasonable requirements of the authority; or
- 4.2 prevent another person from gaining access to information to which that person is entitled by law.
- 5. You must not:-**
- 5.1 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; and
- 6. You must:-**
- 6.1 when using or authorising the use by others of the resources of your authority:-
 - (a) act in accordance with your authority's reasonable requirements;
 - (b) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- 6.2 have regard to any Local Authority Code of Publicity made under the Local Government Act 1986.
- 6.3 when taking decisions pay due regard to the advice of officers, and in particular to the advice of statutory officers namely the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer.
- 6.4 You must give reasons for all decisions in accordance with statutory requirements and any reasonable additional re

PART 2

INTERESTS

7. Disclosable Pecuniary Interests

- 7.1 Breaches of the rules relating to Disclosable Pecuniary Interests may lead to criminal sanctions being imposed.
- 7.2 You have a disclosable pecuniary interest if it is of a description specified in regulations made by the Secretary of State as set out below and either:
 - (a) it is an interest of yours, or
 - (b) it is an interest of:
 - (i) your spouse or civil partner;
 - (ii) a person with whom you are living as husband and wife, or

(iii) a person with whom you are living as if you were civil partners

and you are aware that that other person has the interest.

7.3 Disclosable Pecuniary Interests are:

Subject:	Description:
Employment, office, trade, profession or vocation Sponsorship	Any employment, office, trade, profession or vocation carried on by you for profit or gain. Any payment or provision of any other financial benefit (other than from Kettering Borough Council) made or provided to you within 12 months ending with the day on which you notified the Council's Monitoring Officer of any disclosable pecuniary interests in respect of any expenses you incurred in carrying out your duties as a member, or towards your election expenses. (This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.)
Contracts	Any contract that Kettering Borough Council has with you or your partner (or a body in which you or your partner have a beneficial interest, and a) under which goods or services are to be provided or works executed: and b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the Borough of Kettering
Licences	Any licence (alone or jointly with others) to occupy land within the Borough of Kettering for a month or longer.
Corporate tenancies	Any tenancy where to your knowledge— (a) the landlord is Kettering Borough Council; and (b) the tenant is a body in which you or your partner have a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to your knowledge) has a place of business or land within the Borough of Kettering and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For the purpose of the Regulations the following definitions apply:

“Body” means a firm in which you are a partner or a body corporate of which you are a director (which includes a member of the committee of management of an industrial and provident society), or in the securities of which you have a beneficial interest.

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

“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

8. Personal Interests

8.1 You have a personal interest in any business of your authority where either: -

- (a) it relates to or is likely to affect:
 - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
 - (ii) any body:
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
 - (iii) any easement, servitude, interest or right over land which does not carry with it a right for you (alone or jointly with another) to occupy land or receive income.
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision.

8.2 In sub-paragraph (1)(b), a relevant person is—

- (a) a member of your family or any person with whom you have a close association; 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;

(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 a type described in sub-paragraph (1)(a)(i) or (ii).

9. Registration of Disclosable Pecuniary Interests and Personal Interests

9.1 Subject to paragraph **Error! Reference source not found.** (sensitive interests), you must, within 28 days of:

(a) this Code being adopted or applied by the Authority; or

(b) your election or appointment (where that is later),

notify the Authority's Monitoring Officer in writing of any Disclosable Pecuniary Interests that are notifiable and/or Personal Interests you have at that time.

9.2 Subject to paragraph **Error! Reference source not found.** (sensitive interests), you must, within 28 days of becoming aware of any new Disclosable Pecuniary Interest or Personal Interests or any change to any such interest, notify the Authority's Monitoring Officer in writing of that new pecuniary interest or change.

10. Disclosure of interests

10.1 Disclosable Pecuniary Interests

10.1.1 If you attend a meeting and have and are aware that you have a disclosable pecuniary interest in any matter to be considered, or being considered, at that meeting, –

(a) if the interest is not entered in the Authority's register of members' interests, you must, subject to sub-paragraph 11.1 below, disclose to the meeting the fact that you have a Disclosable Pecuniary Interest in that matter. If you have not already done so, you must notify the Authority's Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure, and

(b) whether the interest is registered or not you must not – unless you have obtained a dispensation from the Authority's Monitoring Officer –

(i) apart from making representations, giving evidence or answering questions, prior to the commencement of the debate on that matter, participate, or participate further, in any discussion of the matter at the meeting; or

(ii) remain in the meeting room whilst the matter is being debated or participate in any vote taken on the matter at the meeting. (Procedure rule required)

10.2 Personal Interests

- 10.2.1 Where you have a personal interest described in paragraph 8 above in any business of the Council authority, and where you are aware or ought reasonably to be aware of the existence of the personal interest, and you attend a meeting of the Council at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- 10.2.2 Where you have a personal interest in any business of the Council which relates to or is likely to affect a person described in paragraph 8), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business
- 10.2.3 Where you have a personal interest but, by virtue of paragraph 4, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- 10.2.4 Where you have a personal interest in any business of the Council and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

10.3 Non participation in case of pecuniary interest

- (1) Where you have a personal interest in any business of the Council you also have a pecuniary interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgment of the public interest and where that business—
- (a) affects your financial position or the financial position of a person or body described in paragraph 8.;or
 - (b) relates to the determining of any approval, consent, license, permission or registration in relation to you or any person or body described in paragraph.
- (2) Subject to paragraph (3) and (4), where you have a pecuniary interest in any business of the Council—
- a) You may not participate in any discussion of the matter at the meeting.
 - b) You may not participate in any vote taken on the matter at the meeting.
 - c) If the interest is not registered, you must disclose the interest to the meeting.

d) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

e) *in accordance with Committee procedure Rules you must to leave the room where the meeting is held while any discussion or voting takes place.*

(3) Where you have a pecuniary interest in any business of the Council, 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, whether under a statutory right or otherwise and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

(4) Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a pecuniary interest that relates to the functions of the Council:

(i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;

(ii) 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 the child attends;

(iii) 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;

(iv) an allowance, payment or indemnity given to members;

(v) any ceremonial honour given to members; and

(vi) setting council tax or a precept under the Local Government Finance Act 1992.

(5) Where, as an executive member, you may discharge a function alone, and you become aware of a pecuniary interest in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

10.4 Interests arising in relation to overview and scrutiny committees

In any business before an overview and scrutiny committee of the Council (or of a sub-committee of such a committee) where—

(a) that business relates to a decision made (whether implemented or not) or action taken by the executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and

(b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken,

You may only attend a meeting of the overview and scrutiny committee for the purpose of answering questions or giving evidence relating to the business, and you must leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

11. Sensitive Interests

- 11.1 Where you consider (and the Authority's Monitoring Officer agrees) that the nature of a Disclosable Pecuniary or Personal Interest is such that disclosure of the details of the interest could lead to you or a person connected with you being subject to intimidation or violence, it is a "sensitive interest" for the purposes of the Code, and the details of the sensitive interest do not need to be disclosed to a meeting, although the fact that you have a sensitive interest must be disclosed, in accordance with paragraph 0 above.

12. Gifts and Hospitality

- 12.1 You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £50 which you have accepted as a member from any person or body other than the authority.

The Monitoring Officer will place your notification on a public register of gifts and hospitality.

This 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.

You must also disclose the offer of gifts or hospitality that you are offered even if you do not accept it.

PART 3

RELATED DOCUMENTS

13. Arrangements for dealing with alleged breaches of the KBC Members' Code of Conduct.

KETTERING BOROUGH COUNCIL

Arrangements For dealing with standards allegations under the Localism Act 2011

1 Context

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

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

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

2 The Code of Conduct

The Council has adopted a Code of Conduct for members, which is attached as Appendix One to these arrangements and available for inspection on the Council’s website at www.Kettering.gov.uk and on request from the Municipal Offices, Bowling Green Road, Kettering, NN15 7QX.

Each Town and Parish council is also required to adopt a Code of Conduct. If you wish to inspect a Town/Parish Council’s Code of Conduct, you should inspect any website operated by the parish council and request the parish clerk to allow you to inspect the parish council’s Code of Conduct.

3 Making a complaint

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

“The Monitoring Officer
Kettering Borough Council
Municipal Offices
Bowling Green Road

Kettering Borough Council NN15 7QX

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

In order to ensure that you submit all the information which is required to process your complaint (including any documentation that supports your claim) please use the model complaint form, which can be downloaded from the authority's website and is available on request from the Monitoring Officer. The Complaint Form is attached at Appendix Two.

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

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

4 Will your complaint be investigated?

The Complaints procedure will be conducted by the Head of Paid Service in consultation with the Monitoring Officer and the Responsible Finance Officer and is referred to in this procedure as the Statutory Officer Group.

The Statutory Officer Group will review every complaint received and, may consult with the Independent Person, (see paragraph 11 below) and take a decision as to whether it merits formal investigation. This decision will normally be taken within 28 days of receipt of your complaint. You will be informed of the decision and the reasons for that decision.

Where additional information is required in order to come to a decision, you may be contacted for such information, and the Monitoring Officer may request information from the member against whom your complaint is directed. Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Council before the Statutory Officer Group decide whether the complaint merits formal investigation.

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

In determining whether a complaint should be referred for investigation or to seek an informal resolution the Statutory Officer Group will take into account the following criteria:

- I) Has the complainant provided sufficient information to make a decision
- II) Does the complaint show a potential breach of the Code?
- III) Was the Councillor complained about acting in his official capacity?

- IV) Is the complaint about something that happened so long ago that there would be little benefit in taking action?
- V) Is the complaint trivial to warrant further action?
- VI) Is the complaint politically motivated, vexatious or tit for tat?
- VII) Is there an alternative resolution available to address the complaint?

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

5 How is the investigation conducted?

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

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

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

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send their final report to the Statutory Officer Group.

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

The Statutory Officer Group will, in consultation with the Independent Person, review the Investigating Officer's report and, if they are satisfied that the Investigating Officer's report is sufficient, a letter will be sent to you and to the member concerned and to the Town/Parish Council, where your complaint relates to a Town/Parish Councillor, notifying you that she is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report.

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

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

7.1 Local Resolution

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

7.2 Local Hearing

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

If the Investigating Officer's report is referred for a Local Hearing the Monitoring Officer will conduct a "pre-hearing process", requiring the member to give their response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearings Panel. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

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

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

The Hearings Panel may recommend to Council any of the following sanctions –y

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

9 What happens at the end of the hearing?

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

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

10 Who are the Hearings Panel?

The Hearings Panel is a Sub-Committee of the Council's Standards Advisory Committee. The Standards Advisory Committee has decided that it will comprise a maximum of five members drawn from the Standards Advisory committee.

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

11 Who is the Independent Person?

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

A person cannot be “independent” if he/she –

- 11.1 Is, or has been within the past 5 years, a member, co-opted member or officer of the Council or a parish Council within the authority’s area unless appointed before 1 July 2013
- 11.2 Is a relative, or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, “relative” means –
 - 11.2.1 Spouse or civil partner;
 - 11.2.2 Living with the other person as husband and wife or as if they were civil partners;
 - 11.2.3 Grandparent of the other person;
 - 11.2.4 A lineal descendent of a grandparent of the other person;
 - 11.2.5 A parent, sibling or child of a person within paragraphs 11.3.1 or 11.3.2;
 - 11.2.6 A spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5; or
 - 11.2.7 Living with a person within paragraphs 11.3.3, 11.3.4 or 11.3.5 as husband and wife or as if they were civil partners.

12 Revision of these arrangements

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

13 Appeals

There is no right of appeal

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

Appendix One The authority’s Code of Conduct

Appendix two The Complaint Form

INDEPENDENT PERSON

A. Criteria

A person cannot be considered independent”:-

1. He is, or has been within the last 5 years, an elected or co-opted member or an officer of the District Council or of any of the Parish Councils within its area;
2. He is, or has been within the last 5 years, an elected or co-opted member of any Committee or Sub-Committee of the Borough Council or of any of the Parish Councils within the area. However, up to 1 July 2013 the current Independent Members can be appointed as Independent Persons for such term as the Council considers appropriate, but where the Independent Person comes up for re-appointment after 1 July 2013 the former Independent Member will not be eligible to be appointed; or
3. He is a relative or close friend of a current elected or co-opted member or officer of the District Council or any Parish Council within its area, or of any elected or cop-opted member of any Committee or Sub-Committee of such Council.

For this purpose, “relative” comprises –

- a) the candidate’s spouse or civil partner;
- b) any person with whom the candidate is living as if they are spouses or civil partners;
- c) the candidate’s grandparent;
- d) any person who is a lineal descendent of the candidate’s grandparent;
- e) a parent, brother, sister or child of anyone in Paragraphs (a) or (b);
- f) the spouse or civil partner of anyone within Paragraphs (c), (d) or (e); or
- g) any person living with a person within Paragraphs (c), (d) or (e) as if they were spouse or civil partner to that person.

B. Functions of the Independent Person

1. The functions of the Independent Person(s) are –
 - ♦ They must be consulted by the authority before it makes a finding as to whether a member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that member (this means on a decision to take no action where the investigation finds no evidence of breach or, where the investigation finds evidence that there has been a breach, on any local resolution of the complaint, or

on any finding of breach and on any decision on action as a result of that finding);

- ♦ They may be consulted by the authority in respect of a standards complaint at any other stage; and
 - ♦ They may be consulted by a member or co-opted member of the Borough Council or of a Parish Council against whom a complaint has been made.
2. This can potentially cause some problems, as it would be inappropriate for an Independent Person who has been consulted by the member against whom the complaint has been made, and who might as a result be regarded as prejudiced on the matter, to be involved in the determination of that complaint.