

# Appendix C

Please disregard formatting changes, these will be addressed when the content is approved.

## LOCAL ARRANGEMENTS FOR DEALING WITH COMPLAINTS ABOUT MEMBERS UNDER THE LOCALISM ACT 2011 (Act)

### 1. Introduction

1.1 ~~1.1~~ These "Arrangements" set out how ~~you may make~~ a complaint ~~maybe made~~ that an elected or co-opted ~~m~~Member of Lincolnshire County Council (the Council) has failed to comply with the Council's Code of Conduct. They also set out how the Council will deal with any complaints of a failure to comply with the Code of Conduct.

1.2 Under Section 28 of the Localism Act 2011, the Council must have in place Arrangements under which allegations that an elected Member or co-opted Member of the Council within its area has failed to comply with that Authority's Code of Conduct can be investigated and decisions made on such allegations.

1.3 ~~2~~ Such Arrangements must provide for the Council to ~~must~~ appoint at least one Independent Person, whose views must be sought by the Council before it ~~t~~makes a decision on an allegation that ~~which~~ it has decided to investigate. The Independent Person may also be consulted by the Monitoring Officer at any stage of these Arrangements and may be consulted by ~~the~~a Subject Councillor against whom an allegation has been made.

The Independent Person is a local impartial member of the public who has no personal or professional ties to any Councillor. References to the Independent Person in ~~these~~is Arrangements are references to any person appointed by the Council as an Independent Person pursuant to Section 28 (7) of the Act.

1.4 ~~3~~ These Arrangements reflect the commitment of Group Leaders to maintaining high standards of conduct and their wish to demonstrate that commitment by playing a leading role.

1.5 These Arrangements ~~do not make provisions for escalation of complaints made to any other local authority and~~ relate solely to Lincolnshire County Councillors acting in the capacity as County Councillors. ~~Complaints concerning councillors acting in the capacity as either Parish and District C~~councillors ~~complaints~~ should be made to the relevant District Council's Monitoring Officer and it should be understood that ~~these~~ Arrangements do not provide a route of escalation or appeal for such complaints.

### 2. The Code of Conduct

2.1 The Council has adopted a Code of Conduct for Members, which is attached as Appendix A to these Arrangements and is available for inspection on the Authority's website or on request from the Monitoring Officer.

### 2.3. Making a Complaint

23.1 A complaint should be made to the Monitoring Officer, who is a senior officer of the Authority who has statutory responsibility for maintaining the register of Members' interests and who is responsible for administering the system in respect of complaints of Member misconduct.

3.2 A complaint must be made on the Councillor Complaint Form (attached at Appendix B to these Arrangements) and returned in writing in hard copy by post or in electronic format by e-mail to:

The Monitoring Officer  
County Offices  
Newland  
Lincoln  
LN1 1YS

E-mail: [monitoring.officer@lincolnshire.gov.uk](mailto:monitoring.officer@lincolnshire.gov.uk)

Provision is made to complete an interactive form via the Council's website.

~~If you cannot~~ a Complainant cannot complete ~~the a~~ form for any reason, they should please contact the Monitoring Officer at the above addresses for assistance or call 01522 552840 to speak with the Head of Democratic Services.

### 3.3

~~2.2~~ In completing ~~the your~~ form, Complainant's should ~~please~~ provide their us with ~~your~~ name and a contact address or email address, so that we can acknowledge receipt of ~~the your~~ complaint and keep the Complainant you informed of its progress.

~~If Complainant's you~~ want to keep their your name and address confidential, they should please indicate this in the space provided on the complaint form together with the reason why they you feel their your identity should not be disclosed. ~~However, only in exceptional cases will it be possible not to disclose your identity.~~

a) As a matter of fairness and natural justice, the Subject Councillor~~member~~ should normally be informed who has complained about them.

-The Council will not consider anonymous complaints unless there is a clear public interest in doing so. In the interests of transparency and fairness, the identity of the Complainant will be made known to the subject of the complaint (the Subject Councillor) and those who have to deal with the complaint. When a Complainant requests confidentiality, this will be considered by the Monitoring Officer who retains ultimate discretion as to whether to release details to the Subject Councillor or other officers.

In considering such cases the Monitoring Officer will consult with the Independent Person and in reaching a decision will balance the public interest in ensuring that the Subject Councillor is aware of who has complained against them against the complainant's wish that their identity be withheld.

If the Monitoring Officer decides to refuse a request for confidentiality, they will offer the Complainant the opportunity to consider resubmitting the complaint with their identity disclosed.

3.4 Any complaint must provide sufficient detail about why the person complaining (the Complainant) considers that there has been a failure to comply with the Code of Conduct. Complainant's should Pt.

lease limit the amount of supporting documents (if any) to those that are directly relevant and material to the complaint. If, on consideration of the complaint, further information/documentation is thought necessary, Complainant's you will be asked to provide it.

3.5 There may be exceptional circumstances where the Monitoring Officer, after consulting with the Independent Person, will not accept a your complaint. In such circumstances, Complainant's You will be notified of the reasons.

3.6~~2.4~~ The Monitoring Officer's decision at all stages are final and there is no right of appeal or review of their decision.

### 3.4. Initial Assessment of a Complaint

43.1 On receipt of a complaint the Monitoring Officer will acknowledge receipt within five working days of receiving it and will keep Complainant's you informed of the progress of their your complaint. and inform the Complainant what will happen next. ~~The Monitoring Officer will also inform the Subject Councillor and relevant Group Leader that a complaint has been received. The Monitoring Officer will keep the Complainant, Subject Councillor and relevant Group Leader informed of progress at regular intervals.~~

~~3.2~~ The Monitoring Officer will then carry out an initial assessment of the complaint. At this initial assessment stage, the Monitoring Officer will review the complaint and may consult the Independent Person before making a decision about whether to take any further action concerning the complaint. The Monitoring Officer may require further information from the Complainant or Subject Councillor before making a decision on the initial assessment.

~~4.2.3.3~~ Before assessment of the complaint begins the Monitoring Officer must be satisfied that the complaint:

~~No further action will be taken on any complaint if, the opinion of the Monitoring Officer:-~~

~~4.2.3.1~~ is against ~~one or more named~~ a serving ~~Members~~ Councillor of Lincolnshire County Council;

~~-is about a Councillor~~ member who was in office at the time of the alleged misconduct and acting in their official capacity as a Councillor at that time; ~~the Code of Conduct was in force at the time,~~

~~4.2.2~~ is about the behaviour of the Councillor when the Councillor is carrying out their duties as Councillor (the Code of Conduct does not apply to a Councillor's private life); and

~~4.2.3~~ if proven, would be a breach of the Code of Conduct in force at the time of the alleged misconduct. ~~under which the member was operating at the time of the alleged misconduct.~~

~~the behaviour complained of falls outside of the Code of Conduct; or~~

~~3.3.2~~ the Subject Councillor was not acting in their capacity as a member of the County Council.

If the complaint fails any one of these tests, it will not be progressed as a breach of the Code of Conduct and no further action will be taken on it.

~~4.3.34~~ Whether the Subject Councillor was acting in their official capacity as an elected Member of the County Council is a judgment to be made in individual cases. Relevant considerations will be whether the behaviour was public including whether it involved the use of publicly available social media and whether the Subject Councillor claimed to act or gave the impression that they were acting in their capacity as an elected Member or representative of the County Council, rather than acting in a purely private capacity. The substance of the complaint and whether it concerned the business or functions of the County Council will also be a relevant consideration.

4.4 The standards complaints process does not exist to determine how well a Councillor or co-opted Councillor fulfils their role on the Council or determine dissatisfaction on the part of a resident as to the way a Councillor has responded to their concerns. Examples would include a delay or failure to respond to a query. These are matters for the democratic

process with which it would be inappropriate for the Monitoring Officer to become involved. If in the view of the Monitoring Officer a complaint relates to a Councillor's fulfilment of their role, they will refer the complaint to the relevant Group Leader to consider, but no further action will be taken on the complaint under these Arrangements.

~~4.5 Before The Monitoring Officer will then initial as~~ assessing ~~the~~ **the** complaint the Monitoring Officer will inform the Subject Councillor (copying in the relevant Group Leader) that a complaint has been received and invite the Subject Councillor's views on the complaint. Once the Subject Councillor's views have been received, the Monitoring Officer will consult the Independent Person and share with them the complaint and Subject Councillor's views. ~~At this initial assessment stage, the Monitoring Officer will review the complaint and may consult the Independent Person before making a decision about whether to take any further action concerning the complaint.~~ The Monitoring Officer may seek ~~require~~ further information from either the Complainant or Subject Councillor before making a decision on the ~~initial~~ assessment.

~~4.6 The Monitoring Officer will also inform the Subject Councillor and relevant Group Leader that a complaint has been received.~~ **The Monitoring Officer will keep the Complainant, Subject Councillor (and relevant Group Leader) informed of progress at regular intervals.**

~~4.73.5~~ In assessing the complaint the Monitoring will consider the documents received under paragraph 4.5 together with the views of the Independent Person and will be guided by the following criteria, although a complaint would not normally progress beyond the assessment stage if the Monitoring Officer considers any of these criteria to ~~withi~~be met:-

~~34.75.1~~ If the complaint is **deemed to be** the same or substantially the same as a previous complaint (regardless of whether it is the same Complainant), **which has already been the subject of assessment and there is nothing more to be gained by further action being taken;** ~~or subject of an investigation or other action relating to the Code of Conduct or another disciplinary procedure;~~

~~43.75.2~~ If **the event/s/incident/s complained of took place t is received more than six months prior to the date of the complaint being received;** ~~the time since after the alleged behaviour was demonstrated~~ is significant

~~4.7.3~~ **If the complaint is deemed to be** ~~so as to be~~ inequitable, unreasonable or otherwise **there is no overriding** ~~not in the~~ public interest in it being pursued;

~~43.75.43~~ If the complaint (in the view of the Monitoring Officer) discloses only a minor or trivial breach of the Code of Conduct that it is not in the public interest to pursue;

~~43.75.54~~ If the complaint is **deemed** or appears to be (in the view of the Monitoring Officer) malicious, **vexatious**, persistent or otherwise submitted with an improper motive and the complaint is not considered to disclose sufficiently serious potential breaches of the Code of Conduct to merit further consideration;

~~43.75.5.6~~ by the Monitoring Officer<sup>356</sup> If the Subject Councillor has remedied or made reasonable endeavours to remedy the subject matter of complaint (for example, by apologising) and the complaint is **considered capable of other informal resolution** (see paragraph 4.8 below). does not (in the view of the Monitoring Officer) disclose sufficiently serious potential breaches of the Code of Conduct; and

~~3.5.7~~ If the complaint is about a person who is no longer a member of the Council and there is (in the view of the Monitoring Officer) no overriding public interest in pursuing the complaint further.

**4.7.7 If the Subject Councillor is suffering with ill health to a level deemed that it would not be in the public interest to pursue the complaint at the current time.**

**4.7.8 If it is deemed that the complaint concerns, or is really about dissatisfaction with, a Council decision or policy rather than a breach of the Code of Conduct.**

**4.7.9 The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter and where independent evidence is likely to be difficult or impossible to obtain.**

**4.7.10 Where the allegation is anonymous, unless it includes documentary or photographic evidence indicating an exceptionally serious or significant matter and it is considered in the public interest that it be investigated.**

**4.7.11 It is considered that having regard to the nature of the complaint and the level of its potential seriousness, it would not be proportionate or in the public interest to incur the cost of an investigation.**

**4.7.12 In all the circumstances, there is no overriding public benefit or interest in carrying out an investigation.**

**4.8 In appropriate cases, the Monitoring Officer may, following consultation with the Independent Person, deem that the complaint is capable of informal resolution without the need for a formal investigation. Such informal**

resolution may involve the Subject Councillor accepting that his/her conduct was unacceptable and offering an apology or the complaint maybe considered suitable for mediation or such other remedial action. Where the Subject Councillor concerned makes a reasonable offer of informal resolution such as an apology or other remedial action, but the Complainant is you are not willing to accept that offer of informal resolution, the Monitoring Officer will take this into account in deciding whether the complaint merits further action under these Arrangements.

4.9 The Monitoring Officer may also, following consultation with the Independent Person, refer a previously considered complaint for formal investigation if attempts to informally resolve a matter break down, or if either party does not act in good faith in attempting to reach a mutually acceptable outcome.

~~36 The standards complaints process does not exist to determine how well a member or co-opted Member fulfils their role on the Council or determine dissatisfaction on the part of a resident as to the way a member has responded to their concerns. Examples would include delay or failure to respond. These are matters for the democratic process with which it would be inappropriate for the Monitoring Officer to become involved. If in the view of the Monitoring Officer a complaint relates to the Subject Councillor's fulfilment of their role they will refer the complaint to the relevant Group Leader to consider.~~

~~43.107 These arrangements are not intended to apply to allegations of criminal offences or other regulatory breaches which will be referred by the Monitoring Officer to the Police or other regulatory body. If the matter is referred to the Police or other relevant regulatory body the Monitoring Officer will take no further action on the complaint.~~

~~It should be noted that complaints which allege that Councillors may have committed a criminal offence in breaching the 'disclosable pecuniary interest' provisions under Section 34 of the Localism Act 2011, will be referred by the Monitoring Officer to Lincolnshire Police for consideration.~~

4.11 The Monitoring Officer may also refer allegations of criminal activity or a breach of other regulations to the police or any other regulatory body for consideration. In such cases, it is likely that the County Council will pause the assessment of your complaint.

4.12 All complaints must be treated with the strictest confidence during assessment and investigation and all parties are requested to respect this. This is to ensure the integrity of the process, and to comply with the relevant legislation. Councillors should not discuss the matter with

others, including at public meetings, as this may constitute a breach of the Code of Conduct.

~~43.138~~ If, following the initial assessment, the Monitoring Officer determines that no further action should be taken, the Monitoring Officer will notify the Complainant **and** of this fact and the reasons for their decision. ~~The Monitoring Officer will also notify the Subject Councillor (copying in the relevant Group Leader) with details of the decision made and the reasons for the same.~~

#### **4.5. Further action following assessment.**

~~39~~If, following the initial assessment, the Monitoring Officer determines that further action should be taken, the Monitoring Officer may

~~43.911.1~~ Arrange appropriate **other** actions (e.g. mediation or training **detailed below**);

~~34.119.2~~ Refer the complaint to the relevant Group Leader for informal action; or

~~43.119.3~~ Arrange a formal investigation of the complaint.~~30~~The Monitoring Officer will inform the Complainant, the Subject Councillor and the relevant Group Leader of the result of the initial assessment within 15 working days of receipt of the complaint by the Monitoring Officer or if further information is required under paragraph 3.2 above, within 15 working days of receipt of all such further information.

~~4~~**Where further action is required**~~54.1~~ Where following assessment, and following consultation with the Independent Person, the Monitoring Officer considers that the complaint merits further action, ~~initial~~they will inform the **Complainant and Subject Councillor (and relevant Group Leader)** of their decision. ~~The Monitoring Officer will seek representations from the Subject Councillor, will consult with the relevant Group Leader and may consult with the Independent Person before determining the next steps.~~**This may involve the following:**

5.1.1 **Arranging for other action** to be taken **with a view to** addressing the issues raised in **the complaint. A decision to take 'other action'** might involve **the Subject Councillor being asked to attend a relevant training course or engage in a process of conciliation** or mediation with the **Complainant**.

5.1.2 Following consultation with the relevant Group Leader, refer **the complaint to the relevant Group Leader for action; or**

5.1.3 Refer the complaint for **formal investigation**.



54.24 Where the Monitoring Officer determines that a formal investigation is -required, they will appoint a suitable person to investigate the complaint, **either in whole or in part. This person will be a Senior Officer of Lincolnshire County Council, of another Council, or an External Investigator.**

5.3 The Investigating Officer will decide whether they need to meet or speak to **the Complainant**~~you~~ **to better** understand the nature of **the** ~~your~~ complaint and so that **the Complainant**~~you~~ can explain **their** ~~your~~ understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

5.4 The Investigating Officer would normally write to the **Subject** Councillor against whom **the complaint has been made** ~~you have complained~~ and provide them with a copy of **the** ~~your~~ complaint and **ask**~~invite~~ the **Subject** Councillor to provide their explanation of events, and to identify what documents **they would want the** ~~Investigating Officer to consider~~ ~~needs to see~~ and who they need to interview. In exceptional cases, where the Monitoring eOfficer has determined that the complaint should proceed with **the Complainant's** ~~your~~ anonymity being preserved, **the Monitoring Officer** will **delete** **the Complainant's**~~your~~ name and address from the papers given to the Subject Councillor.

5.5 Where a complaint is raised by an officer and while it is being investigated, the Subject Councillor must comply with any measures deemed appropriate by the Monitoring Officer in consultation with the Independent Person.

5.6 Ordinarily the Council would hope that investigations will take no more than 6 months to complete from the date the decision to investigate is taken, and this will depend on the facts of each complaint. Some investigations may conclude earlier. If they will take longer, all parties will be informed of the reasons for any delay.

5.7 It is vital to the timely completion of investigations that **Complainant**~~you, as the complainant~~, and the Subject ~~Member~~ Councillor under investigation, comply with the reasonable requirements of the ~~i~~Investigating ~~e~~Officer in relation to interview attendance and the supply of relevant documentation. Should **the Complainant** ~~you~~ not cooperate the Monitoring Officer may determine that **they** ~~you~~ no longer wish to proceed with the complaint. If the Subject Councillor does not comply, the investigation will proceed in the absence of their contribution.

5.8 At the end of the investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to **the Complainant** ~~you~~ and ~~to the~~ Subject Councillor ~~member~~ concerned, to give ~~you~~ both an opportunity to identify any matter in the draft report which **they might** ~~you~~ disagree with or which **they** ~~you~~ consider requires more consideration or clarification.

5.914 Having received and taken account of any such comments, ~~which you may make on the draft report~~, the Investigating Officer will send their final report to the Monitoring Officer. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, they may ask the Investigating Officer to reconsider the report.

5.1054.5 Where the Investigating Officer concludes their investigation and determines that there has been no breach of the Code of Conduct, the Monitoring Officer, will consult with the Independent Person, and if satisfied with the Investigating Officer's report will notify the Subject Councillor, Group Leader and Complainant that no further action is to be taken on the complaint.

5.1164.6 Where the Investigating Officer concludes their investigation and determines that there has been a breach of the Code of Conduct, the Monitoring Officer, in consultation with the Independent Person, will consider whether ~~to resolve the matter informally~~ **Local Resolution** should be attempted or the matter proceed direct to a Local Hearing.

## 6. Local Resolution

6.1 The Monitoring Officer will consult with the Independent Person and the Complainant ~~with you as complainant~~ and seek to agree what is you considered to be a fair resolution which **also** helps to ensure higher standards of conduct for the future. Such resolution may include the Subject Councillor accepting that their conduct was unacceptable and offering an apology, and/or other remedial action by the County Council ~~authority~~.

6.2 If the Subject Councillor ~~Member~~ complies with the suggested resolution, the Monitoring Officer will report the matter to the Audit Committee for information but **will take no further action**. However, if the suggested **Local Resolution** is not complied with, the Monitoring Officer will refer the matter for a Local Hearing.

## 7. A Local Hearing

7.1 A Local Hearing will be conducted by at least three non-Executive ~~M~~members of the Council from at least two political groups, drawn from the Audit Committee of the Council as nominated by the Chairman of the Audit Committee. The Chairman of the Audit Committee will consult with Group Leaders on these nominations.

7.2 The Local Hearing will be conducted in accordance with the Hearing Process attached at Appendix **AC** to these arrangements. Prior to the Local Hearing the Monitoring Officer will engage with the Complainant and Subject Councillor with a view to attempting to narrow the issues in dispute and agreeing those facts

that are not in dispute, so that the Local Hearing may proceed more fairly and economically.

75.3 Where the Local Hearing determines that a breach of the Code of Conduct has occurred they will, ~~except in the circumstances described in paragraph 5.4,~~ make recommendations to the relevant Group Leader who will decide the appropriate actions and notify the Subject Councillor and the Monitoring Officer. The Monitoring Officer will notify the Complainant.

75.4 Where the Local Hearing, having consulted with the Independent Person, decides that a breach has occurred and that the breach is of extreme seriousness the Local Hearing may determine that a motion of censure or reprimand of the Subject Councillor be referred to the next full Council meeting.

75.5 The Monitoring Officer or Local Hearing have no power to suspend or disqualify the Subject Councillor, to withdraw ~~Member's~~ basic or special responsibility allowances or to recommend other outcomes.

## **86. Special Applications**

86.1 In cases where the Subject Councillor complained about is not part of a recognised political grouping, the Monitoring Officer will proceed as detailed above, save from liaison with any Group Leader.

86.2 In cases where the complaint is against a Subject Councillor who is a Group Leader, the Monitoring Officer will proceed as detailed above save that the Monitoring Officer will consult a Senior Member from outside the Council (nominated for that purpose in advance of any complaint by the Group Leader) in all cases where they would have consulted a Group Leader. In such cases, the Local Hearing will consult that Senior Member in addition to the Independent Person. In such cases the Local Hearing will make recommendations as to the action to be taken under paragraph 75.3 above to the relevant Deputy Group Leader who will decide the appropriate action to be taken.

86.3 Where the Monitoring Officer is unable to act in relation to these Arrangements by reason of any conflict of interest or otherwise, he may appoint a Deputy Monitoring Officer from within the Council or appoint an independent Monitoring Officer from another authority to act as Monitoring Officer for the purposes of these Arrangements.

## **97. Revision of these Arrangements**

97.1 The Council may by resolution agree to amend these Arrangements and has delegated to the Monitoring Officer the right to depart from these Arrangements, including the Local Hearing procedure under Appendix C, where they consider that it is expedient to do so to secure the effective and fair consideration of any matter.

## **4. 10. Appeals**

108.1 There is no right of appeal for the Complainant or Subject Councillor against a decision of the Monitoring Officer or the decision or recommendations of the Local Hearing. If a Complainant believes that the Council has failed to deal with their complaint properly **in accordance with these Arrangements**, they may submit a complaint to the Local Government Ombudsman.

## 11. Reporting

**The Monitoring Officer will in their annual report to the Audit Committee** report on the efficacy of these Arrangements, including the number of complaints received and action taken.

# APPENDIX A MEMBERS CODE OF CONDUCT

## Lincolnshire County Council Members' Code of Conduct

The activities of all in public life should be guided by the 7 principles of Public Life, also known as the Nolan Principles. These are set out below:-

### **2.1. Selflessness**

Holders of public office should act solely in terms of the public interest.

### **3.2. Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

### **4.3. Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

### **5.4. Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

## **6.5. Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

## **7.6. Honesty**

Holders of public office should be truthful.

## **8.7. Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

The County Council has adopted this Code of Conduct setting out the expected behaviours required of its members and added members, acknowledging that they have a shared commitment to representing the community and working constructively and in a spirit of mutual respect and co-operation with each other, Council staff and partner organisations to secure better social, economic and environmental outcomes for all.

As the Nolan Principles are the standards expected of all in public life the Code is closely based on but not identical to the Nolan Principles. In particular compliance with the Code does not in itself guarantee that member conduct is consistent with the Nolan Principles. The Code does not therefore detract from the need for members always to have regard to the Principles in guiding their conduct.

In accordance with the Localism Act provisions, when acting in their capacity as Councillors, all Councillors must be committed to behaving in a manner that complies with the following Code.

## **THE CODE**

### **1. SELFLESSNESS:**

Councillors must act solely in terms of the public interest. This means they must not act in order to gain financial or other material benefits for themselves, their family, or their friends. They must not use their position improperly to confer an advantage or disadvantage on any person.

### **2. INTEGRITY:**

Councillors must 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.

Councillors must comply with the Gifts and Hospitality Protocol in Part 5 of the Constitution.

### **3. OBJECTIVITY:**

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

### **4. ACCOUNTABILITY:**

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

This means Councillors will co-operate with the Monitoring Officer or Local Hearing Panel in the course of consideration, investigation or determination of any complaint brought under this Code of Conduct.

### **5. OPENNESS:**

Councillors must act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for doing so.

A Councillor must not, without the consent of the Council or as required by law, disclose information which is

- Contained within an exempt or confidential report within the meaning of the Local Government Act 1972; or
- Which is otherwise confidential to the Council or shared with the Councillor under conditions of confidentiality

Councillors must not disclose any information given to them under conditions of confidentiality by any other person except to the extent that such a disclosure is permitted by law – e.g. due to overriding public interest.

### **6. HONESTY:**

Councillors 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.

This means Councillors will comply with the law relating to disclosable pecuniary interests.

Councillors should be aware that the requirement to resolve conflicts arising in a way that protects the public interest may on occasion require them to disclose interests other than disclosable pecuniary interests and to take no part in debates or votes which engage those interests.

## **7. RESPECT:**

Councillors must at all times show respect to each other, staff and members of the public and engage with them in an appropriate manner and one that underpins the mutual respect that is essential to good local government. Councillors may not always agree with the political views of their member colleagues, but they respect the right for those views to be held.

This means in particular that Councillors will not bully or harass any person. This means, for example, that they will not:-

- use offensive intimidating malicious or insulting behaviour or abuse or misuse power to undermine, humiliate, criticise unfairly or injure any person; or
- be guilty of unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual.

Section D3 of Part 5 of the Constitution – Protocol on Harassment Intimidation and Unacceptable Behaviour gives more detail on these behaviours and applies between members and officers.

## **8. LEADERSHIP:**

Councillors promote and support these principles by leadership and example.

### **NOTE ON SOCIAL MEDIA**

Councillors should note that this Code of Conduct governs their activities on social media in the same way that it governs other activities and councillors should be mindful that the ease of use and very public nature of social media may carry additional risks of breaches of the Code.

### **NOTE ON PLANNING DEVELOPMENT CONTROL**

Section D4 of Part 5 of the Constitution – Planning Development Control Process sets out supplementary requirements in relation to planning which shall form part of this Code of Conduct.

### **NOTE ON DISCLOSABLE PECUNIARY INTERESTS**

The Localism Act 2011 further provides for registration and disclosure of interests and in Lincolnshire County Council this will be done as follows:

On taking up office a member or added member must, within 28 days of becoming such, notify the Monitoring Officer of any 'disclosable pecuniary interests', as prescribed by the Secretary of State.

On re-election or re-appointments, a member or added member must, within 28 days, notify the Monitoring Officer as if for the first time of any 'disclosable pecuniary interests' whether or not such 'disclosable pecuniary interests' were already included in his or her previous register of interests.

If a member or added member is aware that they have a 'disclosable pecuniary interest' in a matter they must not participate in any discussion or vote on the matter at a meeting and if present at the meeting must leave the room during discussion of the matter.

If a member or added member is aware of a 'disclosable pecuniary interest' in a matter under consideration at a meeting but such an interest is not already on the Council's register of interests or in the process of entry onto the register having been notified to the Monitoring Officer, the member or added member must disclose the 'disclosable pecuniary interest' to the meeting and register it within 28 days of the meeting at which it was first disclosed.



**APPENDIX B**  
**COMPLAINT FORM - MEMBER(S) CONDUCT**

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

<b>Date Submitted:</b>	
<b>Title:</b>	
<b>First name:</b>	
<b>Last name:</b>	
<b>Address:</b>	
<b>Daytime telephone:</b>	
<b>Evening telephone:</b>	
<b>Mobile telephone:</b>	
<b>Email address:</b>	

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

However, we will tell the following people that you have made this complaint:

- the **M**ember(s) you are complaining about
- the **M**onitoring **O**fficer of the authority
- the council's Independent Person (if required)
- members of the Hearings Panel if convened to consider your complaint
- officers involved in mediation (if applicable)

We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate to be able to deal with it. If you have serious concerns about your name and a summary, or details of your complaint being released, please complete section 5 of this form.

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

- Member of the public
- An elected or co-opted **M**member of an authority, **including district, town and parish councillor**
- Member of Parliament
- Local authority monitoring officer
- Other council officer or authority employee
- Other (please state) .....

**Making your complaint**

Once your complaint has been received a decision will be taken in accordance with the council’s published arrangements as to what action, if any, should be taken on it. You will not have the opportunity to attend a meeting at this stage. It is important that you provide information that you want taken into account as part of your complaint.

Please refer to the council’s published arrangements under the heading “Making a complaint” which explains how your complaint will be dealt with.

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

Title	First name	Last name	Paragraph of the Code of Conduct believed to have been breached

It is important that you provide a summary of the information you wish to have taken into account (within the space provided) so a decision can be made, in accordance with the published arrangements, whether to take any action on your complaint. For example:

- You should be specific, wherever possible, about exactly what you are alleging the member said or did. For instance, instead of writing that the member insulted you, you should state what it was they said.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.

**Interests.**

Tick this box if you believe that the **M**member(s) either did not declare an interest, or has declared the wrong type of interest. If you are unsure, please tick the box, adding an explanation in section 4.

4. Please explain in this section what the **M**member has done that you believe breaches the Code of Conduct. Please enclose any supporting documents but limit these to those that are directly relevant and material to the complaint.

If you are complaining about more than one **M**member you should clearly explain what each individual **M**member has done that you believe breaches the Code of Conduct.

**Please provide us with details of your complaint (within the space provided)  
Please explain \_\_\_\_\_ what steps, if any, you have taken to resolve this  
complaint directly with the \_\_\_\_\_ **M**member concerned?**

**Would you be prepared to engage in mediation with the member concerned, if considered appropriate, to try and resolve the complaint?**

**Yes**

**No**  *If you answered no please state reason why below:*

**Is there a particular remedy that you seek from the member, such as an apology?**

*Mediation is a way of resolving disputes with the assistance of an independent mediator who will try and help the parties reach a solution to the dispute that both parties are agreeable to. The independent mediator will avoid taking sides, making judgements or giving guidance. They are simply responsible for developing effective communications between the parties with a view to a common sense settlement being arrived at. Mediation is a voluntary process and will only take place if the parties agree and remains confidential to the parties involved.*

**Only complete this next section if you are requesting that your identity is kept confidential.**

5. In the interests of fairness and natural justice, we believe members who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint. -

Please note that requests for confidentiality will only be granted exceptionally. If your request for confidentiality is not granted, you will be given the opportunity to consider whether you wish to proceed with your complaint on the basis that your identity is not kept confidential. **Further information on this can be found in the Council's published Arrangements.**-

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

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

## 6. Additional Help

Complaints must be submitted in writing. This includes electronic submissions. However, in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing. Please contact The Head of Democratic Services on 01522 552840 who can offer you support and services through which to make your complaint.

## LOCAL HEARING UNDER THE MEMBERS CODE OF CONDUCT

### HEARING PROCESS Introduction

- 1 This document sets out the Procedure to be followed at meetings of a Local Hearing Panel constituted under ~~paragraph 5 of~~ the Local Arrangements for Dealing with Standards Complaints under the Council's Constitution.
- 2 The role of the Panel is to consider the Investigators Report and representations, the Subject Councillor's representations and to consult the Independent Person and decide whether there has been a breach of the Members Code of Conduct.
- 3 **The Panel Meetings will be held in public session unless determined by the Chairman in consultation with the Monitoring Officer that it falls within the Local Government Act 1972 Schedule 12a exemptions or that it is not within the public's interest to make the meeting open to the public.**

#### **4. Persons Attending**

- ~~3~~ 3 The following persons shall be in attendance at the Hearing: ~~which shall be conducted in private.~~

- ~~34.1~~ 34.1 the Panel;
- ~~43.2~~ 43.2 the Monitoring Officer;
- ~~43.3~~ 43.3 the Independent Person;
- ~~43.4~~ 43.4 a clerk to take notes of the Hearing
- ~~43.5~~ 43.5 the Subject Councillor";
- ~~43.6~~ 43.6 one person to accompany and assist the Subject Councillor; and
- ~~43.7~~ 43.7 the ~~investigating of~~ Investigating Officer.

#### **5. Notice of the Hearing**

- At least 7 days' notice of the Hearing will be given to the Panel, the Subject Councillor and the ~~investigator~~ Investigating Officer unless a shorter time is agreed at the request of the Subject Councillor. The notice shall be accompanied by the ~~investigator's~~ Investigating Officer's report and accompanying documents and a copy of this Hearing Process.

## **6. Process at the Hearing**

### **6.1 Preliminary Procedural Issues**

6.1.1 Introduction

6.1.2 Declaration of Interest (if any)

6.1.3 To consider any request for exclusion of Press and Public.

### **6.2 Findings of Facts**

6.2.1 Monitoring Officer (or his/her representative) to present summary report and refer to outcome of pre-hearing process.

6.2.2 Investigating Officer to present report and call such witnesses as he/she considers necessary to substantiate his/her conclusion(s) within the report.

6.2.3 Member (or his/her representative) to raise/clarify issues with Investigating Officer, including questioning of the Investigating Officer's witnesses.

6.2.4 Members of the Panel to raise/clarify issues with the Investigating Officer, including the questioning of the Investigating Officer's witnesses.

6.2.5 Member (or his/her representative) to present their case and call such witnesses as he/she considers necessary.

6.2.6 Investigating Officer to raise/clarify issues with the Member (or his/her representative), including the questioning of the Member's witnesses.

6.2.7 Members of the Panel to raise/clarify issues with the Member (or his/her representative) including questioning the Member's witnesses.

6.2.8 Views of the Independent Person sought.

6.2.9 Members of the Panel to raise/clarify issues with the Independent Person.

6.2.10 The Panel will retire, along with the Monitoring Officer, to determine its findings of the fact. The Panel's decision will be reported back to the meeting by the Head of Democratic Services.

### **6.3 Breach of the Code of Conduct.**

6.3.1 The Panel will need to consider whether or not, based on the facts it has found, the Member has breached the Code of Conduct.

6.3.2 Investigating Officer to address the Panel on whether the facts found constitute a breach of the Code of Conduct.

6.3.3 Member (or his/her representative) to address the Panel as to why the facts found do not constitute a breach of the Code of Conduct.

6.3.4 Views of the Independent Person sought.

6.3.5 Members of the Panel to raise/clarify issues.

6.3.6 The Panel will retire, along with the Monitoring Officer, to determine whether there has been a breach of the Code of Conduct. The Panel's decision will be reported back the meeting by the Head of Democratic Services.

(If the Panel determine that there has been no breach of the Code of Conduct, the complaint will be dismissed. If, however, the Panel determine that there has been a breach of the Code of Conduct, the procedure at paragraph 20 will apply).

#### **6.4 Action to be taken**

6.4.1 The Panel will need to determine what action/recommendations, if any, should be taken/made as a result of the Member's breach of the Code of Conduct.

6.4.2 Monitoring Officer (or his/her representative) to outline possible action/recommendations.

6.4.3 Investigating officer to make submissions on such matters.

6.4.4 Member (or his/her representative) to make submission on such matters.

6.4.5 Views of the Independent Person sought on such matters.

6.4.6 Members of the panel to raise/clarify issues.

6.4.7 The Panel will retire along with the Monitoring Officer, to consider what action/recommendations, if any, should be taken/made. The Panel's decision will be reported back to the meeting by the Head of Democratic Services.

6.4.8 Close of Hearing

#### **6.5 After the Hearing**

6.5.1 As soon as reasonably practicable after the Hearing the Monitoring Officer will prepare a formal decision notice in consultation with the Panel Chairman and send a copy to the Subject Councillor and (where applicable) the Subject Councillor's Group Leader. The decision notice will include the reasons for the decision.

6.5.2 The Monitoring Officer will send the decision notice to the Complainant on the expiry of two working days after the formal decision notice was sent to the Subject- Councillor and (where applicable) Group Leader and will report the decision to the next convenient meeting of the Audit Committee.