

# **Councillor Code of Conduct**

## **Procedure for dealing with Complaints**

<b>Contents</b>	<b>Page</b>
1. Introduction	3
2. Overview of the Process	3
3. Independent Oversight	3
4. Submitting a Complaint	4
5. Initial Assessment of your Complaint	4
6. Complaints against 'Dual Hatted' Members	5
7. Confidentiality	6
8. Assessment Criteria	6
9. Informal Resolution	8
10. Investigation	9
11. Investigating Officer Concludes that there is No Evidence of a Breach of the Code of Conduct	9
12. Investigating Officer concludes that there is Evidence of a Breach of the Code of Conduct	10
13. Local Resolution	10
14. Hearing	10
15. Sanctions	11
16. What Happens at the end of the Hearing?	12
17. Appeals	12
18. Revision and Overview of these Arrangements	13
19. <b>Appendix 1</b> Newark & Sherwood District Council Code of Conduct for Members	14
20. <b>Appendix 2</b> Draft Agenda for meetings of the Standards Complaint Hearings Committee and Draft Procedure for conducting Hearings	29
21. <b>Appendix 3</b> Local Government Association Guidance	32

## 1. Introduction

Newark and Sherwood District Council (the “Council”) is committed to promoting and maintaining high standards of conduct by all Councillors and has adopted a Code of Conduct which all Councillors and Co-opted Members of the Council must follow. This Code can be found on the Council’s [website](#) and is attached as **Appendix 1** to this Procedure.

This Procedure provides information about how to complain if you are concerned that a Councillor or Co-opted Member has breached the Code. It also explains the procedure that will be followed when a complaint is received.

This Procedure also applies to complaints regarding Town and Parish Councillors in Newark & Sherwood District. Town and Parish Councils are required to adopt their own Code of Conduct. Town and Parish Councils publish their codes of conduct on their websites – details of which are available on the Council’s [website](#).

Throughout this Procedure the person making the complaint will be referred to as the complainant and the person being complained about will be referred to as the Subject Member.

This Procedure has been reviewed and updated having regard to the Local Government Association Guidance on investigations in Code of Conduct complaints.

If you do not have access to the website please call the Customer Services Centre for assistance; 01636 650 000.

## 2. Overview of the Process

All complaints received will be assessed to decide: -

- a) Whether they are valid
- b) If they are valid, whether any further action should be taken
- c) Whether they can be resolved informally, for example by apology or training
- d) Whether further investigation is needed.

If a matter is considered serious enough to require further investigation it may still be resolved informally after investigation. Where necessary a panel of District Councillors may be convened to hold a hearing to decide whether the Code of Conduct has been breached and, if so, what sanction should be imposed.

Possible sanctions are listed in paragraph 15 of this Procedure. Please note it is **not** possible to suspend or disqualify a Subject Member under this Procedure, or to withdraw payment of allowances. There is no power to impose a sanction which would prevent a Subject Member from effectively undertaking their role.

It should also be noted that where the complaint relates to a Parish or Town Councillor, whilst a panel of District Councillors may recommend a sanction, this is subject to the Parish or Town Council accepting that..

### **3. Independent Oversight**

The Council must appoint an 'Independent Person'. The Independent Person acts as an impartial adviser on complaints. They must be consulted on all valid complaints at all stages of the complaints process.

The Subject Member is also able to seek the view of the Independent Person.

The Council has appointed two Independent Persons.

### **4. Submitting a Complaint**

To ensure the Council has all the information it needs to process a complaint it encourages the complainant to complete the complaints form on the Council's [website](#). Emails and letters will also be accepted.

The complainant should provide their name and contact details, so that receipt of the complaint can be acknowledged and the complainant kept informed of progress. If the complainant wants to keep their name and address confidential, they should inform the Council of this. The Council does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The complaint should include:

- The complainant's name and contact details (reasons for withholding details if necessary)
- Who the complainant is, for example a member of the public, a councillor or an officer
- The name of the Subject Member(s) whom the complainant believes has breached the code of conduct
- the name of the authority of which the Subject Member is a councillor
- what the Subject Member has allegedly done which breaches the code of conduct **including supporting evidence such as dates, recordings and names of witnesses**
- details of which parts of the Code are alleged to have been breached

All complaints should be submitted to:

[Monitoringofficer@newark-sherwooddc.gov.uk](mailto:Monitoringofficer@newark-sherwooddc.gov.uk)

Or by post to:

Monitoring Officer  
Newark and Sherwood District Council  
Castle House

Great North Road  
Newark Notts  
NG24 1BY

If the complainant needs assistance to put their complaint in writing please call the Customer Services Centre for assistance: 01636 650000.

The Council will aim to acknowledge receipt of the complaint within 5 working days of receipt, and will keep the complainant informed on the progress of their complaint.

**Please note, if the complainant does not provide sufficient information and evidence to support a complaint it may be deemed invalid in accordance with this Procedure.**

## **5. Criminal Conduct**

If the complaint identifies alleged criminal conduct or breach of other regulation(s) by any person, the Monitoring Officer can refer the matter to the Police and other regulatory agencies. Where a complaint has been made which relates to ongoing criminal proceedings or police investigation, there may be a delay in progressing the complaint until other investigations/actions are resolved.

## **6. Initial Filtering of the Complaint**

The Monitoring Officer of the Council is a senior officer who has legal responsibility for administering this Procedure. The Monitoring Officer has appointed Deputy Monitoring Officers, who can undertake all Monitoring Officer responsibilities set out in this Procedure if the Monitoring Officer is unable to. If the Monitoring Officer and Deputies are unable to deal with a complaint, for example due to capacity issues (due to volume of complaints or other reasons) or a conflict of interest, the complaint may be passed to a Monitoring Officer at a different authority or another suitably qualified assessor nominated by the Monitoring Officer. Any reference to the Monitoring in this Procedure, may include any Deputy or other qualified assessor if appointed.

### Invalid Complaints

The Monitoring Officer is responsible for reviewing every complaint received. In the first instance the Monitoring Officer will review the complaint to determine whether it is a valid complaint that can be dealt with as a Code of Conduct complaint. To be clear, the circumstances where complaints will be deemed invalid are limited to specific circumstances as set out below:

- Where no evidence to support the complaint is provided or available following engagement with the complainant.
- Where the Code is not engaged as the Subject Member is not acting in capacity as a district, town or parish councillor, for example where a Subject Member is acting in their capacity as a County Councillor, or where the behaviour is carried out in a private capacity. (Note- if there is any doubt on this then it would proceed to assessment stage).

- Where the Subject Member is not a Councillor at the time of the complaint and/or at the time of the incident complained of.
- Where the issue giving rise to the complaint took place over 6 months prior to the complaint.
- Where the complaint is not about an individual Subject Member's conduct but in fact about the Council as a whole or a decision-making body of the Council.
- Where the behaviour complained about is not covered by the Code of Conduct, for example where the complaint relates to dissatisfaction with the Council's decisions, policies or priorities.

In every case where a complaint is deemed invalid, clear reasons for this will be communicated to the complainant. Where a complaint is deemed invalid there will be no requirement to consult with the Independent Person, the complaint would be rejected and would not progress to initial assessment. The subject member (if indeed one is identified) may still be notified. Where there is any doubt as to the validity of the complaint, the complaint will proceed to the assessment stage. It is only in cases where complaints are clearly invalid that no assessment would be undertaken.

### **Initial Assessment - Valid Complaints**

Where a complaint is deemed valid, the Monitoring Officer will write to the Subject Member (and, in the case of a complaint about a Parish or Town councillor, to the clerk of the Parish or Town Council too) with details of the allegations (subject to consideration of any representations from the complainant about confidentiality or concerns that disclosure of certain details about the complaint would prejudice any potential investigation). The Monitoring Officer will also notify the Subject Member of their right to consult with the Independent Person. At the same time the Monitoring Officer will write to the Independent Person with details of the allegations so that they are aware of the nature of the complaint should the subject member consult them.

The Subject Member will be requested to provide within 10 working days of the date of the letter, or such longer period as the Monitoring Officer may agree, any written representations in response to the complaint. The Monitoring Officer will take any such representations received into account when deciding how the complaint will be dealt with.

The Monitoring Officer will review the complaint together with any representations received from the Subject Member and, after consultation with the Independent Person, take a decision as to whether the complaint merits formal investigation or should be dealt with informally or rejected.

The Monitoring Officer may request further information from the complainant or Subject Member in order to enable initial assessment of the complaint. The Monitoring Officer may also carry out pre-assessment enquiries which will not amount to an investigation. This may include obtaining documentation, reviewing recordings of meetings or minutes.

The initial assessment decision will usually be taken within 20 working days of receipt of the complaint or the Subject Member's written representation whichever is the later. There may be circumstances where assessments are deferred; for example, where there are ongoing criminal investigation or where one party is unavailable due to sickness or other genuine reasons. There may also be a delay in timescales where a complaint is particularly complex or capacity to deal with complaints is limited. In all cases the Monitoring Officer will update parties to the complaint in relation to any delay.

The Monitoring Officer will inform the complainant, the subject Member (and, in the case of a complaint against a parish councillor, the clerk of the Parish council too) of the decision on the initial assessment and the reasons for the decision in writing. The decision of the Monitoring Officer will also be reported to the Governance, General Purposes and Local Government Reform Committee (the Committee) for information.

Where the Monitoring Officer has determined that, if the complaint is proven there would potentially be a breach of the Code and has recommended an informal resolution, it is in the public interest for the Subject Member to be named in the report to Committee. However, where the Monitoring officer has made a finding of no breach the Subject Member will not be publicly identified.

The Monitoring Officer will have regard to the Local Government Association [Guidance on the Local Government Association Model Councillor Code of Conduct](#) and the accompanying Local Government Association [Guidance on Member Model Code of Conduct Complaints Handling](#) to assess complaints and take a decisions as to whether the complaint merits formal investigation or whether it should be dealt with informally or rejected. These documents will be referred to throughout the process.

By exception and at their discretion, the Monitoring Officer may refer a complaint to a Sub-Committee of the Committee (The Standards Complaint Hearing Panel) to decide whether or not it should be investigated or other action taken. This could be, for example, where the Monitoring Officer has a conflict of interest, or the matter is particularly high profile.

## **6. Complaints against 'Dual Hatted' Members**

A 'dual hatted' Member is a Member of a Council and who is also a Member of another authority. The Member could be a serving County Councillor, Fire Authority Councillor, District Councillor and Town or Parish Councillor.

If a complaint regarding a 'dual hatted' Member is received the Monitoring Officer will consider whether:

- The complaint clearly relates to incidents or circumstances which have occurred solely in that Member's capacity as a District, Parish or Town Councillor; and

- That no other countywide authority is involved.

If so, the complaint shall be processed by the Monitoring Officer in accordance with this Procedure.

If in the view of the Monitoring Officer the complaint may impact on the capacity of the Member in relation to their role with another authority, the Monitoring Officer may refer the complaint to the other authority. The Council may continue to deal with any aspects of the complaint that relate to the Member's capacity as a District, Parish or Town Councillor within the Newark & Sherwood District.

## **7. Confidentiality**

In the interests of fairness and natural justice, the Council believes that Subject Members have a right to know who has made the complaint. It also believes they have a right to be provided with a summary of the complaint. It is unlikely to withhold a complainant's identity or the details of the complaint unless it considers that there are exceptional circumstances, or the nature of the complaint is such that the identity of the complainant is not relevant.

To allow the Council to give full consideration to a request for confidentiality complainants are required to provide an explanation of the reason why their details should be kept confidential.

The Monitoring Officer will consider the request alongside the substance of the complaint. The Monitoring Officer will then contact the complainant with the decision. If the request for confidentiality is not granted, the complainant will be given the option of withdrawing the complaint.

However, it is important to understand that in exceptional circumstances where the matter complained about is very serious, the Monitoring Officer may proceed with an investigation or other action and disclose the complainant's name even if they have expressly asked the Council not to disclose it.

If the Monitoring Officer considers that disclosure of some details of the complaint to the Subject Member might prejudice an investigation, the Monitoring Officer may delay notifying the Subject Member until consideration of the complaint has progressed sufficiently.

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



Information about the complaint may, at the conclusion of the investigation or assessment be made public. Details as to when information about complaints can be publicised is set out within the relevant sections of this Procedure.

## **8. Assessment Criteria**

In initial assessment, the Monitoring Officer will consider the following, and refer to the relevant LGA guidance, in deciding whether the complaint should be investigated, dealt with informally or rejected:

- a) Does the complaint contain sufficient evidence to support the complaint? The Monitoring Officer will not usually take any further action where a Complainant has simply made an allegation that the Councillor has failed to act in way that is required by the Code but failed to provide sufficient or adequate evidence to support the complaint;
- b) Are there alternative, more appropriate, remedies that should be explored first?
- c) Where the complaint is by one councillor against another, a greater allowance for robust political debate (but not personal abuse) may be given, bearing in mind the right to freedom of expression;
- d) Does the complaint appear to be trivial, vexatious, malicious, politically motivated or tit for tat;
- e) Whether an investigation would not be in the public interest or the matter, even if proven, would not be serious enough to warrant any sanction;
- f) Whether the complaint or a substantially similar allegation has previously been the subject of an investigation and there is nothing more to be gained by further action being taken and/or no new material evidence has been provided;
- g) Whether a substantially similar complaint has been submitted and accepted;
- h) a significant period of time has elapsed since the events, which are the subject of the complaint. This could be because, where a matter is serious, it would be reasonable to expect the Complainant to make a complaint promptly, or because the passage of time may make it more difficult to obtain documentary evidence and reliable witness evidence. The Monitoring Officer will normally reject a complaint where the last event complained of took place more than six months prior to the date of the complaint. The Monitoring Officer will however consider any reason why there had been a delay in making the complaint;
- i) Has the behaviour that is the subject of the complaint already been dealt with? For example, through an apology at the relevant meeting or other remedial action by the Subject Member, and taking this into account the complaint does not disclose sufficiently serious potential breaches of the Code of Conduct to merit further consideration?;

- j) Does the complaint actually relate to dissatisfaction with a local authority decision rather than the specific conduct of an individual?
- k) Is it about someone who is no longer a councillor or who is seriously ill?
- l) Is the complaint anonymous? The Monitoring Officer will not usually investigate anonymous complaints unless there is a clear public interest in doing so.
- m) Is the complaint such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter? This could be where the matter is such that there is unlikely to be any firm evidence on the matter. An example of this could be a telephone conversation where there were conflicting accounts of what was said in the call was no independent verification of the contents of the telephone call.
- n) Whether a complaint suggests that there is a wider problem throughout the authority, and this will be considered differently and as part of that wider resolution;
- o) Whether the complaint discloses a potential breach of the Code, but the complaint is not serious enough to merit an investigation in circumstances where the resources needed to investigate are wholly disproportionate to the allegations and there is no overriding public interest in carrying out an investigation. Public interest in this regard means something which is of serious concern and benefit to the public.

Notwithstanding the criteria above, the Council will take into account the public interest in taking further action on a complaint.

## **9. Informal resolution**

In appropriate cases, the Monitoring Officer will seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the subject member:-

- a) offering an apology
- b) agreeing to attend training
- c) agreeing to engage in mediation or other process of conciliation
- d) being referred to the Subject Member's political group for resolution

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

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

The Local Government Association Guidance 2021 provides the below examples of matters which may be suitable for informal resolution:

- a) the same particular breach of the Code by many members, indicating poor understanding of the Code and the authority's procedures;
- b) a general breakdown of relationships, including those between members and officers, as evidenced by a pattern of allegations of minor disrespect, harassment or bullying to such an extent that it becomes difficult to conduct the business of the authority;
- c) misunderstanding of procedures or protocols;
- d) misleading, unclear or misunderstood advice from officers;
- e) lack of experience or training;
- f) interpersonal conflict;
- g) allegations and retaliatory allegations from the same members;
- h) allegations about how formal meetings are conducted;
- i) allegations that may be symptomatic of governance problems within the authority, which are more significant than the allegations in themselves.

If the Monitoring Officer considers a complaint can be concluded through informal resolution, they will consult with the Independent Person and will normally inform the Subject Member and the complainant and give them the opportunity to comment before making a final decision.

## **10. Investigation**

Both the complainant and the Subject Member should be updated on progress every 30 days if the matter is not concluded at the initial assessment stage.

If the Monitoring Officer decides that a complaint merits formal investigation, they will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether they need to meet or speak to the complainant to understand the nature of the complaint to get a better understanding of the allegation and suggest what documents the Investigating Officer may need to see, and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the Subject Member and provide them with a copy of the complaint, and ask the Subject Member to provide their explanation of events, and to identify what documents they need to see and who they need to interview.

In exceptional cases, where it is appropriate to keep the complainant's identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete the complainant's name and address from the papers given to the Subject Member, or delay notifying the Subject Member until the investigation has progressed sufficiently.

At the end of the investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to the complainant and to the Subject Member

concerned, to give both an opportunity to identify any matter in that draft report which they disagree with or which they consider requires more consideration.

Both parties will be given 10 working days to make representations or, in exceptional circumstances, such other period as the Investigating Officer considers reasonable.

Having received and taken account of any such comments which the parties may make on the draft report, the Investigating Officer will send the final report to the Monitoring Officer.

Investigations should wherever possible be completed within six months of the date of referral for investigation. There may be circumstances in which the investigation takes longer, for example where the case is particularly complex there are other ongoing proceedings or investigations or where for genuine reasons the parties to the complaint are not available.

#### **11. Investigating Officer Concludes that there is No Evidence of a Breach of the Code of Conduct**

The Monitoring Officer will review the Investigating Officer's report and, if they are satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to the complainant and to the Subject Member and to the Town or Parish Council (where the complaint relates to a Town or Parish Councillor) confirming that they are satisfied that no further action is required, and provide a copy of the Investigating Officer's final report. This action will be taken in consultation with the Independent Person. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, they may ask the Investigating officer to reconsider the report.

#### **12. Investigating Officer concludes that there is Evidence of a Breach of the Code of Conduct**

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

#### **13. Local Resolution**

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

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

If the complainant tells the Monitoring Officer that any suggested resolution would not be adequate or the Subject Member refuses to accept the resolution the Monitoring Officer may refer the matter for a hearing.

If the Subject Member complies with the suggested resolution, the Monitoring Officer will issue a final decision notice. This decision notice will set out a summary of the complaint, the reasons for the decision and the sanctions applied. A copy of the decision will be sent to the complainant, the Subject Member (and also the clerk to the Parish or Town council where the complaint is in relation to a Parish or Town Councillor). The decision notice will also be reported to the Committee and the subject member named.

#### **14. Hearing**

If the matter is not concluded by informal resolution or informal resolution is not considered suitable by the Monitoring Officer and the Monitoring Officer refers the matter for a hearing, then the Monitoring Officer will report the Investigating Officer's report to the Hearing Panel (a sub-committee of the Council's Governance, General Purposes and LGR Committee) which may conduct a hearing before deciding whether the Subject Member has failed to comply with the Code of Conduct and, if so, whether to impose (or recommend if Town or Parish Councillor) a sanction.

Hearings should normally take place within three months of the completion of the Investigation report but not within fourteen days of the completion of the report. If it is not possible to convene a hearing within three months, all parties should be advised of the reasons for any delay with an estimated timetable for hearing.

The Monitoring Officer will conduct a pre-hearing process, requiring the Subject Member to give their response to the Investigating Officer's report in writing to identify what is likely to be agreed and any facts that may be disputed. The Subject Member will also be asked to provide details of any witnesses who should be called to the hearing and to confirm whether they will be attending the hearing and whether they will be represented at the hearing. The Investigating Officer will also be asked whether any witnesses will be required to attend.

The role of the Hearing Panel is to decide factual evidence on the balance of probabilities. The Hearing is not a court hearing and evidence is not given under oath but the Hearing Panel must make findings on the balance of probabilities.

The Hearing itself is like any other sub-committee and should be held in public unless there are lawful reasons for part of it to be exempt or confidential.

The Independent Person will be invited to attend the hearing. The Hearing Panel will seek the views of the Independent Person and take those views into account before making its decision.

See **Appendix 2** for further details about the hearing procedure.

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

## **15. Sanctions**

The Hearing Panel has been delegated powers to it by Full Council to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. The Local Government Association Guidance 2021 provides that, when deciding on a sanction, the Hearing Panel should ensure that it is reasonable, proportionate and relevant to the subject member's behaviour.

Typical sanctions may include one or a combination of the following (this list is not exhaustive):

- report its findings in respect of the Subject Member's conduct to council (or the relevant parish or town council)
- issue (or recommend to the parish or town council to issue) a formal censure
- recommend to the Subject Member's group leader (or in the case of un-grouped councillors, recommend to council) that they be removed from any or all committees or sub-committees of the authority (or recommend such action to the parish or town council)
- recommend to the leader of the authority that the Subject Member be removed from positions of responsibility
- instruct the monitoring officer to (or recommend that the parish or town council) arrange training for the Subject Member
- recommend to council (or recommend to the parish or town council) that the Subject Member be removed from all outside appointments to which they have been appointed or nominated by the authority (or by the parish council);
- recommend to council (or recommend to the parish or town council) that it withdraws facilities provided to the Subject Member by the authority for a specified period, such as a computer, website and/or email and internet access; or

- recommend to council (or recommend that the parish or town council) that it excludes the Subject Member from the authority's offices or other premises for a specified period, with the exception of meeting rooms as necessary for attending council, committee and sub-committee meetings and/or restricts contact with officers to named officers only
- if relevant recommend to council that the Subject Member be removed from their role as leader of the authority
- if relevant recommend to the secretary or appropriate official of a political group that the Subject Member be removed as group leader or other position of responsibility.

Sanctions involving restricting access to an authority's premises or equipment or contact with officers should not unnecessarily restrict the Subject Member's ability to carry out their responsibilities as an elected representative or co-opted member.

Note that where the Subject Member is a parish or town councillor, the matter is referred back to their council to say that a breach of the Code has been found and with a recommended sanction. The town or parish council must then meet to consider whether to impose that sanction or to replace it with another relevant sanction. They cannot overturn the finding that there has been a breach of the Code and if they wish to impose a different sanction they should seek advice from the clerk and/or the Monitoring Officer.

The Hearings Panel has no power to suspend or disqualify the Subject Member or to withdraw members or special responsibility allowances.

## **16. What Happens at the end of the Hearing?**

The Monitoring Officer will prepare a Formal Decision Notice in consultation with the Chair of the Hearing Panel. The Decision Notice will include a brief statement of facts, the provisions of the Code of Conduct engaged by the allegations, the views of the Independent Person, the reasons for the decision and any sanctions applied, and any other information recommended by the LGA guidance as amended from time to time.

A copy of the Decision Notice will be sent to the complainant, the Subject Member, the parish or town council (if the finding relates to a parish or town councillor), published on the Council's website and reported to the next convenient meeting of the Committee.

## **17. Appeals**

There is no right of appeal for either the complainant or the Subject Member against a decision of the Monitoring Officer or of the Hearing Panel.

If the complainant feels that the Council has failed to deal with the complaint properly, the complainant may make a complaint to the Local Government and Social Care Ombudsman.

#### **18. Revision and overview of these arrangements**

The Committee may agree to amend these arrangements, and has delegated to the Chair of the Hearing Panel the right to depart from these arrangements where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

An update report providing details about the complaints received under this Procedure will be provided to each Committee meeting.



## **Appendix 1**

### **CODE OF CONDUCT FOR MEMBERS**

#### **1. Introduction**

- 1.1 All councils are required to have a local Councillor Code of Conduct. Newark & Sherwood District Council has adopted this Code of Conduct pursuant to Section 27 of the Localism Act 2011 to promote and maintain high standards of behaviour by its Members and Co-Opted Members whenever they conduct the business of the Council including the business of the office to which they were elected or appointed or when they claim to act or give the impression of acting as a representative of the Council.
- 1.2 The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that councillors can be held accountable and all adopt the behaviours and responsibilities associated with the role. Conduct of individual councillors affects the reputation of the Council as a whole.
- 1.3 Councillors represent local residents, work to develop better services and deliver local change. The public have high expectations of councillors to take decisions fairly, openly and transparently. Councillors have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct and by challenging behaviour which falls below expectations.
- 1.4 Importantly, councillors should be able to undertake their role without being intimidated, abused, bullied or threatened by anyone, including the general public.
- 1.5 This Code is designed to protect the democratic role of councillors, encourage good conduct and safeguard the public's trust in local government, it is based on the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership ("The Nolan Principles").

#### **2. Definitions**

- 2.1 For the purposes of this Code of Conduct, a "councillor" means a member or co-opted member of the Authority. A "co-opted member" is defined in the Localism Act 2011 Section 27(4) as "a person who is not a member of the Authority but who:
  - a) is a member of any committee or sub-committee of the Authority, or;
  - b) is a member of, and represents the Authority on, any joint committee or joint sub-committee of the Authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

### **3. Purpose of the Code of Conduct**

- 3.1 The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct.

### **4. General Principles of Councillor Conduct**

- 4.1 Everyone in public office at all levels, all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers, should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.
- 4.2 Building on these principles, the following general principles have been developed specifically for the role of councillor.
- 4.3 In accordance with the public trust placed in you, on all occasions you MUST:
- ✓ act with integrity and honesty;
  - ✓ act lawfully;
  - ✓ treat all persons fairly and with respect; and
  - ✓ lead by example and act in a way that secures public confidence in the role of councillor.
- 4.4 In undertaking your role you SHOULD:
- ✓ impartially exercise your responsibilities in the interests of the local community;
  - ✓ exercise your independent judgement, taking decisions for good and substantial reasons;
  - ✓ account for your actions, particularly by supporting the authority’s scrutiny function;
  - ✓ not improperly seek to confer an advantage, or disadvantage, on any person;

- ✓ avoid conflicts of interest;
- ✓ exercise reasonable care and diligence;
- ✓ ensure that public resources are used prudently in accordance with the Council's requirements and in the public interest; and
- ✓ ensure that the authority acts within the law.

## **5. Application of the Code of Conduct**

5.1 This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

5.2 This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- ✓ Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor.

The Code applies to all forms of communication and interaction, including:

- ✓ at face-to-face meetings
- ✓ at online or telephone meetings

## **6. Standards of Councillor Conduct**

6.1 This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

6.2 Guidance is included to help explain the reasons for the obligations and how they should be followed.

## **7. General Conduct**

### **1. Respect**

As a Councillor you should:

- 1.1 treat other councillors and members of the public with respect.

- 1.2 treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the Council's councillor- officer protocol.

## **2. Bullying, Harassment and Discrimination**

As a councillor you should:

- 2.1 not bully any person.
- 2.2 not harass any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

### **3. Impartiality of Officers of the Council**

As a councillor you should:

- 3.1 not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

### **4. Confidentiality and Access to Information**

As a councillor you should:

- 4.1 not disclose information:
  - a. given to you in confidence by anyone

- b. acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, unless
  - i. you have received the consent of a person authorised to give it;
  - ii. you are required by law to do so;
  - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
  - iv. the disclosure is:
    - 1. reasonable and in the public interest; and
    - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and
    - 3. you have consulted the Monitoring Officer prior to its release.
- 4.2 not improperly use knowledge gained solely as a result of your role as a councillor for the advancement of yourself, your friends, your family members, your employer or your business interests.
- 4.3 not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## 5. Disrepute

As a councillor you should:

- 5.1 not bring your role or the local authority into disrepute.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## **6. Use of Position**

As a councillor you should:

- 6.1 not use, or attempt to use, your position improperly to the advantage or disadvantage of yourself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. Use of Local Authority Resources and Facilities**

As a Councillor you should:

- 7.1 not misuse council resources.
- 7.2 when using the resources of the local or authorising their use by others:
- a. act in accordance with the local authority's requirements; and
  - b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which you have been elected or appointed.

**You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.**

**Examples include:**

- **office support**
- **stationery**
- **equipment such as phones, and computers**
- **transport**
- **access and use of local authority buildings and rooms**

**These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the Council's policies regarding their use.**

## 8. Complying with the Code of Conduct

As a councillor you should:

- 8.1 undertake Code of Conduct training provided by the Council.
- 8.2 cooperate with any Code of Conduct investigation and/or determination.
- 8.3 not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.
- 8.4 comply with any sanction imposed on you following a finding that you have breached the Code of Conduct.

Protecting your reputation and the reputation of the local authority

**It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the Council's processes in handling a complaint you should raise this with the Monitoring Officer.**

## 9. Interests

As a councillor you should:

- 9.1 register and disclose your interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the Council.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in Table 1, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from the Monitoring Officer.



## 10. Gifts and Hospitality

As a councillor you should:

- 10.1 not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on your part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.
- 10.2 register with the Monitoring Officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.
- 10.3 register with the Monitoring Officer any significant gift or hospitality that you have been offered but have refused to accept.

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact the Monitoring Officer for guidance.

## **APPENDICES**

### **APPENDIX A**

#### **The Seven Principles of Public Life**

The principles are:

##### **Selflessness**

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

##### **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 disclose and resolve any interests and relationships.

##### **Objectivity**

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

##### **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.

##### **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.

##### **Honesty**

Holders of public office should be truthful.

##### **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.

## APPENDIX B

### Registering Interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in “The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012”. You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

**“Disclosable pecuniary interest”** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**"Partner"** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A ‘sensitive interest’ is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a ‘sensitive interest’ you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must make a verbal declaration of the existence and nature of the interest at or before the consideration of the item of business. You must not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

### Disclosure of Other Registerable Interests (*Personal Interests*)

5. Where a matter arises at a meeting which ***directly relates*** to one of your Other Registerable Interests (as set out in Table 2), you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest.

## Disclosure of Non-Registerable Interests

6. Where a matter arises at a meeting which ***directly relates*** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business as soon as the interest becomes apparent. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
7. Where a matter arises at a meeting which ***affects*** :
  - a. your own financial interest or well-being;
  - b. a financial interest or well-being of a friend, relative, close associate; or
  - c. a body included in those you need to disclose under Disclosable Pecuniary Interests as set out in **Table 1**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied.

8. Where a matter ***affects*** your financial interest or well-being:
  - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.  [Any unpaid directorship.]
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her 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.
<b>Contracts</b>	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council  (a) under which goods or services are to be provided or works are to be executed; and  (b) which has not been fully discharged.
<b>Land and Property</b>	Any beneficial interest in land which is within the area of the council.  'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.
<b>Licenses</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer.

<b>Corporate Tenancies</b>	<p>Any tenancy where (to the councillor's knowledge):</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
<b>Securities</b>	<p>Any beneficial interest in securities* of a body where:</p> <p>(a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; 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 councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

\* 'director' includes a member of the committee of management of an industrial and provident society.

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

**Table 2: Other Registerable Interest**

**You must register as an Other Registrable Interest:**

- a) any unpaid directorships;
- b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) any body
  - (i) exercising functions of a public nature
  - (ii) any body directed to charitable purposes or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

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

## Appendix 2

### **Draft Agenda for meeting of the Standards Complaint Hearing Panel**

1. Notification to those present that the meeting will be recorded and streamed online
2. Apologies for Absence
3. Declarations of Interest from Members and Officers
4. Representations that any part of the hearing be held in private (NOTE: this will only be allowed in exceptional circumstances as the presumption is that it will be conducted in public).
5. [Investigation Report relating to.....]
6. Exclusion of the Press and Public

To consider resolving that, under section 100A (4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act.

7. Investigation Report relating to.....]

### **Draft Procedure for conducting Hearings**

For reasons of fairness and proportionality a hearing should wherever possible take place within three months of the date on which the investigator's report was completed. However, the hearing should not take place sooner than 14 days after the investigation report has been issued unless the Subject Member agrees. This is to allow them sufficient time to prepare.

All hearings must follow the rules of natural justice and allow parties to have their say. In line with the principle of proportionality the approach taken in relation to individual cases may depend upon the seriousness of the issue. For example, if the Monitoring Officer is satisfied, following consultation with relevant the parties, that the investigation has allowed all sides to have their say, the Panel may simply review the report without further reference to the parties.

The Subject Member may choose to ask another person to speak on their behalf at a hearing; this must be agreed in advance by the Monitoring Officer and the Chair of the Panel.



In the interests of efficiency and to minimise distress for those involved, written evidence will be relied on where possible rather than calling witnesses to give verbal evidence.

The following is a concise draft procedure which can be tailored to individual circumstances. The Monitoring Officer will refer to the LGA Guidance on Member Model Code of Conduct Complaints Handling when considering procedure for individual cases and will consult with the Chair of the Panel to agree procedure before circulating to the relevant parties prior to the hearing.

1. Chair opens the meeting, introduces all parties present, and briefly outlines the process for the meeting.
2. The Investigation Officer presents a summary of their report and their conclusions. The Member who is the subject of the investigation (the Subject Member) can then ask questions of the Investigating Officer. The Committee may also wish to ask questions.
3. The Subject Member will then present their case. The Investigating Officer may wish to ask questions. The Committee may also wish to ask questions.
4. Chairman invites comments of the Independent Person.
5. At the end of this process the Sub- Committee will ask the parties to leave whilst it considers the facts and on whether there has been a breach of the code. Any officer who retires with the panel is there to advise on matters of procedure and law. Any advice given must then be conveyed back publicly to the meeting.
6. The parties will then be asked to return and the Investigating Officer and Subject Member will be asked to make representations on what sanctions should be imposed, if the decision is that there has been a breach.
7. The parties to leave room whilst Sub-Committee sits in private to decide on appropriate sanctions, if the decision is that there has been a breach. Any officer who retires with the panel is there to advise on matters of procedure and law. Any advice given must then be conveyed back publicly to the meeting.
8. The parties will then be asked to return and the Chair advises the parties of decision, which will be confirmed in writing in the next few days.

9. Chair closes meeting.

### **Appendix 3**

[Guidance on Local Government Association Model Councillor Code of Conduct](#)

[Guidance on Member Model Code of Conduct Complaints Handling](#)