



STANDARDS COMMITTEE

**PLEASE NOTE
THE CHANGE
OF VENUE FOR
THIS MEETING**

DATE: Wednesday 27 September 2017
TIME: 10.00 am
VENUE: Essex Hall, Town Hall, Clacton-on-Sea, CO15 1SE

MEMBERSHIP:

Councillor Heaney (Chairman)	Councillor Nicholls
Councillor Honeywood (Vice-Chairman)	Councillor Steady
Councillor Bucke	Councillor Whitmore
Councillor Davis	

Most Council meetings are open to the public and press.

Agendas and Minutes are published on the Council's website www.tendringdc.gov.uk. Agendas are available to view five working days prior to the meeting date and the Council aims to publish Minutes within five working days of the meeting.

Meeting papers can be provided, on request, in large print, in Braille, or on disc, tape, or in other languages.

For further details and general enquiries about this meeting, contact Katie Sullivan on 01255 686 585.

DATE OF PUBLICATION: TUESDAY 19 SEPTEMBER 2017

AGENDA

1 Apologies for Absence and Substitutions

The Committee is asked to note any apologies for absence and substitutions received from Members.

2 Minutes of the Last Meeting (Pages 1 - 4)

To confirm and sign as a correct record, the minutes of the meeting of the Standards Committee, held on 28 June 2017.

3 Declarations of Interest

Councillors are invited to declare any Disclosable Pecuniary Interests or other interest, and the nature of it, in relation to any item on the Agenda.

4 Report of the Monitoring Officer - A.1 - Failure to Comply with the Members' Code of Conduct - District Councillor (Pages 5 - 42)

In accordance with the District Council's Complaints Procedure, the Monitoring Officer will report to the Standards Committee, where there is evidence of a failure to comply with the Members' Code of Conduct.

5 Report of the Monitoring Officer - A.2 - Outcome of Code of Conduct Investigation - Complaint against a District Councillor (Pages 43 - 116)

In accordance with the District Council's Complaints Procedure, the Monitoring Officer is required to report the outcome of an investigation to the Standards Committee.

6 Report of the Monitoring Officer - A.3 - Review of the Members' Code of Conduct (to report to full Council) (Pages 117 - 132)

For the Committee to complete the review of the Members' Code of Conduct and consider the proposed changes made following the suggested revisions at its meeting in June 2017 for recommendation to Council for adoption.

7 Discussion Topics and/or Updates from the Monitoring Officer

The Monitoring Officer will give a quarterly update on Complaints.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Standards Committee is to be held in the Council Chamber, Council Offices, Thorpe Road, Weeley, CO16 9AJ at 10.00 am on Monday, 22 January 2018.

Information for Visitors

FIRE EVACUATION PROCEDURE

There is no alarm test scheduled for this meeting. In the event of an alarm sounding, please calmly make your way out of any of the fire exits in the hall and follow the exit signs out of the building.

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Your calmness and assistance is greatly appreciated.

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**MINUTES OF THE MEETING OF THE STANDARDS COMMITTEE,
HELD ON WEDNESDAY 28 JUNE 2017 AT 10.00 AM
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY**

Present:	Councillors Bucke, Bush, Nicholls (in the Chair) and White
Also Present:	John Wolton and Clarissa Gosling (Independent Persons)
In Attendance:	Lisa Hastings (Head of Governance and Legal Services and Monitoring Officer), Ian Ford (Committee Services Manager) and Katie Sullivan (Committee Services Officer)

1. CHAIR

The Committee Services Manager (Ian Ford) welcomed everyone to the meeting and explained that, in the absence of the Chairman (Councillor Heaney) and Vice-Chairman (Councillor Honeywood), a Chairman would need to be elected for this meeting.

It was moved by Councillor White, seconded by Councillor Bush and **RESOLVED** that Councillor Nicholls be elected to act as Chairman for this meeting.

2. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from Councillors Heaney, Honeywood and Davis (with no substitutes), Councillor J Brown (with Councillor Bush substituting) and Councillor Steady (with Councillor White substituting).

3. MINUTES OF THE LAST MEETING

The minutes of the meeting of the Standards Committee, held on 27 March 2017, were approved as a correct record and signed by the Chairman.

4. DECLARATIONS OF INTEREST

There were none.

5. REPORT OF THE MONITORING OFFICER - A.1 - ON-GOING REVIEW OF MEMBERS' CODE OF CONDUCT

There was submitted a report (A.1) by the Council's Monitoring Officer (Lisa Hastings) which had requested the Committee to continue with its review on the Members' Code of Conduct and to consider the proposed changes made following the suggested revisions at its meeting in September 2016.

As part of its annual work programme, the Committee had commenced a review of the Members' Code of Conduct and had paid particular attention to the definitions of interests.

The Monitoring Officer gave the Committee some background information on this item as some Councillors present had not been present at the previous Standards Committee meetings when this item had been discussed.

The Committee was informed that, at its meeting on 29 June 2016, the Monitoring Officer had informed Members that there would be some merit in undertaking a light

touch review of the Code of Conduct and to consider removing the distinction between “Other and Non Pecuniary Interests” by joining them together and reviewing the definitions. The Monitoring Officer had also informed Members that the three different types of interest had caused confusion with Members and the public and could be made simpler. In addition, it had been raised whether the provisions on declarations of interests had gone far enough and questions had been asked whether the Council should be retaining a register of interests. Matters such as membership of various groups or organisations had caused concerns with elected Members and the public that those were not registered, and whilst this was not required on a statutory basis, provisions could be included within the local Code. Members had discussed the advantages of a register of interests, beyond the statutory minimum which was required by the legislation and had welcomed further exploration in this area.

The Monitoring Officer had informed Members that, nationally, a number of Councils had reviewed their codes since adoption, some in response to feedback on definitions or areas which were missing, or due to the lack of sanctions available if the obligations were compromised. New ideas such as a voluntary acceptance of suspension and a recall scheme were emerging and information on those could be presented to the Committee for information through the review of the Code.

The Committee was also informed that, at its meeting in September 2016, potential changes and additions to the Code had been discussed in order to provide clarity in relation to:

- Separating the Rules of Conduct and General Obligations from the introduction and interpretation part of the Code;
- Merge Other Pecuniary Interests with Non-Pecuniary Interests; and
- Effect of Other or Non-Pecuniary Interests on participation.

At that meeting it had been agreed that the Monitoring Officer would produce a revised draft Code of Conduct for further discussion to take place at the next meeting so that the Committee could work towards recommending minor changes to the Members’ Code of Conduct to full Council.

The Monitoring Officer had produced a revised draft Code of Conduct showing tracked changes which had been attached to the report as Appendix 1 and went through this with the Committee stage by stage. A clean copy had also been attached as Appendix 2 for further consideration by the Committee.

Members raised questions which were responded to by the Monitoring Officer.

The Independent Persons (John Wolton and Clarissa Gosling) were given the opportunity to make comments and ask questions.

The Monitoring Officer confirmed that she would action the amendments suggested by the Committee and provide a further amended version of the Members’ Code of Conduct at its next meeting before going to full Council.

Having discussed the revised draft Code of Conduct, it was moved by Councillor Nicholls, seconded by Councillor White and **RESOLVED:-**

That the review of the Members' Code of Conduct be continued and that the draft revised Code of Conduct be endorsed, subject to the changes put forward by the Committee at this meeting.

6. REPORT OF THE MONITORING OFFICER - A.2 - REVIEW OF SOCIAL MEDIA GUIDELINES FOR MEMBERS

The Monitoring Officer reminded the Committee that, given the clear benefits of Social Media and recognising that it had become part of everyday life for some Councillors, it had been decided that, as part of its annual work programme and following on from a previous investigation, a review of the Council's Social Media Policy would be carried out in order to ensure the guidelines were clear and would enable to assist understanding of the potential pitfalls of using Social Media.

There was submitted a report (A.2) by the Monitoring Officer which had requested the Committee to review the Council's Social Media Guidelines and to give specific advice to be issued for elected Members.

Members were aware that the Council had previously produced Social Media Guidelines, which had last been updated in March 2016 and those Social Media Guidelines were attached to the report as Appendix A.

Draft Guidelines for Members, which had set out some simple rules, were attached to the report as Appendix B and had included a reminder that inappropriate use of Social Media could amount to a breach of the Members' Code of Conduct.

The Committee were informed of the legal considerations of matters such as Libel, Copyright, Data Protection, Equality, Obscene Material and the principles of the right to freedom of expression and its restrictions.

Members raised questions which were responded to by the Monitoring Officer.

The Chairman asked the Independent Persons (John Wolton and Clarissa Gosling) if they had any comments or questions but both confirmed they did not.

Following discussion, it was moved by Councillor Nicholls, seconded by Councillor White and **RESOLVED** that:

1. subject to the amendments requested by the Standards Committee at the meeting, the draft Guidelines for Members when using Social Media, as set out in Appendix B be approved and adopted; and
2. the approved Guidelines be circulated to all Members and annexed to the Corporate Social Media Guidelines to ensure it provides advice to both Councillors and Officers.

7. DISCUSSION TOPICS AND/OR UPDATES FROM THE MONITORING OFFICER

Quarterly Complaints Update

The Monitoring Officer circulated to the Committee the quarterly schedule, which gave general details of a complaint received, without providing any names, and went through

it with the Committee. The Monitoring Officer also highlighted a number of other matters which included:

Training Session for new Councillors

The Monitoring Officer informed the Committee that a training session on the Code of Conduct had been delivered for newly elected District Councillors following recent by-elections.

Potential Complaints

- 1) An inquiry had been received from a potential complainant, and although aggrieved by the actions of a District Councillor, the complaint form had not yet been returned.
- 2) A complaint form had been received regarding a District Councillor, however this had related to the Member acting in their private capacity with no link to the Council and therefore outside of the Monitoring Officer's remit. The complainant had been informed and no further response had been received.
- 3) On-going discussions had taken place with a member of the public regarding a Parish Council and, in particular, the action of the Chairman and a completed complaint form was expected to be received soon.

Failure of a District Councillor to declare an interest

The Monitoring Officer informed the Committee that she had had concerns regarding the potential failure of a District Councillor to declare an interest and that she was taking informal action through the relevant Group Leader, as permitted by the Complaints Procedure.

Advice and Guidance

The Monitoring Officer informed the Committee that detailed advice and guidance had been provided to all Councillors during the recent Local Plan decision making process.

Requests for Dispensations

No requests for dispensations had been submitted since the last meeting of the Committee.

The meeting was declared closed at 11.30 am

Chairman

STANDARDS COMMITTEE

27 SEPTEMBER 2017

REPORT OF THE MONITORING OFFICER

A.1 FAILURE TO COMPLY WITH THE MEMBERS' CODE OF CONDUCT

(Report prepared by Lisa Hastings)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

In accordance with the District Council's Complaints Procedure, the Monitoring Officer will report to the Standards Committee, where there is evidence of a failure to comply with the Members' Code of Conduct.

EXECUTIVE SUMMARY

On 1st August 2017, Councillor Jack Parsons enquired whether he could refer himself to the Standards Committee following his criminal conviction, which he acknowledged brought the Council into disrepute, the Monitoring Officer advised that due to the seriousness of the conviction, the matter would be reported to the next meeting of the Committee in any event.

Subsequently, a Complaint has been received from Mr William Hones under the Members' Code of Conduct and Complaints Procedure (**Appendices 1 & 2**), which was adopted by full Council on 26 November 2013, following the actions of District Councillor Parsons as reported in the media.

The Complaint alleged that Councillor Parsons had breached the Tendring District Council Members' Code of Conduct. The alleged breaches relate to the following paragraphs of the Code:

- (i) 3.1 – Six of the Seven Principles of Public Life as follows:
 - Selflessness
 - Leadership
- (ii) 3.4(a) – a Councillor must not conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute.

Councillor Parsons acknowledged his conviction brought the Council into disrepute and therefore, in breach of the Members' Code of Conduct, in addition a written apology has been received and these statements are referred to within the body of this report. Due to Councillor Parson's acceptance, an investigation into the matter was not required. Under the Complaints Procedure once there is a finding that evidence exists of a failure to comply with the Code of Conduct, there are two options available.

The first option is to consider an informal resolution (paragraph 7.1.1 of the Complaints Procedure) and in this matter the Monitoring Officer does not consider that informal resolution is appropriate. A formal apology has been given by Councillor Parsons however, it is considered necessary and in the public interest for a referral to the

Standards Committee due to the seriousness of the conviction and upon the specific request.

The second option available (paragraph 7.1.2) is for the Monitoring Officer to report the outcome of any investigation to the Standards Committee to conduct a hearing before deciding whether the Member has failed to comply with the Code of Conduct and if so, whether to take any action in respect of the Member. In this case, Councillor Parsons has already admitted that he has failed to comply with the Code of Conduct therefore the Standards Committee has the power to take action in respect of individual Members as may be relevant and proportionate, and necessary to promote and maintain high standards of conduct. Accordingly, the Standards Committee may consider the sanctions set out in paragraph 8 of the Complaints Procedure.

All parties have had the opportunity to comment on the Monitoring Officer's decision to refer the matter to the Standards Committee to determine the sanction in respect of Councillor Parsons.

The Council's Independent Person has been consulted and their comments are included within the body of the Report.

RECOMMENDATION

That the Standards Committee:

- (a) Notes that Councillor Parsons has received a criminal conviction for possession of a bladed article, namely a Carving knife, contrary to section 139(1) and (6) of the Criminal Justice Act 1988;**
- (b) notes in addition to the Monitoring Officer reporting this matter to the Standards Committee, a formal complaint concerning the conduct of Councillor Parsons has also been received;**
- (c) welcomes the acknowledgement by Councillor Parsons that he has breached the Code of Conduct;**
- (d) notes Councillor Parsons written apology sent to the Monitoring Officer;**
- (e) notes the comments of both Independent Persons;**
- (f) endorses the referral to the Committee to consider the sanctions; and**
- (g) determines what action to take in respect of Councillor Parsons, as may be relevant and proportionate, and necessary to promote and maintain high standards of conduct.**

BACKGROUND - SUMMARY OF THE MONITORING OFFICER'S CONCLUSIONS:

On 1st August 2017, Councillor Parsons sent an email addressed to the Monitoring Officer, Leader of the Council and the Chief Executive stating:

"... on the 27th July, I attended Colchester Magistrates Court and pleaded guilty to being in possession of a bladed article in a public place.

There is obviously a back story to this which I will advise you of in due course.

As a result of this, I regretfully and humbly submit my own referral to the standards committee for bringing the Council into disrepute."

On 29th August 2017, a Complaint was received from Mr William Hones, which is attached

as **Appendix 2**. Within the Complaint it is stated:

“reported on the on-line version of the Clacton Gazette that Cllr Parsons pleaded guilty to a charge of possession of a bladed article and handed a 12 month Community Order and must carry out 70 hours of unpaid work.

This is an extraordinarily lenient sentence for possession of a knife in public. Worse it seems Cllr Parsons was brandishing the knife at the time of his arrest.

Whether this was due to drunkenness, mental health issues or both, Cllr Parsons has failed to show Leadership in his criminal behaviour and in not seeking help for one of more long standing mental health and/or dependency issues. From his behaviour leading to arrest and conviction it is clear that his Code of Conduct has brought his office and that of the Council into disrepute”.

The complaint received from Mr Hones also makes reference to Cllr Parsons allegedly failing to represent his residents by not belonging to a political group (in particular one of the non-aligned groups) on the Council and consequently is not allocated any committee seats. It is a matter of choice whether an elected member wishes to belong to a group. The Council (at its meeting in March 2017) considered whether it wished to allocate committee seats to councillors who are not part of a group and decided it would not do so. This part of the complaint does not fall within the remit of the Standards Committee.

Prior to the Complaint being received from Mr Hones, the Monitoring Officer had already requested details of the incident, criminal conviction and sentence from Cllr Parsons, so that the matter could be reported to the next meeting of the Standards Committee. The offence was that *on 26/06/2017, Cllr Parsons had without good reason or lawful authority, in a public place Church Road, Clacton, Essex an article which had a blade or was sharply pointed, namely a Carving knife, contrary to section 139(1) and (6) of the Criminal Justice Act 1988*. In addition to the reported sentence, Cllr Parsons was ordered to undertake 10 Rehabilitation Days.

This is a serious offence and it is understood the sentence reflected early admission by Cllr Parsons and by entering a Guilty Plea at the first opportunity before the Magistrates' Court.

No notification of the incident or arrest had been received prior to the email sent on 1st August 2017, and although the incident did not take place whilst Cllr Parsons was acting in an official capacity, paragraph 2.2 of the Code confirms that the rules of conduct apply (d) at all times and in any capacity, in respect of conduct identified in paragraphs 3.4(a) and 3.5.

Cllr Parsons has provided the Monitoring Officer with copies of the prosecution notes, which should not be placed in the public domain but Cllr Parsons has already made the public aware through reports in the media, that he was drunk at the time of the incident, been suffering from alcohol and mental health issues for sometime and thought he would cause a scene to receive attention as he wanted help. Cllr Parsons has stated he had no intention of hurting himself or others and although there maybe some sympathy in respect of his mental health issues, he knew exactly what he was doing and why.

Cllr Parson is not just an individual, he has been elected to represent the residents of St. Paul's Ward and sit on Tendring District Council. This is not the standard of behaviour an

elected member should be exhibiting to the general public, and knife crime is very serious and under no circumstances, was this acceptable. It is abundantly clear that Cllr Parsons actions have breached the Code of Conduct which Councillors sign up to upon their election as members of Tendring District Council. The Code exists to ensure Councillors fulfil the statutory duty to promote and maintain high standards of conduct in public life.

The Leadership Principle of Public Life requires holders of public office to exhibit the other principles in their own behaviour and actively promote and robustly support the principles.

Although not referred to in the complaint, Cllr Parsons has also failed to comply with the law and consequently, has contravened paragraph 3.7(a) of the Code of Conduct.

It is necessary for the Standards Committee to determine the breach as against the Principles of Public Life and Code of Conduct and their power to take action in respect of individual Members as may be relevant and proportionate, and necessary to promote and maintain high standards of conduct.

SANCTIONS

Section 8 of the Complaints Procedure sets out what action the Standards Committee can take where a Member has failed to comply with the Code of Conduct.

- 8.1 The Standards Committee has the power to take action in respect of individual Members as may be relevant and proportionate, and necessary to promote and maintain high standards of conduct. Accordingly the Standards Committee or Sub-Committee may:-
 - 8.1.1 Publish its findings in respect of the Member's conduct on the Council's website;
 - 8.1.2 Report its findings to Council for information;
 - 8.1.3 Recommend to the Member's Group Leader that they are removed from any or all Committees or Sub-Committees of the Council;
 - 8.1.4 Recommend to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
 - 8.1.5 Instruct the Monitoring Officer to arrange training for the Member;
 - 8.1.6 Recommend to the relevant Group Leader that the Member be removed from all outside appointments to which they have been appointed or nominated by the authority;
 - 8.1.7 Recommend to the relevant Group Leader the withdrawal of facilities provided to the Member by the Council, such as a computer, website and/or email and internet access; or
 - 8.1.8 Recommend to the relevant Group Leader the exclusion of the Member from the Council's Offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- 8.2 In each circumstance, where the Member subject of the complaint is the Group Leader, appropriate alternative arrangements will be required. This will be dependent upon whether the Group has allocated a Deputy to undertake this role, involve the Group Leader directly or an independent individual or suitable alternative, depending upon the circumstances.
- 8.3 In each circumstance, where the Standards Committee or Sub-Committee

recommend the Group Leaders take action, it is expected that the Group Leader will within 6 weeks of the referral to them, or as soon as reasonably practicable thereafter, submit a report back to the Standards Committee or Sub-Committee giving details of the action taken or proposed to comply with the Committee's direction.

- 8.4 The Standards Committee or Sub-Committee has no power to suspend or disqualify the Member or to withdraw Members' special responsibility allowances.

The Standards Committee should note that Councillor Parsons does not sit on any Committees because he does not belong to any political group on the Council and therefore, accordingly has not been allocated any seats. Any sanction considered must be necessary, relevant and proportionate to the matter of the complaint and breach of the Code of Conduct.

COUNCILLORS RESPONSE

In accordance with the Complaint Procedure, a copy of the complaint is provided to the Councillor to comment on and provide the Monitoring Officer with any response they wish to be taken into account, when deciding upon the next stage in the process. In this instance, upon receipt of the complaint, Councillor Parson submitted the following to the Monitoring Officer:

"I feel that all aspects of the offence I committed are encompassed with my self refers to the standards committee."

Councillor Parsons provided confirmation that he is in contact with the professionals and now under the care of the specialist mental health team and receiving care for his needs together with prescribed medication.

Councillor Parsons also stated *"In addition to the medication, I also attend group sessions at Phoenix Alcohol Project and I see a private Psychotherapist once a fortnight.*

This only leaves me to add that I am truly sorry for the offence that I committed and for bringing the Council into Disrepute. No words can forgive what I have done, and the guilt will haunt me forever."

CONSULTATION WITH THE INDEPENDENT PERSONS

(i) Clarissa Gosling, has responded:

"On the complaint that Councillor Parsons is not a member of any committees. I understand that it is the council's decision that only members of a group may serve on committees, and I cannot comment on that. I do not believe that a councillor should be forced to join a group which he feels does not reflect his values or the values of those who elected him.

All things being equal, I imagine a councillor would prefer to be on a committee, which comes with influence and a financial allowance, though does have a time commitment. I believe a councillor should be allowed to follow his conscience in whether or not to join a group, and that this part of the complaint is not justified.

Councillor Parsons has admitted that his actions, resulting in a conviction, have brought the council into disrepute and I do not believe that there is any doubt about this.

However, having made this appalling mistake it appears that he is making every possible effort to address the situation. His apology acknowledges the offence very openly and shows he has understood and deeply regrets his actions – it does not appear to be not just formal words. It takes courage to do that. He has received a sentence and will have to serve his punishment. He has taken steps to address his medical problems and is undertaking ongoing therapy.

If he carries out these actions fully, and is able to rehabilitate himself, then I think that that would be an example to others that it is possible, and the council would no longer be in disrepute.

I do not read the newspaper reports, not living locally, nor do I know the personalities of councillors. I came to these views having read the papers provided.”

(ii) John Wolton, has responded:

“it is unfortunate that Councillor Parsons created the situation he finds himself in, however it is acknowledged that in his response he is fairly remorseful for his actions and receiving professional advice and treatment. The residents choose Councillor Parsons to be the elected member for their ward and assume would stand by their selection.

We have to accept the Magistrates’ Court decision and the sentence he has received, but Councillor Parsons should also be reminded of his obligations to Tendring District Council and the Code of Conduct. I trust that Councillor Parsons will stick to his treatment and prove himself to be a good councillor. I am aware that the Committee is unable to remove Councillor Parsons from any committees, as he does not sit on any and he must not be prevented from undertaking ward work as an elected member.

APPENDICES

- Appendix 1 – Code of Conduct and Complaints Procedure
- Appendix 2 – Complaint received

TENDRING DISTRICT COUNCIL MEMBERS' CODE OF CONDUCT

1. Introduction

- 1.1 Trust and confidence in public office-holders and institutions are important for the functioning of local authorities. This is particularly true in the case of elected office-holders. The Council has therefore adopted this Code of Conduct to promote and maintain high standards of conduct in public life. It is each Councillor's responsibility to comply with the provisions of this Code.
- 1.2 The Code of Conduct applies to all elected Councillors, voting co-opted members and appointed members.

2. When does the Code of Conduct apply?

- 2.1 In this Code "meeting" means any meeting of
- (a) Tendring District Council ("the Authority");
 - (b) the Executive of the Authority
 - (c) any of the Authority's or its Executive's committees, sub committees joint committees, joint sub-committees, or area committees (including working parties); or
 - (d) informal meetings with other Members and/or Officers relating to the discharge of the Authority's functions.
- 2.2 The Code of Conduct applies—
- (a) whenever you conduct the business, or are present at a meeting, of the Authority; or
 - (b) whenever you act, claim to act or give the impression you are acting in the role of Member to which you were elected or appointed; or
 - (c) whenever you act, claim to act or give the impression you are acting as a representative of the Authority (including representation on outside bodies); or
 - (d) at all times and in any capacity, in respect of conduct identified in paragraphs 3.4(a) and 3.5; or
 - (e) in respect of any criminal offence for which you have been convicted during your term of office.
- 2.3 Where you are elected, appointed or nominated by the authority to serve on any other authority or body you must, when acting for that other authority or body, comply with the code of conduct of that other authority or body.

- 2.4 Where you are elected, appointed or nominated by the authority to serve on any other body which does not have a code relating to the conduct of its members, you must, when acting for that other body, comply with this code of conduct, unless it conflicts with any other lawful obligations to which that other body may be subject.

3. Rules of Conduct

- 3.1 As a Member of Tendring District Council you shall have regard to the Seven Principles of Public Life.

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 declare 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.

These general principles are the underlying principles behind the rules of conduct set out below.

3.2 In fulfilling your **Duties and Responsibilities**

You must not:

- (a) breach your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;
- (b) disrespect others;
- (c) bully or harass any person; or
- (d) do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, the Authority.

3.3 **Information**

You must not:

- (a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so;
- (b) prevent any person from gaining access to information to which that person is entitled by law.

3.4 **Conduct**

You must:

- (a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute;
- (b) not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, the Authority.
- (c) comply with any request of the authority's Monitoring Officer or Section 151 Officer, in connection with an investigation conducted in accordance with their respective statutory powers.

3.5 **Use of your Position**

You must not:

- (a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;
- (b) use, or authorise others to use, the resources of the Authority—
 - (i) imprudently;
 - (ii) in breach of the Authority's requirements;

- (iii) unlawfully;
- (iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the Authority or of the office to which you have been elected or appointed;
- (v) improperly for political purposes; or
- (vi) improperly for private purposes.

3.6 Decision Making

You must:

- (a) when participating in meetings or reaching decisions regarding the business of the Authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by the Authority's officers, in particular by—
 - (i) the Authority's head of paid service;
 - (ii) the Authority's s.151 Officer/ Chief Finance Officer;
 - (iii) the Authority's Monitoring Officer/ Chief Legal Officer;
- (b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the authority.

3.7 Compliance with the Law and the Authority's Rules and Policies

You must:

- (a) observe the law and the Authority's rules governing the claiming of expenses and allowances in connection with your duties as a member;
- (b) comply with the provisions of the Bribery Act 2010 or similar;
- (c) comply with the Authority's Gifts and Hospitality Policy;
- (d) comply with any other policy (or part of policy) which sets out required conduct from Members, for example the Member/Officer Working Protocol and Planning Code for Members, or similar.

PART 2 MEMBERS' INTERESTS

4. Disclosable Pecuniary Interests

- 4.1 You have a Disclosable Pecuniary Interest in any business of your authority if it is of a description set out in 4.2 below and is either:
- (a) an interest of yours,
or that of a Relevant Person being:
 - (b) an interest of your spouse,
 - (c) an interest of your civil partner, or
 - (d) an interest of a person you are living with as a spouse or civil partner,

and in the case of paragraphs 4.1(b) – (d) you are aware that the Relevant Person has the interest.

- 4.2 “Disclosable Pecuniary Interests” are defined by *The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012* and are:-

Employment, office, trade, profession or vacation

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

Sponsorship

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

Contracts

Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant Authority—

- (a) under which goods or services are to be provided or works are to be executed; and
- (b) which has not been fully discharged.

Land

Any beneficial interest in land which is within the area of the relevant Authority.

Licences

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

Corporate tenancies

Any tenancy where (to the Member's knowledge)—

- (a) the landlord is the relevant Authority; and
- (b) the tenant is a body in which the relevant person has a beneficial interest.

Securities

Any beneficial interest in securities of a body where—

- (a) that body (to the Member's knowledge) has a place of business or land in the area of the relevant Authority; and
- (b) either—
 - (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

5. Other Pecuniary Interests

- 5.1 You have a Pecuniary Interest in any business of the Authority where it relates to or is likely to affect:
- (a) any person or body who employs or has appointed you;
 - (b) any contract for goods, services or works made between the Authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specific in paragraphs 6.1 (a)-(b) which has been fully discharged within the last 12 months;

6. Non-Pecuniary Interests

- 6.1 You have a Non-Pecuniary Interest in any business of the Authority where it relates to or is likely to affect –
- (a) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Authority;
 - (b) any body –
 - (i) exercising functions of a public nature;
 - (ii) directed to charitable purposes; or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);of which you are a member or in a position of general control or management;
 - (c) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50;

- (d) a decision in relation to that business which might reasonably be regarded as affecting your wellbeing or the wellbeing of their family or friends to a greater extent than the majority of:-
 - (i) (in the case of Authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
 - (ii) (in all other cases) other council tax payers, ratepayers or inhabitants of the Authority's area.

7. Disclosure of Interests (Disclosable Pecuniary Interests, Other Pecuniary Interests and Non-Pecuniary Interests)

- 7.1 Subject to sub-paragraphs 7.2 to 7.3, where you have a Disclosable Pecuniary Interest, other Pecuniary Interest or Non-Pecuniary Interest in any business of the Authority and you are present at a meeting of the Authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your Register of Interests or for which you have made a pending notification.
- 7.2 Sub-paragraph 7.1 only applies where you are aware or ought reasonably to be aware of the existence of the Relevant Person's Interest.
- 7.3 Where you have an interest in any business of the Authority which would be disclosable by virtue of paragraph 7.1 but by virtue of paragraph 12 (Sensitive Information) details of the interest are not registered in the Authority's published Register of Members' Interests and the interest is a Disclosable Pecuniary Interest you need not disclose the nature of the interest to the meeting.
- 7.4 Where you have a Pecuniary Interest in any business of the Authority and a function of the Authority may be discharged by you acting alone in relation to that business, you must ensure you notify the Authority's Monitoring Officer of the existence and nature of that interest within 28 days of becoming aware that you will be dealing with the matter even if more than 28 days before you will actually deal with the business.
- 7.5 Where you have an interest in any business of the Authority which would be disclosable by virtue of paragraph 7.1 and you have made an executive decision in relation to that business you must ensure that any written statement of that decision records the existence and nature of that interest. In this paragraph "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

8. Disclosure of Interests generally

- 8.1 Subject to sub-paragraph 8.2 below, you have a duty to disclose any interest, as set out in paragraphs 5 and 6 above, in considering any business of the Authority, where that interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- 8.2 You do not have a disclosable interest in any business of your Authority where that business relates to the functions of your Authority in respect of:
- i. housing, where you are a tenant of your Authority provided that those functions do not relate particularly to your tenancy or lease;
 - ii. school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - iii. statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - iv. an allowance, payment or indemnity given to Members;
 - v. any ceremonial honour given to Members; and
 - vi. setting Council Tax or a Precept under the Local Government Finance Act 1992

9. Effect of Disclosable Pecuniary Interests on participation

- (a) If you are present at a meeting of the Authority or of any committee, sub-committee, joint committee or joint sub-committee of the Authority and you have a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at the meeting and you are aware of that Interest:
- (i) You must not participate, or participate further, in any discussion of the matter at the meeting, or participate in any vote, or further vote, taken on the matter at the meeting.
 - (ii) You must withdraw from the room or chamber where the meeting considering the business is being held unless you have received a dispensation from the Authority's Monitoring Officer.
- (b) If you have a Disclosable Pecuniary Interest in any business of the Authority you must not:
- (i) exercise executive functions in relation to that business; and
 - (ii) seek improperly to influence a decision about that business
- (c) If a function of the Authority may be discharged by a Member acting alone and you have a Disclosable Pecuniary Interest in any matter to be dealt with or being dealt with in the course of discharging that

function you may not take any steps or any further steps in relation to the matter (except for the purpose of enable the matter to be dealt with otherwise than by yourself).

10. Effect of Other Pecuniary or Non-Pecuniary Interests on participation

- 10.1 If you have a pecuniary interest (other than a disclosable pecuniary interest) or a non-pecuniary interest in any business of your Authority which a Member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and you are present at a meeting of the authority at which such business is to be considered or is being considered you must:-
- (a) Disclose the existence and nature of the interest in accordance with paragraph 7.1 (but subject to paragraph 12)
 - (b) Withdraw from the room or chamber where the meeting considering the business is being held, immediately after making your representations or in any other case when the business is under consideration, unless you have obtained a dispensation from your authority's Monitoring Officer

PART 3 REGISTER OF MEMBERS' INTERESTS Registration of Members' Interests

11.1 Subject to paragraph 12, you must, within 28 days of—

- a. this Code being adopted by or applied to your authority; or
- b. your election, re-election or appointment or re-appointment to office (where that is later), or co-option onto the authority,

register in your authority's register of members' interests (maintained by the Monitoring Officer under Section 29(1) of the Localism Act 2011) details of:

- (i) disclosable pecuniary interests as referred to in paragraph 4 that you, your spouse, civil partner or person with whom you live as if they were your spouse or civil partner in so far as you are aware of their interests at that time.
- 11.2 Subject to paragraph 12, you must, within 28 days of becoming aware of any new Disclosable Pecuniary Interest as referred to in paragraph 4 that you, your spouses, civil partner or person with whom you live as if they were your spouse or civil partner or change to any interest registered under paragraph 4 above by providing written notification to your authority's Monitoring Officer.

12. Sensitive Information

- 12.1 Where you have a Disclosable Pecuniary Interest referred to in paragraph 4 or other Pecuniary Interest referred to in paragraph 5, and the nature of the interest is such that you and your authority's Monitoring Officer consider that disclosure of details of the interest could lead to you or a person connected with you being subject to violence or intimidation if the interest is entered in the authority's register then copies of the register available for inspection and any published version of the register should not include details of the interest but may state that you have an interest details of which are withheld under s32(2) of the Localism Act 2011 and/or this paragraph.
- 12.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 18.1 is no longer sensitive information, notify your authority's Monitoring Officer.
- 12.3 In this Code "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subject to violence or intimidation.

TENDRING DISTRICT COUNCIL COMPLAINTS PROCEDURE

1. Context

- 1.1 These “Arrangements” set out how you may make a complaint that an elected or co-opted member (with voting rights) of this Authority (‘Tendring District Council’ or of a Town or Parish Council within its area (see 1.3.below)) has failed to comply with the Member Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the Member Code of Conduct.
- 1.2 Under **Section 28(6) and (7) of the Localism Act 2011**, Tendring District Council must have in place “arrangements” under which allegations that a Member or co-opted Member of the Authority (*or of a Town or Parish Council within the authority’s area*), or of a Committee or Sub-Committee of the Authority, has failed to comply with the Code of Conduct can be investigated and decisions made on such allegations.
- 1.3 Town and Parish Councils within the Tendring District are set out on the Council’s website.
- 1.4 Such arrangements must provide for the District Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation against a Member, which it has decided shall be investigated, and whose views can be sought by the District Council at any other stage. The Council has adopted an Independent Person Protocol which sets out some general principles.

2. The Member Code of Conduct

- 2.1 The Council has adopted a Code of Conduct for Councillors, which is available on the website or on request from reception at the Council Offices.
- 2.2 Each Town or Parish Council is also required to adopt a Code of Conduct. If you wish to inspect a Town or Parish Council’s Code of Conduct, you should visit the website operated by the Town or Parish Council or request the Town or Parish Council Clerk to allow you to inspect the Town or Parish Council’s Code of Conduct.

3. Making a complaint

- 3.1 If you wish to make a complaint, please write to or email:

The Monitoring Officer, Tendring District Council
Corporate Services, Town Hall, Station Road
Clacton-on-Sea Essex CO15 1SE

Standards@tendringdc.gov.uk

The Complaints Form can be downloaded from the website.

3.2 The Monitoring Officer 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. This information will be retained by the Council for a period of two years in accordance with its Retention and Destruction Policy. The Council has adopted a Monitoring Officer Protocol which sets out some general principles.

3.3 In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the complaint form which is available on request from the reception at the Council Offices or via the website. You must also include all relevant information relating to the complaint which you have to enable it to be fully considered.

Please provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. The name and address of a complainant will be provided to the member that is the subject of the complaint. In exceptional cases, we may agree to withhold your name and address from the member. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form along with the reasons why you feel it is necessary for your name and address to be withheld. The Monitoring Officer will consider your request and if granted we will not disclose your name and address to the member against whom you make the complaint, without your prior consent.

3.4 The authority does not normally investigate anonymous complaints, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct and there is a clear public interest in doing so.

3.5 Following receipt of your complaint, the Monitoring Officer will: -

- (a) acknowledge receipt of your complaint within 5 working days of receiving it;
- (b) notify, within 5 working days, the member that is the subject of the complaint that you have made a complaint about them and provide them with the information set out on the complaint form; excluding any personal information but including your name and address, unless this is to be withheld in accordance with section 3.3 above; and
- (c) keep you and the Member that is the subject of the complaint informed of the progress of your complaint.
- (d) Your complaint will be given a reference number which will appear on complaint documentation to preserve the privacy of the complainant and the subject Member until the complaint outcome is determined.

3.6 The Complaints Procedure Flowchart is set out at the end of this procedure for reference.

3.7 The Complaints Procedure follows the principles of natural justice and the presumption of innocence until proven otherwise.

4. Will your complaint be investigated?

4.1 The Monitoring Officer will review every complaint received and, may consult with one of the Independent Persons before taking a decision as to whether the complaint:

4.1.1 Merits no further action

4.1.2 Merits early informal resolution or mediation

4.1.3 Merits further investigation.

4.2 In reaching a decision in respect of how to progress the complaint the Monitoring Officer will take account of the following factors where appropriate:-

- Was the Member acting in their official capacity?
- Was the Member in office at the time of the alleged misconduct?
- Is the complaint of a very minor or trivial nature?
- Is the complaint vexatious or malicious?
- Are there historical matters?
- Is there a potential breach of the Code?
- Assessment of public interest?
- Is additional information required prior to making a decision?

4.3 The decision as to how the complaint is to be progressed will normally be taken within 15 working days of receipt of your complaint. Your complaint will be considered in accordance with the Assessment Criteria included at **Annex D (set out at the end of this procedure for reference)**.

Where the Monitoring Officer has taken a decision, you will be informed of the decision and the reasons for that decision. The Monitoring Officer may require additional information in order to come to a decision, and may come back to you for such information. In the absence of a response from you within 15 working days the Monitoring Officer may close the complaint. Information may be requested from the member against whom your complaint is directed to enable the Monitoring Officer to take the decision. In the absence of the subject Member's response within 15 working days the Monitoring Officer may proceed with the complaint.

Where your complaint relates to a Town or Parish Councillor, the Monitoring Officer *may* also inform the Town or Parish Council of your complaint and seek the views of the Town or Parish Council before deciding whether the complaint merits formal investigation.

Any failure to comply with the time scale by the Monitoring Officer or parties concerned will be notified to the Standards Committee or Sub-Committee together with reasons for the delay and the member subject of the complaint and the complainant will be kept informed of progress and reasons for the delay.

4.4 In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally through informal resolution, without the need for a formal investigation. Such informal resolution may involve notifying the Group Leader and the Member accepting that his/her conduct was unacceptable and/or offering an apology, and/or

agreeing to mediation and/or other remedial action by the authority. Where the Member or the Authority make a reasonable offer of informal resolution, but you are not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint merits further investigation.

Where the Member subject of the complaint is the Group Leader, appropriate alternative arrangements will be required for informal resolution or mediation; this will be dependent upon whether the Group has allocated a Deputy to undertake this role, involve the Group Leader directly or an independent individual or suitable alternative, depending upon the circumstances.

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

5. Referral to the Standards Committee or Sub-Committee and how is the Investigation conducted?

(The Committee and Sub-Committee Terms of Reference are included at **Annex C (set out at the end of this procedure for reference)**).

- 5.1 The Council has adopted a procedure for the investigation of misconduct complaints a summary of which is attached as **Annex E (set out at the end of this procedure for reference)**.

The Council has a Town and Parish Councils' Standards Sub-Committee which has responsibility for dealing with complaints regarding the actions of a Town or Parish Councillor, reference to the Sub-Committee throughout this procedure relates to the Town and Parish Council's Standards Sub-Committee.

- 5.2 If the Monitoring Officer decides that a complaint merits further investigation without referral to the Standards Committee or Sub-Committee, he/she will commission the investigation to be undertaken by a suitably qualified investigator with requisite experience and may include another officer of the Council, a senior officer of another authority or an appropriately experienced consultant, ensuring that independence and impartiality is maintained.

When deciding that a complaint merits further investigation, the Monitoring Officer may, in exceptional circumstances, refer the matter to the Council's Standards Committee or Sub-Committee, with a recommendation together with any information received from either the complainant or member who is the subject of the complaint. The Committee or Sub-Committee, upon consideration of this recommendation and information, may decide that the complaint merits no further action, conciliation or similar resolution.

- 5.3 The Investigating Officer or Monitoring Officer will decide whether he/she needs to meet you or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents need to be seen and who needs to be interviewed.

- 5.4 As referred to in section 3.5, upon receipt of your complaint the member that is the subject of the complaint will ordinarily be informed that you have made a complaint about them and will be provided with details of the complaint. If an investigation is to be undertaken, the Investigating Officer or Monitoring Officer will normally write to the Member against whom you have complained and provide him/her with full details of your complaint, (including your name and address but excluding any additional or sensitive personal information) and formally ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is felt appropriate to continue to keep your identity confidential or where disclosure of details of the complaint to the Member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay providing full details of the complaint to the member until the investigation has progressed sufficiently.
- 5.5 At the end of his/her investigation, the Investigating Officer or Monitoring Officer will produce a draft report (“the Investigation Report”) and will, in all cases, send copies of that draft report, in confidence, to you and to the Member concerned, to give you both an opportunity to identify any matters in that draft report which you disagree with or which you consider requires more consideration.
- 5.6 Having received and taken account of any comments which you, or the Member that is the subject of the complaint, may make on the draft Investigation Report, the report will be finalised. Where an Investigating Officer has been appointed the Investigating Officer will send his/her final report to the Monitoring Officer together with a conclusion as to whether the evidence supports a finding of failure to comply with the Code of Conduct.
- 6. What happens if the Investigating Officer or Monitoring Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**
- 6.1 If an Investigating Officer has been appointed, the Monitoring Officer will review the Investigating Officer’s report and may consult with the Independent Person(s). If he/she is satisfied that the Investigating Officer’s report is sufficient, the Monitoring Officer will write to you and to the member concerned (*and, if appropriate, to the Town and Parish Council, where your complaint relates to a Town or Parish Councillor*), notifying you that he/she is satisfied that no further action is required, and give you both a copy of the Investigation Final Report. The Monitoring Officer will also notify the Standards Committee or Sub-Committee and the relevant Independent Person.
- 6.2 If an Investigating Officer has been appointed and if the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer to reconsider his/her report.

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

7.1 If an Investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer's report and will then either refer the matter for a hearing before the Standards Committee or Sub-Committee or in consultation with one of the Independent Persons seek an informal resolution or mediation.

7.1.1 Informal Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with one of the Independent Persons and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Member accepting that his/her conduct was unacceptable and/or offering an apology, and/or mediation and/or other remedial action by the Authority. If the Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee or Sub-Committee (*and the Town or Parish Council*) for information, but will take no further action.

7.1.2 Hearing

If the Monitoring Officer considers that informal resolution is not appropriate, or the councillor concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigation Report to the Standards Committee or Sub-Committee which will conduct a hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

At the hearing, following the Council's procedures, a copy of which will be provided, the Investigating Officer or the Monitoring Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer or Monitoring Officer may ask you as the complainant to attend and give evidence to the Standards Committee or Sub-Committee. The Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Standards Committee or Sub-Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Members of the Standards or Sub-Committee, after hearing all the evidence and information, may adjourn the meeting for a short period and deliberate together in private. The hearing will then be reconvened and the Decision will be announced in public. It is expected that this will usually be on the same day.

The Standards Committee or Sub-Committee, with the benefit of any comments or advice from one of the Independent Persons, may conclude that the Member did not fail to comply with the Code of Conduct, and dismiss the complaint. If the decision is contrary to a recommendation from the Investigating Officer and/or Monitoring Officer, detailed reasons will be required to be published in the Decision Notice. The Decision of the Standards Committee or Sub-Committee will also be reported to the next meeting of Full Council.

If the Standards Committee or Sub-Committee concludes that the Member did fail to comply with the Code of Conduct, the Chairman will inform the Member of this finding and the Committee or Sub-Committee will then consider what action, if any, the Committee or Sub-Committee should take as a result of the Member's failure to comply with the Code of Conduct. In doing this, the Committee or Sub-Committee will give the Member an opportunity to make representations and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

8. What action might the Standards Committee or Sub-Committee take where a member has failed to comply with the Code of Conduct?

8.1 The Standards Committee or Sub-Committee has the power to take action in respect of individual Members as may be relevant and proportionate, and necessary to promote and maintain high standards of conduct. Accordingly the Standards Committee or Sub-Committee may:-

- 8.1.1 Publish its findings in respect of the Member's conduct on the Council's website;
- 8.1.2 Report its findings to Council (*or to the Town or Parish Council*) for information;
- 8.1.3 Recommend to the Member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committee) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 8.1.4 Recommend to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 8.1.5 Instruct the Monitoring Officer to (*or recommend that the Town or Parish Council*) arrange training for the member;
- 8.1.6 Recommend to the relevant Group Leader (or in the case of un-grouped members, recommend to Council or to Committee) that the Member be removed (*or recommend to the Town or Parish Council that the Member be removed*) from all outside appointments to which he/she has been appointed or nominated by the authority (*or by the Town or Parish Council*);
- 8.1.7 Recommend to relevant Group Leader (or in the case of un-grouped members, recommend to Council or to Committee) the withdrawal of (*or recommend to the Town or Parish Council that it withdraws*) facilities provided to the member by the Council, such as a computer, website and/or email and internet access; or

- 8.1.8 Recommend to the relevant Group Leader (or in the case of un-grouped members, recommend to Council or to Committee) the exclusion of (*or recommend that the Town or Parish Council exclude*) the Member from the Council's Offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- 8.2 In each circumstance, where the Member subject of the complaint is the Group Leader, appropriate alternative arrangements will be required, this will be dependent upon whether the Group has allocated a Deputy to undertake this role, involve the Group Leader directly or an independent individual or suitable alternative, depending upon the circumstances.
- 8.3 In each circumstance, where the Standards Committee or Sub-Committee recommend the Group Leaders take action, it is expected that the Group Leader will within 6 weeks of the referral to them, or as soon as reasonably practicable thereafter, submit a report back to the Standards Committee or Sub-Committee giving details of the action taken or proposed to comply with the Committee's direction.
- 8.4 The Standards Committee or Sub-Committee has no power to suspend or disqualify the Member or to withdraw Members' special responsibility allowances.

9. What happens at the end of the hearing?

- 9.1 At the end of the hearing, the Chairman will state the decision of the Standards Committee or Sub-Committee as to whether the Member failed to comply with the Code of Conduct and as to any actions which the Committee or Sub-Committee resolves to take.
- 9.2 Within 5 days, the Monitoring Officer shall prepare a formal Decision Notice in consultation with the relevant Chairman of the Standards Committee or Sub-Committee, and send a copy to you and to the Member (*and to the Town or Parish Council if appropriate*), make that Decision Notice available for public inspection and, report the decision to the next convenient meeting of the Council for information.
- 9.3 Should a police investigation result in a Member being convicted of a criminal offence the Monitoring Officer in consultation with an Independent will determine whether it is in the public interest for the matter to be reported to Council for information. In such circumstances the Group Leader will also be consulted and notified of the decision accordingly.

10. Who forms the Standards Committee or Sub-Committee?

- 10.1 The Standards Committee will comprise of 7 District Councillors;
- 10.2 The Standards Town and Parish Sub-Committee will compromise of 3 District Councillors and 3 Town and Parish Councillors (nominated by the Association of Local Councils);

- 10.3 At least one of the three Independent Persons must have been consulted on their views and taken into consideration before the Standards Committee or Sub-Committee takes any decision on whether the member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

11. Who are the Independent Persons?

- 11.1 The Council has appointed three Independent Persons to support the Standards Committee and Sub-Committee.
- 11.2 An Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.
- 11.3 Section 28 (8) of the Localism Act 2011 provides the definition and restriction of the Independent Person. The Council has adopted an Independent Person Protocol which sets out some general principles.

12. Revision of these arrangements

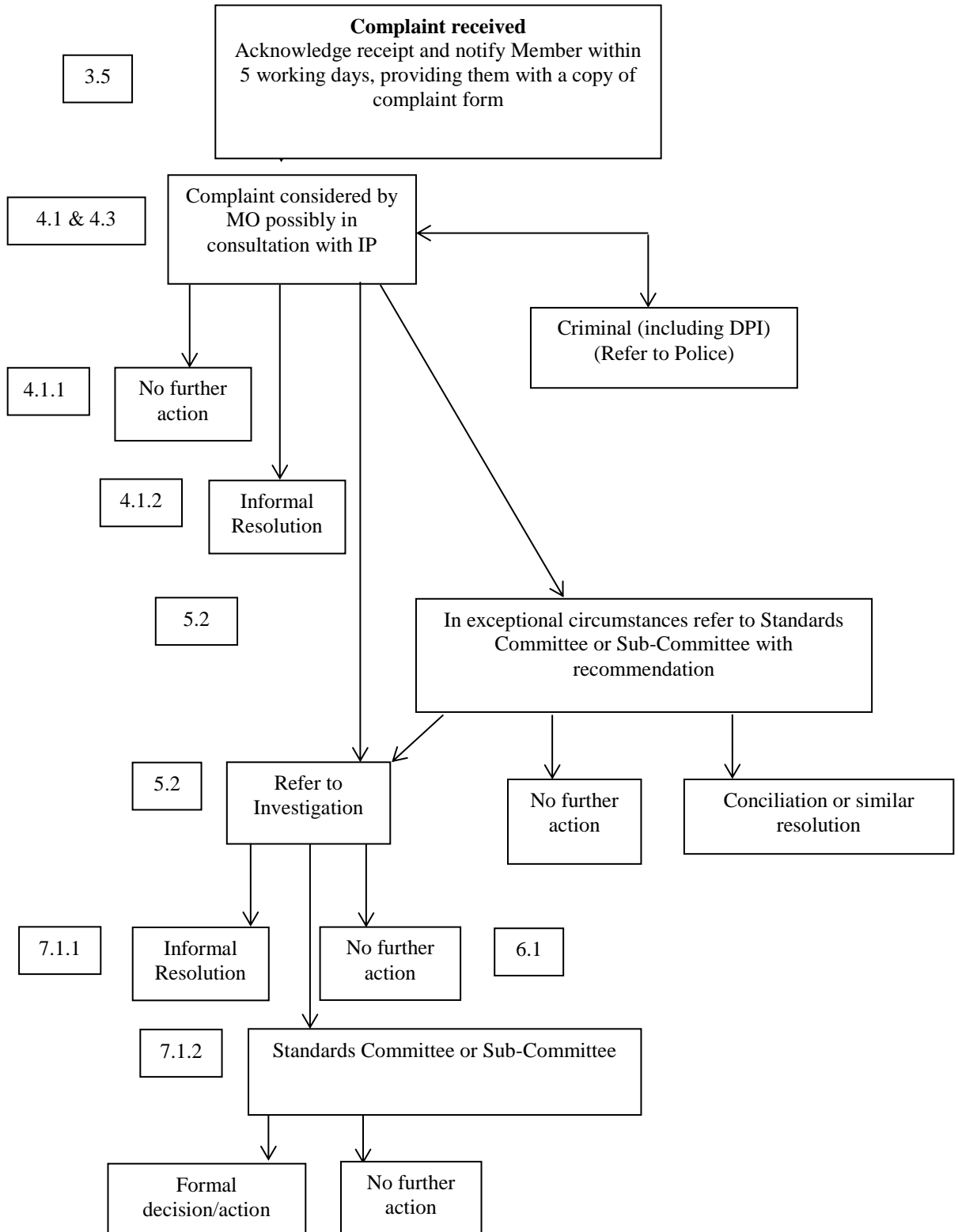
The Council may by resolution agree to amend these arrangements, upon the advice of the Monitoring Officer where it is necessary, fair, proportionate and expedient to do so.

13. Appeals

- 13.1 There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Standards Committee.
- 13.2 If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

ANNEX B

This Flowchart is to be read in conjunction with the Tendring District Council's Complaints Procedure (Reference is made to the relevant paragraphs of the Procedure in the boxes on the left hand side)



ANNEX D

CONDUCT COMPLAINTS ASSESSMENT CRITERIA

Complaints which would not normally be referred for investigation or to the Standards Committee or Sub-Committee

1. The complaint is not considered sufficiently serious to warrant investigation;
2. The complaint appears to be simply motivated by malice or is “tit-for-tat”;
3. The complaint appears to be politically motivated;
4. It appears that there can be no breach of the Code of Conduct; for example that it relates to the Councillor’s private life or is about dissatisfaction with a Council decision;
5. It is about someone who is no longer a Councillor
6. There is insufficient information available;
7. The complaint has not been received within 3 months of the alleged misconduct unless there are exceptional circumstances, e.g. an allegation of bullying, harassment etc.
8. The matter occurred so long ago that it would be difficult for a fair investigation to be carried out;
9. The same, or similar, complaint has already been investigated and there is nothing further to be gained by seeking the sanctions available to the Member Development and Conduct Committee;
10. It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct; or
11. Where the member complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction.

Complaints which may be referred to the Standards Committee or Sub-Committee

1. It is serious enough, if proven, to justifying the range of sanctions available to the Standards Committee or Sub-Committee; or
2. There are individual acts of minor misconduct which appear to be a part of a continuing pattern of behaviour that is unreasonably disrupting the business of the Council and there is no other avenue left to deal with it other than by way of an investigation; or
3. When the complaint comes from a senior officer of the Council, such as the Chief Executive or the Monitoring Officer and it would be difficult for the Monitoring Officer to consider; or
4. The complaint is about a high profile Member such as the Leader of the Council and it would be difficult for the Monitoring Officer to consider; or
5. Such other complaints as the Monitoring Officer considers it would not be appropriate for him/her to consider.

Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, deciding to investigate a complaint or to take further action will cost both public money and officers’ and Members’ time. This is an important consideration where the complaint is relatively minor.

ANNEX E

STANDARDS COMPLAINTS INVESTIGATION PROCEDURE

1. Planning Stage:

Upon receipt of an instruction to carry out an investigation the Investigator should :-

- Acknowledge receipt of the instruction to conduct the investigation.
- Maintain a written record throughout the investigation.
- Assess whether any additional information is required from the complainant.
- Identify the paragraph(s) of the Member Code of Conduct that are alleged to have been breached.
- Identify the facts which will need to be determined to establish if the Member has breached the Member Code of Conduct.
- Identify the evidence that is needed to determine the issues.
- Consider how to undertake the evidence gathering.
- Identify how long it is likely to take to conduct the investigation.

2. Evidence Gathering Stage:

- Contact the complainant to request any supporting or documentary evidence relating to the complaint.
- Contact the subject member with details of the complaint and seek an explanation.

3. Interview Stage:

- Identify witnesses.
- Arrange interview dates.
- Conduct interviews (with complaint, subject member and witnesses).

4. Report Stage:

- Review evidence from interviews and any documentary evidence provided.
- Draft the report to contain :-
 - Agreed facts
 - Facts not agreed and corresponding conflicting evidence
 - Conclusions as to whether a breach has occurred.
 - Where a draft report is issued this will be supplied to both the complainant and subject member for comment.

In all cases the Investigator will issue a final report and the Monitoring Officer will then determine appropriate action to be taken in line with the report conclusion



**Complaint alleging a breach of the Members' Code of Conduct
by a Tendring District Councillor or Town/Parish Council**

COMPLAINTS FORM

YOUR DETAILS

Name: WILLIAM HONES

Address: 12 AMBLESIDE COURT, MARINE PARADE EAST, CLACTON-ON-SEA

.....Post Code: CO15 6JL

.....

Telephone (day): N/A.....Telephone (eve): N/A.....

E-mail address: william.hones@gmail.com

Please identify which complainant type best describes you:

- A member of the public
- ~~An elected or co-opted member of an authority~~
- ~~A Standards Committee Independent Person~~
- ~~Member of Parliament~~
- ~~Local Authority Monitoring Officer~~
- ~~Other council officer or authority employee~~
- ~~Other (please specify):~~

Confidentiality

A copy of your complaint (as set out in this form), together with your name and address will be provided to the Member that is the subject of your complaint. In exceptional cases, we may agree to withhold your name and address from the Member. If you want to keep your name and address confidential, please indicate this in the space provided below along with the reasons why you feel it is necessary for the name



and address to be withheld. The Monitoring Officer will consider your request and if granted we will not disclose your name and address to the Member against whom you make the complaint, without your prior consent.

Please note that the Monitoring Officer is unlikely to withhold your identity or the details of your complaint unless you have a good reason to believe that not to do so would impede the Council's ability to deal with your complaint or would have personal safety or other serious implications for you or your family.

If you make a request for your name and address to be withheld, the Monitoring Officer will advise you of the decision on this before disclosing your details to the Member that is the subject of your complaint.

Please insert your reasons requesting your name and address to remain confidential in the box below:

The Council will not normally accept an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct and there is a clear public interest in doing so.

As with all personal data provided to the Council, your personal data will be held in accordance with the Data Protection Act 1998.



YOUR COMPLAINT

Please state which Councillor(s) your complaint is about

Title	First name	Last name	Council name
MR	JACK	PARSONS	TENDRING

Please indicate below which paragraph(s) of the Code of Conduct you believe have been breached. Please note that it is not possible to proceed without reference to Code:

3. Rules of Conduct

3.1 As a Member of Tendring District Council you shall have regard to the Seven Principles of Public Life.

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

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.

3.4 **Conduct** You must: (a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute;

Please explain below (or on separate sheets) what the Member has done that you believe breaches the Code of Conduct.

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



It is important that you provide all the information you wish to have taken into account by the Monitoring Officer when they decide 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 and how that affected you.
- 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 including any evidence you hold which supports the complaint.

COMPLAINT PART A:

In the Clacton Gazette (online version) on 3rd August, 2017 it was reported that Cllr. Jack Parsons pleaded guilty to a charge of Possession of a Bladed Article at Colchester Magistrates' Court. He was handed a 12 month Community Order and must carry out 70 hours of unpaid work,

This is an extraordinarily lenient sentence for possession of a knife in public. Worse, it seems Cllr. Parsons was brandishing the knife at the time of his arrest.

Whether this was due to drunkenness, mental health issues or both Cllr. Parsons has failed to show **Leadership** (CoC 3.1) in his criminal behaviour and in not seeking help for one or more long-standing mental health and/or dependency issues. From his behaviour leading to his arrest and conviction is clear that his **Conduct** (CoC 3.4) has brought both the office of Member and the Authority into disrepute.

COMPLAINT PART B:

Cllr. Parsons left the Labour Group and since then has not been allocated to any Committees. Membership of Committees is fundamental to the role of being a Member and by not fulfilling this obligation Cllr. Parsons is not showing the **Selflessness** (CoC



3.1) expected of a Member. He is failing to represent the residents of his Ward and their interests, and he is failing all the residents of the whole District.

There are two apparently non-political Groups on the Council at present, the Non-Aligned Group and the Independent Alliance Group. I contacted the Leaders of these Groups asking if Cllr. Parsons had asked to join them or if they had offered him membership of their Groups. Cllr. Bray did not respond but Cllr. Cawthron advised he had "three or four times" asked Cllr. Parsons to join the Non-Aligned Group so that Cllr. Parsons would be able to be allocated Committee positions. I have attached the email from Cllr. Cawthron by way of confirmation.

Please continue on a separate sheet if there is not enough space on the form.

Signed: *William Jones* Dated:29/08/2017.....
(To be signed by the person making the complaint)

Additional Information

Further details can be found in the Code of Conduct Complaints Procedure, which is available on the Council's website or by emailing or telephoning the Council's Monitoring Officer (details below).

- If you wish to make a complaint, please complete the official complaints form and send or email it to:

The Monitoring Officer,
Tendring District Council
Corporate Services,
Town Hall, Station Road
Clacton-on-Sea
Essex CO15 1SE

standards@tendringdc.gov.uk

- Complaints must be submitted in writing. This includes fax and electronic submissions. However, in line with the requirements of the Equality Act 2010, we



can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

We can also help if English is not your first language.

If you need any support in completing this form, please let us know as soon as possible.

- Following receipt of your complaint, the Monitoring Officer will: -
 - a) Acknowledge receipt of your complaint within 5 working days of receiving it;
 - b) Notify, within 5 working days, the Member that is the subject of the complaint that you have made a complaint about them and provide them with the information set out on the complaint form; excluding any personal information but including your name and address, unless the Monitoring Officer has agreed to this being withheld;
 - c) Keep you and the Member that is the subject of the complaint informed of the progress of your complaint.

- Your complaint will be given a reference number which will appear on complaint documentation.

- The Monitoring Officer will review every complaint received and may consult with one of the Independent Persons before taking a decision as to whether it:
 - a) Merits no further action
 - b) Merits early informal conciliation
 - c) Should be referred for further investigation or to the Standards Committee with a recommendation.

- The Monitoring Officer may require additional information in order to come to a decision, and may come back to you for such information. In the absence of a response from you within 15 working days the Monitoring Officer may close the complaint.

- The Monitoring Officer may request information from the Member against whom your complaint is directed to help them to come to a decision. In the absence of the subject Member's response within 15 working days the Monitoring Officer may proceed with the complaint.



- This decision as to how the complaint is to be progressed will normally be taken within 15 working days of receipt of your complaint. Your complaint will be considered in accordance with the Assessment Criteria (which are appended to the Complaints Procedure). Where the Monitoring Officer has taken a decision, you will be informed of the decision and the reasons for that decision (Where your complaint relates to a Town or Parish Councillor, the Monitoring Officer may also inform the Town or Parish Council of your complaint and seek the views of the Town or Parish Council before deciding whether the complaint merits formal investigation).
- Further detail on what will happen if the Monitoring Officer decides that a complaint merits further investigation is contained in the Complaints Procedure.
- **Please note that the Monitoring Officer maintains openness and transparency with regards to their decision making and therefore, the final decision, may be disclosed.**
- There is no right of appeal for you as complainant or for the Member against a decision of the Monitoring Officer has the power to call in the Police or other regulatory agencies.
- If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman www.lgo.org.uk/making-a-complaint.



William H <william.hones@gmail.com>

Councillor Parsons

3 messages

william <william.hones@gmail.com> Fri, Aug 4, 2017 at 5:31 PM
 To: Peter Cawthron <clr.pcawthron@tendringdc.gov.uk>, Jeff Bray <clr.jbray@tendringdc.gov.uk>

Can you please let me know as group leaders if you have offered Councillors Jack Parsons an opportunity to join your group. Or has he ever asked to join your group?
 Regards,
 William

postmaster@tendringdc.gov.uk <postmaster@tendringdc.gov.uk> Fri, Aug 4, 2017 at 5:31 PM
 To: william.hones@gmail.com

Delivery has failed to these recipients or groups:

Peter Cawthron (clr.pcawthron@tendringdc.gov.uk)
 The recipient's mailbox is full and can't accept messages now. Please try resending this message later, or contact the recipient directly.

Diagnostic information for administrators:

Generating server: tendringdc.gov.uk

clr.pcawthron@tendringdc.gov.uk
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 0.24761.0F010480, 4.20665.DD040000, 0.25785.00000000, 4.29881.DD040000 ##

Original message headers:

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 Received: by mail-wm0-f51.google.com with SMTP id m85ao24128604wma.1; Fri, 04 Aug 2017 09:31:43 -0700 (PDT)
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 Date: Fri, 4 Aug 2017 17:31:42 +0100
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 Subject: Councillor Parsons
 To: Peter Cawthron <clr.pcawthron@tendringdc.gov.uk>, Jeff Bray <clr.jbray@tendringdc.gov.uk>
 Content-Type: multipart/alternative; boundary="089e08224df64b91b50555f008b9"
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 d=gmail.com; s=20161025;
 h=mime-version:from:date:message-id:subject:to: bh=1UJvGPGNBsvdn2TqYmP3815dQ7H7FzDP01GEJjhnYUQ=: b=CEIsdh/eP1/9wIR9Z=ERtekd-ZIXGU3ox9FoySyBzGF3E1bOqnfEtztdrrnzF+9uKa CEFfR5PPIBERo2TeTofKTSaUDaGBHGM0eRKN6+2t9rNO8CaxxF2nstQcPK7aaAulYG5 KuucCF1C/32bv0VCbY+yuTHmzcX2H8yorkvzYkZTSdyWe68YbA+Q4jj2pbRCYNpp5/NE

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Final-Recipient: rfc822:cllr.pcawthron@tendingdc.gov.uk

Action: failed

Status: 5.2.2

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665 DD040000, 0.25785:00000000, 4.29881:DD040000

X-Display-Name: Peter Cawthron

----- Forwarded message -----

From: william <william.hones@gmail.com>

To: Peter Cawthron <cllr.pcawthron@tendingdc.gov.uk>, Jeff Bray <cllr.jbray@tendingdc.gov.uk>

Cc:

Bcc:

Date: Fri, 4 Aug 2017 17:31:42 +0100

Subject: Councillor Parsons

Can you please let me know as group leaders if you have offered Councillors Jack Parsons an opportunity to join your group. Or has he ever asked to join your group?

Regards,

William

Peter Cawthron <peter.cawthron@gmail.com>

Fri, Aug 4, 2017 at 9:41 PM

To: william <william.hones@gmail.com>

Cc: Jeff Bray <cllr.jbray@tendingdc.gov.uk>, Alex Porter <cllr.alex.porter@gmail.com>

Hello William,

He has never asked me but I have asked him three or four times since forming the Non-Aligned Group with Cllr. Porter.

Regards,

Peter

From: william [mailto:william.hones@gmail.com]

Sent: 04 August 2017 17:32

To: Peter Cawthron <cllr.pcawthron@tendingdc.gov.uk>; Jeff Bray <cllr.jbray@tendingdc.gov.uk>

Subject: Councillor Parsons

Can you please let me know as group leaders if you have offered Councillors Jack Parsons an opportunity to join your group. Or has he ever asked to join your group?

Regards,

William

Virus-free. www.avg.com

STANDARDS COMMITTEE

27 SEPTEMBER 2017

REPORT OF THE MONITORING OFFICER

A.2 OUTCOME OF INVESTIGATION – FAILURE TO COMPLY WITH THE MEMBERS' CODE OF CONDUCT

(Report prepared by Lisa Hastings)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

In accordance with the District Council's Complaints Procedure, the Monitoring Officer is required to report the outcome of an investigation to the Standards Committee.

EXECUTIVE SUMMARY

Mr Anthony Chandler and Mr William Hones (the Complainants) submitted separate complaints alleging that the behaviour of Councillor Lis Bennison (Councillor Bennison) had breached the Members' Code of Conduct (**Appendix 1**), which was adopted by full Council on 26 November 2013 together with the Complaints Procedure.

The alleged breaches related to:

- (i) Paragraph 3.1: The Leadership Principle of Public Life;
- (ii) Paragraphs 3.2: In fulfilling the Duties and Responsibilities, a Councillor must not:
 - (b) disrespect others; and
 - (c) bully or harass any person
- (iii) Paragraph 3.4(a): A Councillor must not conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute; and
- (iv) Paragraph 3.7(a): A Councillor must comply and observe the law.

The Complaint Form completed by Mr Chandler referred to initial contact with the Monitoring Officer in 2016, regarding the alleged assault by Councillor Bennison however, no further action could be taken, at that time, under the Members' Code of Conduct whilst criminal proceedings against Councillor Bennison were being considered by Essex Police. The incident had occurred at the Clacton Airshow in August 2016, whereby Councillor Bennison whilst acting as a steward on behalf of the District Council assaulted Mr Chandler, a member of the public.

Mr Chandler contacted the Council's Monitoring Officer and confirmed that Councillor Bennison had been convicted of assault at Southend Magistrates Court on 13th July 2017. Subsequently, a Complaint Form was completed and received on 19th July 2017. A

second Complaint Form concerning the same incident was received from Mr William Hones on 25th July 2017.

On 23rd August 2017, all parties were notified of the Monitoring Officer's decision, that due to the criminal conviction it was not appropriate to take 'no further action' or seek informal resolution or mediation. However, it was not considered a detailed investigation was required, as the conviction is the outcome of criminal proceedings before the Magistrates Court. Therefore, a light touch investigation would be undertaken and referred to the Standards Committee. To carry out a detailed investigation would be an unnecessary use of resources, in both cost and time and prolong determination of this matter.

If an investigation concludes that there is evidence of a failure to comply with the Code of Conduct, the Council's Complaints Procedure at Section 7.1 provides the Monitoring Officer with the authority to obtain an informal resolution, in consultation with the Independent Person, without the need for a hearing by the Standards Committee. Consultation has also been undertaken with the Leader of the Council and Group Leader on suitable sanctions, as these are within their discretion (as per Section 8 of the Complaints Procedure).

Through the investigation, a written apology has been received from Councillor Bennison accepting that breaches of the Code of Conduct have occurred.

RECOMMENDATION

That the Standards Committee:

- (a) Notes the outcome of the investigation undertaken by the Monitoring Officer in respect of Councillor Lis Bennison;**
- (b) Agrees with the findings of the Monitoring Officer that evidence exists that there has been a breach of the Members' Code of Conduct;**
- (c) Notes the written apology contained within the body of the Report;**
- (d) Notes the comments of both Independent Persons;**
- (e) Endorses the referral to the Committee to consider the sanctions; and**
- (f) Determines what action to take in respect of Councillor Bennison, as may be relevant and proportionate, and necessary to promote and maintain high standards of conduct.**

BACKGROUND - SUMMARY OF THE MONITORING OFFICER'S CONCLUSIONS:

In accordance with paragraph 5.5 of the Council's Complaints Procedure, at the end of the investigation, the Investigating Officer (in this case the Monitoring Officer) will produce a draft report ("the Investigation Report") and will, in all cases, send copies of that draft report, in confidence, to the Complainants and to the Member concerned, to give all parties an opportunity to identify any matters in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments on the draft Investigation Report, the report will be finalised. The Investigation Report is attached as Appendix 2 and includes the comments received back from both Councillor Bennison and Mr Chandler, nothing further was received from Mr Hones.

Section 9 of the Report contains the conclusions on each allegation of the complaints received. This includes a recommendation that evidence exists of Paragraphs 3.4(a) and 3.7(a) and the Leadership principle being compromised and in breach of the Code of

Conduct. Therefore, the matter is referred to the Standards Committee to decide upon the sanctions.

Complaint:

In fulfilling the Duties and Responsibilities, a Councillor must not:

(b) disrespect others; and

(c) bully or harass any person (Paragraph 3.2)

The Monitoring Officer, acting as the Investigating Officer concludes that there is no evidence that Councillor Bennison disrespected, bullied or harassed Mr Chandler to compromise or breach Paragraph 3.2.

Complaint:

A Councillor must not conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute (Paragraph 3.4(a)):

The Monitoring Officer concludes that a criminal conviction for assault is prima facie evidence that the Councillor's actions brought the Council into disrepute and consequently, there is evidence that paragraph 3.4(a) has been compromised and breached.

Complaint:

A Councillor must comply and observe the law (Paragraph 3.7(a))

The Monitoring Officer concludes that a criminal conviction is without doubt evidence that Councillor Bennison's actions failed to comply with the law and consequently, there is evidence that paragraph 3.7(a) has been compromised and breached.

Principles of Public Life:

In addition to Paragraphs 3.4(a) and 3.7(a) of the Code of Conduct it is necessary to revisit that elected members are required to conduct themselves in a way which is consistent with the Principles of Public Life and that *"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"*. Therefore, in obtaining a criminal conviction for assault, Councillor Bennison has contravened the Openness Principle of Leadership. Councillor Bennison has provided comments surrounding the incident and in effect, believes she was in tackling poor behaviour. However, slapping an individual and using violence is not a reasonable reaction of an elected member and does not promote or maintain high standards of conduct or demonstrate Leadership.

SANCTION

Councillor Bennison has through the investigation apologised for the incident, but does not acknowledge that her actions have breached the Code of Conduct. The Monitoring Officer is authorised, in consultation with one of the Independent Persons and in accordance with Section 7.1.1 of the Council's Complaints Procedure, to seek an informal resolution. However, in these circumstances, it is proportionate to refer the matter to the Standards Committee to determine whether any other sanctions are appropriate due to the fact a criminal conviction for assault has been obtained whilst acting in her official capacity at a council event.

Section 8 of the Complaints Procedure sets out what action the Standards Committee can take where a Member has failed to comply with the Code of Conduct.

- 8.1 The Standards Committee has the power to take action in respect of individual Members as may be relevant and proportionate, and necessary to promote and maintain high standards of conduct. Accordingly the Standards Committee or Sub-Committee may:-
- 8.1.1 Publish its findings in respect of the Member's conduct on the Council's website;
 - 8.1.2 Report its findings to Council for information;
 - 8.1.3 Recommend to the Member's Group Leader that they are removed from any or all Committees or Sub-Committees of the Council;
 - 8.1.4 Recommend to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
 - 8.1.5 Instruct the Monitoring Officer to arrange training for the Member;
 - 8.1.6 Recommend to the relevant Group Leader that the Member be removed from all outside appointments to which they have been appointed or nominated by the authority;
 - 8.1.7 Recommend to the relevant Group Leader the withdrawal of facilities provided to the Member by the Council, such as a computer, website and/or email and internet access; or
 - 8.1.8 Recommend to the relevant Group Leader the exclusion of the Member from the Council's Offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- 8.2 In each circumstance, where the Member subject of the complaint is the Group Leader, appropriate alternative arrangements will be required. This will be dependent upon whether the Group has allocated a Deputy to undertake this role, involve the Group Leader directly or an independent individual or suitable alternative, depending upon the circumstances.
- 8.3 In each circumstance, where the Standards Committee or Sub-Committee recommend the Group Leaders take action, it is expected that the Group Leader will within 6 weeks of the referral to them, or as soon as reasonably practicable thereafter, submit a report back to the Standards Committee or Sub-Committee giving details of the action taken or proposed to comply with the Committee's direction.
- 8.4 The Standards Committee or Sub-Committee has no power to suspend or disqualify the Member or to withdraw Members' special responsibility allowances.

COUNCILLOR'S RESPONSE

In the response to the Monitoring Officer's decision to investigate, Councillor Bennison submitted the following statement as an apology:

"I wish to put on record my sincere apologies for any embarrassment caused to Tendring District Council or grievance to the people of Clacton resulting from my conviction for an assault, taking place at the 2016 Clacton Airshow.

On that day, there were no police nor officials near to my brochure selling point and, therefore, as a quasi-representative of authority I felt obliged to try to stop a man dangerously driving at speed so very close to spectators. I had to make an

immediate decision of action to save lives, including those of very young children. Memories of very recent terrorist murders of the innocent by a man in Nice careering a vehicle into crowds also entered my mind. Having had no police nor crowd control training, I did what I thought necessary to stop this current danger. It seems that I was unintentionally over-zealous.

Regrettably, an altercation took place with the man, Mr Chandler, but only over a matter of a few seconds, during which time he punched me in the face and used loud, disgusting, threatening language and my hand accidentally touched his face. All I had tried to do was prevent injury or worse to spectators at our Airshow.

For this I was prosecuted for assault but, unaccountably, Essex Police have taken no action whatsoever against Chandler.

In his judgement, the District Judge said Chandler drove in a thoroughly dangerous manner and said he admired me for taking action. He called Chandler a 'boorish bloke' and a 'boorish oaf' and found that he had assaulted me and had thought of nobody's safety. He sentenced me to an Absolute Discharge, strongly stating that there would be no award for prosecution or victim costs. The Judge also strongly criticised the CPS for bring this prosecution and could not conceive why Chandler was not prosecuted for careless driving, threatening behaviour and assault on me.

I would add that he and my barrister advised that this sentence immediately became a spent conviction. I would ask you to read the attached judgement transcript, together with the Section 44 OPA 1861 referred to in the Judge's summing up, to confirm all that I state, and accept newspaper reporting for what it is: wilful journalistic misrepresentation designed to sell newspapers, using the familiar witch-hunt of public bodies and their personnel.

I hope this helps you in your deliberations and I reiterate my deep regret for any hurt to the Council or local residents, no less of course than for the terrible anguish caused to myself and my family. I wish never to be placed in that position again when representing the Council in any way.

As part of any Code of Conduct investigation, it is necessary that the allegations are put to the member who is the subject of the complaint to respond to. Whilst the apology was received, despite being provided with a further opportunity to respond specifically to the complaints, Councillor Bennison did not provide an express admission as to whether the Code of Conduct had been breached. Cllr Bennison:

- believes that her actions demonstrated that she was tackling poor behaviour;
- denies being disrespectful, harassing or bullying;
- denies that neither her office or that of the Council has been brought into disrepute; and
- in respect of the failure to comply with the law, pleaded not guilty to the alleged offence and requested the Judge's summing up and the Section 44 alluded to in his summing up to be included in the report.

It is however, undisputed that a criminal conviction was obtained and the sentence was an Absolute Discharge. Nothing else remains in dispute.

During the investigation and as part of the complaints process, Councillor Bennison

requested to speak to one of the council's Independent Person, which a member who is the subject of a complaint has the right to do. In this case Mr John Wolton was allocated to Councillor Bennison, who passed on the following comments to the Monitoring Officer:

"In my opinion and I believe it would be acceptable to the general public whom I represent, is that to impose any further sanctions on Cllr Bennison would be counter-productive, and would only cause her further anxiety. Whilst waiting for the outcome of the court case has taken almost one year, I strongly believe that no gain would come to TDC and in my opinion would only further fuel the few people we have in our society who are only too willing to see the undermining of our Councillors who work extremely hard to keep Tendring in the friendly way it is perceived."

FORMAL CONSULTATION WITH THE INDEPENDENT PERSON

Clarissa Gosling, one of the Council's Independent Persons has responded

"Thank you for sending the details about this case which you had told me earlier might arise. I would like to make the point that living near Bury St Edmunds I had not seen any newspaper reports in your local paper that are referred to.

There is a great deal of detail involved and justifications given for actions by both sides, but I have tried to boil it down to the actual action complained of: that Councillor Bennison slapped Mr Chandler in the face when he swore at her.

She describes this as 'my hand accidentally touched his face' and her statement blurs over whether he hit her first. He states that 'she slapped me over the right side of my face'. The Magistrate's summing-up said that she slapped him and this was seen by two of the staff. Because of this she received the conviction.

*It is my view, acting as an Independent Person, that initiating **any** violent action is not justified unless it is to prevent imminent harm to another. It appears from the papers I read that Councillor Bennison's action in slapping Mr Chandler was not the only way to prevent driving that endangered the public, but happened because she was angered by being sworn at.*

Councillor Bennison requested that the judge's comments be included, but I have not commented on Mr Chandler's actions in general. I do not believe my sympathies on either side on the driving and general behaviour issues are relevant, as in every circumstance adults should be have the self control to keep dispute verbal not resort to the physical. This should be demonstrated particularly by leaders in the public eye setting an example of dignity and restraint.

Councillor Bennison was clearly acting in her official capacity, wearing a badge and t-shirt, there seems to be no dispute about this, this would have been plain to Mr Chandler and members of the public who witnessed these events. It does not appear however that Mr Chandler was intimidated by her official position. Thus though she did initiate a violent action by slapping him, 'bully or harass' would imply an attack on a weaker from the stronger, and this does not seem to be the case either physically or emotionally.

When acting in an official capacity, Councillor Bennison used physical aggressive action in response to verbal abuse, this is not edifying and in my view does bring her and the Council she represents into disrepute. The force of the action is not important it is a

precedent no one would wish followed privately or publically.

The fact that this led to a criminal conviction has drawn more public attention to the unfortunate event, confirming the facts. I am not sure that a criminal conviction per se brings a councillor into disrepute: though 'a councillor must comply and observe the law' seems to imply that. There are many laws on the statute book and motives for breaking them and the public might consider some more reputable than others.

From the papers I have read, I do not believe it was necessary to use physical violent action in response to the bad language and 'dangerous driving behaviour' Councillor Bennison reported. I am sorry that her apology did not acknowledge this crucial point, even in retrospect, and in my view this lack regret about her actions reflects badly upon her."

APPENDICES

- Appendix 1 – Code of Conduct and Complaints Procedure
- Appendix 2 – Investigation Report dated 18th September 2017 together with enclosures.

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TENDRING DISTRICT COUNCIL MEMBERS' CODE OF CONDUCT

1. Introduction

- 1.1 Trust and confidence in public office-holders and institutions are important for the functioning of local authorities. This is particularly true in the case of elected office-holders. The Council has therefore adopted this Code of Conduct to promote and maintain high standards of conduct in public life. It is each Councillor's responsibility to comply with the provisions of this Code.
- 1.2 The Code of Conduct applies to all elected Councillors, voting co-opted members and appointed members.

2. When does the Code of Conduct apply?

- 2.1 In this Code "meeting" means any meeting of
- (a) Tendring District Council ("the Authority");
 - (b) the Executive of the Authority
 - (c) any of the Authority's or its Executive's committees, sub committees joint committees, joint sub-committees, or area committees (including working parties); or
 - (d) informal meetings with other Members and/or Officers relating to the discharge of the Authority's functions.
- 2.2 The Code of Conduct applies—
- (a) whenever you conduct the business, or are present at a meeting, of the Authority; or
 - (b) whenever you act, claim to act or give the impression you are acting in the role of Member to which you were elected or appointed; or
 - (c) whenever you act, claim to act or give the impression you are acting as a representative of the Authority (including representation on outside bodies); or
 - (d) at all times and in any capacity, in respect of conduct identified in paragraphs 3.4(a) and 3.5; or
 - (e) in respect of any criminal offence for which you have been convicted during your term of office.
- 2.3 Where you are elected, appointed or nominated by the authority to serve on any other authority or body you must, when acting for that other authority or body, comply with the code of conduct of that other authority or body.

- 2.4 Where you are elected, appointed or nominated by the authority to serve on any other body which does not have a code relating to the conduct of its members, you must, when acting for that other body, comply with this code of conduct, unless it conflicts with any other lawful obligations to which that other body may be subject.

3. Rules of Conduct

- 3.1 As a Member of Tendring District Council you shall have regard to the Seven Principles of Public Life.

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 declare 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.

These general principles are the underlying principles behind the rules of conduct set out below.

3.2 In fulfilling your **Duties and Responsibilities**

You must not:

- (a) breach your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;
- (b) disrespect others;
- (c) bully or harass any person; or
- (d) do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, the Authority.

3.3 **Information**

You must not:

- (a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so;
- (b) prevent any person from gaining access to information to which that person is entitled by law.

3.4 **Conduct**

You must:

- (a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute;
- (b) not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, the Authority.
- (c) comply with any request of the authority's Monitoring Officer or Section 151 Officer, in connection with an investigation conducted in accordance with their respective statutory powers.

3.5 **Use of your Position**

You must not:

- (a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;
- (b) use, or authorise others to use, the resources of the Authority—
 - (i) imprudently;
 - (ii) in breach of the Authority's requirements;

- (iii) unlawfully;
- (iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the Authority or of the office to which you have been elected or appointed;
- (v) improperly for political purposes; or
- (vi) improperly for private purposes.

3.6 Decision Making

You must:

- (a) when participating in meetings or reaching decisions regarding the business of the Authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by the Authority's officers, in particular by—
 - (i) the Authority's head of paid service;
 - (ii) the Authority's s.151 Officer/ Chief Finance Officer;
 - (iii) the Authority's Monitoring Officer/ Chief Legal Officer;
- (b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the authority.

3.7 Compliance with the Law and the Authority's Rules and Policies

You must:

- (a) observe the law and the Authority's rules governing the claiming of expenses and allowances in connection with your duties as a member;
- (b) comply with the provisions of the Bribery Act 2010 or similar;
- (c) comply with the Authority's Gifts and Hospitality Policy;
- (d) comply with any other policy (or part of policy) which sets out required conduct from Members, for example the Member/Officer Working Protocol and Planning Code for Members, or similar.

PART 2 MEMBERS' INTERESTS

4. Disclosable Pecuniary Interests

- 4.1 You have a Disclosable Pecuniary Interest in any business of your authority if it is of a description set out in 4.2 below and is either:
- (a) an interest of yours,
or that of a Relevant Person being:
 - (b) an interest of your spouse,
 - (c) an interest of your civil partner, or
 - (d) an interest of a person you are living with as a spouse or civil partner,

and in the case of paragraphs 4.1(b) – (d) you are aware that the Relevant Person has the interest.

- 4.2 “Disclosable Pecuniary Interests” are defined by *The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012* and are:-

Employment, office, trade, profession or vacation

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

Sponsorship

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

Contracts

Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant Authority—

- (a) under which goods or services are to be provided or works are to be executed; and
- (b) which has not been fully discharged.

Land

Any beneficial interest in land which is within the area of the relevant Authority.

Licences

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

Corporate tenancies

Any tenancy where (to the Member's knowledge)—

- (a) the landlord is the relevant Authority; and
- (b) the tenant is a body in which the relevant person has a beneficial interest.

Securities

Any beneficial interest in securities of a body where—

- (a) that body (to the Member's knowledge) has a place of business or land in the area of the relevant Authority; and
- (b) either—
 - (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

5. Other Pecuniary Interests

- 5.1 You have a Pecuniary Interest in any business of the Authority where it relates to or is likely to affect:
- (a) any person or body who employs or has appointed you;
 - (b) any contract for goods, services or works made between the Authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specific in paragraphs 6.1 (a)-(b) which has been fully discharged within the last 12 months;

6. Non-Pecuniary Interests

- 6.1 You have a Non-Pecuniary Interest in any business of the Authority where it relates to or is likely to affect –
- (a) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Authority;
 - (b) any body –
 - (i) exercising functions of a public nature;
 - (ii) directed to charitable purposes; or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);of which you are a member or in a position of general control or management;
 - (c) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50;

- (d) a decision in relation to that business which might reasonably be regarded as affecting your wellbeing or the wellbeing of their family or friends to a greater extent than the majority of:-
 - (i) (in the case of Authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
 - (ii) (in all other cases) other council tax payers, ratepayers or inhabitants of the Authority's area.

7. Disclosure of Interests (Disclosable Pecuniary Interests, Other Pecuniary Interests and Non-Pecuniary Interests)

- 7.1 Subject to sub-paragraphs 7.2 to 7.3, where you have a Disclosable Pecuniary Interest, other Pecuniary Interest or Non-Pecuniary Interest in any business of the Authority and you are present at a meeting of the Authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your Register of Interests or for which you have made a pending notification.
- 7.2 Sub-paragraph 7.1 only applies where you are aware or ought reasonably to be aware of the existence of the Relevant Person's Interest.
- 7.3 Where you have an interest in any business of the Authority which would be disclosable by virtue of paragraph 7.1 but by virtue of paragraph 12 (Sensitive Information) details of the interest are not registered in the Authority's published Register of Members' Interests and the interest is a Disclosable Pecuniary Interest you need not disclose the nature of the interest to the meeting.
- 7.4 Where you have a Pecuniary Interest in any business of the Authority and a function of the Authority may be discharged by you acting alone in relation to that business, you must ensure you notify the Authority's Monitoring Officer of the existence and nature of that interest within 28 days of becoming aware that you will be dealing with the matter even if more than 28 days before you will actually deal with the business.
- 7.5 Where you have an interest in any business of the Authority which would be disclosable by virtue of paragraph 7.1 and you have made an executive decision in relation to that business you must ensure that any written statement of that decision records the existence and nature of that interest. In this paragraph "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

8. Disclosure of Interests generally

- 8.1 Subject to sub-paragraph 8.2 below, you have a duty to disclose any interest, as set out in paragraphs 5 and 6 above, in considering any business of the Authority, where that interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- 8.2 You do not have a disclosable interest in any business of your Authority where that business relates to the functions of your Authority in respect of:
- i. housing, where you are a tenant of your Authority provided that those functions do not relate particularly to your tenancy or lease;
 - ii. school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - iii. statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - iv. an allowance, payment or indemnity given to Members;
 - v. any ceremonial honour given to Members; and
 - vi. setting Council Tax or a Precept under the Local Government Finance Act 1992

9. Effect of Disclosable Pecuniary Interests on participation

- (a) If you are present at a meeting of the Authority or of any committee, sub-committee, joint committee or joint sub-committee of the Authority and you have a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at the meeting and you are aware of that Interest:
- (i) You must not participate, or participate further, in any discussion of the matter at the meeting, or participate in any vote, or further vote, taken on the matter at the meeting.
 - (ii) You must withdraw from the room or chamber where the meeting considering the business is being held unless you have received a dispensation from the Authority's Monitoring Officer.
- (b) If you have a Disclosable Pecuniary Interest in any business of the Authority you must not:
- (i) exercise executive functions in relation to that business; and
 - (ii) seek improperly to influence a decision about that business
- (c) If a function of the Authority may be discharged by a Member acting alone and you have a Disclosable Pecuniary Interest in any matter to be dealt with or being dealt with in the course of discharging that

function you may not take any steps or any further steps in relation to the matter (except for the purpose of enable the matter to be dealt with otherwise than by yourself).

10. Effect of Other Pecuniary or Non-Pecuniary Interests on participation

- 10.1 If you have a pecuniary interest (other than a disclosable pecuniary interest) or a non-pecuniary interest in any business of your Authority which a Member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and you are present at a meeting of the authority at which such business is to be considered or is being considered you must:-
- (a) Disclose the existence and nature of the interest in accordance with paragraph 7.1 (but subject to paragraph 12)
 - (b) Withdraw from the room or chamber where the meeting considering the business is being held, immediately after making your representations or in any other case when the business is under consideration, unless you have obtained a dispensation from your authority's Monitoring Officer

PART 3 REGISTER OF MEMBERS' INTERESTS Registration of Members' Interests

11.1 Subject to paragraph 12, you must, within 28 days of—

- a. this Code being adopted by or applied to your authority; or
- b. your election, re-election or appointment or re-appointment to office (where that is later), or co-option onto the authority,

register in your authority's register of members' interests (maintained by the Monitoring Officer under Section 29(1) of the Localism Act 2011) details of:

- (i) disclosable pecuniary interests as referred to in paragraph 4 that you, your spouse, civil partner or person with whom you live as if they were your spouse or civil partner in so far as you are aware of their interests at that time.
- 11.2 Subject to paragraph 12, you must, within 28 days of becoming aware of any new Disclosable Pecuniary Interest as referred to in paragraph 4 that you, your spouses, civil partner or person with whom you live as if they were your spouse or civil partner or change to any interest registered under paragraph 4 above by providing written notification to your authority's Monitoring Officer.

12. Sensitive Information

- 12.1 Where you have a Disclosable Pecuniary Interest referred to in paragraph 4 or other Pecuniary Interest referred to in paragraph 5, and the nature of the interest is such that you and your authority's Monitoring Officer consider that disclosure of details of the interest could lead to you or a person connected with you being subject to violence or intimidation if the interest is entered in the authority's register then copies of the register available for inspection and any published version of the register should not include details of the interest but may state that you have an interest details of which are withheld under s32(2) of the Localism Act 2011 and/or this paragraph.
- 12.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 18.1 is no longer sensitive information, notify your authority's Monitoring Officer.
- 12.3 In this Code "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subject to violence or intimidation.

TENDRING DISTRICT COUNCIL COMPLAINTS PROCEDURE

1. Context

- 1.1 These “Arrangements” set out how you may make a complaint that an elected or co-opted member (with voting rights) of this Authority (‘Tendring District Council’ or of a Town or Parish Council within its area (see 1.3.below)) has failed to comply with the Member Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the Member Code of Conduct.
- 1.2 Under **Section 28(6) and (7) of the Localism Act 2011**, Tendring District Council must have in place “arrangements” under which allegations that a Member or co-opted Member of the Authority (*or of a Town or Parish Council within the authority’s area*), or of a Committee or Sub-Committee of the Authority, has failed to comply with the Code of Conduct can be investigated and decisions made on such allegations.
- 1.3 Town and Parish Councils within the Tendring District are set out on the Council’s website.
- 1.4 Such arrangements must provide for the District Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation against a Member, which it has decided shall be investigated, and whose views can be sought by the District Council at any other stage. The Council has adopted an Independent Person Protocol which sets out some general principles.

2. The Member Code of Conduct

- 2.1 The Council has adopted a Code of Conduct for Councillors, which is available on the website or on request from reception at the Council Offices.
- 2.2 Each Town or Parish Council is also required to adopt a Code of Conduct. If you wish to inspect a Town or Parish Council’s Code of Conduct, you should visit the website operated by the Town or Parish Council or request the Town or Parish Council Clerk to allow you to inspect the Town or Parish Council’s Code of Conduct.

3. Making a complaint

- 3.1 If you wish to make a complaint, please write to or email:

The Monitoring Officer, Tendring District Council
Corporate Services, Town Hall, Station Road
Clacton-on-Sea Essex CO15 1SE

Standards@tendringdc.gov.uk

The Complaints Form can be downloaded from the website.

3.2 The Monitoring Officer 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. This information will be retained by the Council for a period of two years in accordance with its Retention and Destruction Policy. The Council has adopted a Monitoring Officer Protocol which sets out some general principles.

3.3 In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the complaint form which is available on request from the reception at the Council Offices or via the website. You must also include all relevant information relating to the complaint which you have to enable it to be fully considered.

Please provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. The name and address of a complainant will be provided to the member that is the subject of the complaint. In exceptional cases, we may agree to withhold your name and address from the member. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form along with the reasons why you feel it is necessary for your name and address to be withheld. The Monitoring Officer will consider your request and if granted we will not disclose your name and address to the member against whom you make the complaint, without your prior consent.

3.4 The authority does not normally investigate anonymous complaints, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct and there is a clear public interest in doing so.

3.5 Following receipt of your complaint, the Monitoring Officer will: -

- (a) acknowledge receipt of your complaint within 5 working days of receiving it;
- (b) notify, within 5 working days, the member that is the subject of the complaint that you have made a complaint about them and provide them with the information set out on the complaint form; excluding any personal information but including your name and address, unless this is to be withheld in accordance with section 3.3 above; and
- (c) keep you and the Member that is the subject of the complaint informed of the progress of your complaint.
- (d) Your complaint will be given a reference number which will appear on complaint documentation to preserve the privacy of the complainant and the subject Member until the complaint outcome is determined.

3.6 The Complaints Procedure Flowchart is set out at the end of this procedure for reference.

3.7 The Complaints Procedure follows the principles of natural justice and the presumption of innocence until proven otherwise.

4. Will your complaint be investigated?

4.1 The Monitoring Officer will review every complaint received and, may consult with one of the Independent Persons before taking a decision as to whether the complaint:

4.1.1 Merits no further action

4.1.2 Merits early informal resolution or mediation

4.1.3 Merits further investigation.

4.2 In reaching a decision in respect of how to progress the complaint the Monitoring Officer will take account of the following factors where appropriate:-

- Was the Member acting in their official capacity?
- Was the Member in office at the time of the alleged misconduct?
- Is the complaint of a very minor or trivial nature?
- Is the complaint vexatious or malicious?
- Are there historical matters?
- Is there a potential breach of the Code?
- Assessment of public interest?
- Is additional information required prior to making a decision?

4.3 The decision as to how the complaint is to be progressed will normally be taken within 15 working days of receipt of your complaint. Your complaint will be considered in accordance with the Assessment Criteria included at **Annex D (set out at the end of this procedure for reference)**.

Where the Monitoring Officer has taken a decision, you will be informed of the decision and the reasons for that decision. The Monitoring Officer may require additional information in order to come to a decision, and may come back to you for such information. In the absence of a response from you within 15 working days the Monitoring Officer may close the complaint. Information may be requested from the member against whom your complaint is directed to enable the Monitoring Officer to take the decision. In the absence of the subject Member's response within 15 working days the Monitoring Officer may proceed with the complaint.

Where your complaint relates to a Town or Parish Councillor, the Monitoring Officer *may* also inform the Town or Parish Council of your complaint and seek the views of the Town or Parish Council before deciding whether the complaint merits formal investigation.

Any failure to comply with the time scale by the Monitoring Officer or parties concerned will be notified to the Standards Committee or Sub-Committee together with reasons for the delay and the member subject of the complaint and the complainant will be kept informed of progress and reasons for the delay.

4.4 In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally through informal resolution, without the need for a formal investigation. Such informal resolution may involve notifying the Group Leader and the Member accepting that his/her conduct was unacceptable and/or offering an apology, and/or

agreeing to mediation and/or other remedial action by the authority. Where the Member or the Authority make a reasonable offer of informal resolution, but you are not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint merits further investigation.

Where the Member subject of the complaint is the Group Leader, appropriate alternative arrangements will be required for informal resolution or mediation; this will be dependent upon whether the Group has allocated a Deputy to undertake this role, involve the Group Leader directly or an independent individual or suitable alternative, depending upon the circumstances.

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

5. Referral to the Standards Committee or Sub-Committee and how is the Investigation conducted?

(The Committee and Sub-Committee Terms of Reference are included at **Annex C (set out at the end of this procedure for reference)**).

- 5.1 The Council has adopted a procedure for the investigation of misconduct complaints a summary of which is attached as **Annex E (set out at the end of this procedure for reference)**.

The Council has a Town and Parish Councils' Standards Sub-Committee which has responsibility for dealing with complaints regarding the actions of a Town or Parish Councillor, reference to the Sub-Committee throughout this procedure relates to the Town and Parish Council's Standards Sub-Committee.

- 5.2 If the Monitoring Officer decides that a complaint merits further investigation without referral to the Standards Committee or Sub-Committee, he/she will commission the investigation to be undertaken by a suitably qualified investigator with requisite experience and may include another officer of the Council, a senior officer of another authority or an appropriately experienced consultant, ensuring that independence and impartiality is maintained.

When deciding that a complaint merits further investigation, the Monitoring Officer may, in exceptional circumstances, refer the matter to the Council's Standards Committee or Sub-Committee, with a recommendation together with any information received from either the complainant or member who is the subject of the complaint. The Committee or Sub-Committee, upon consideration of this recommendation and information, may decide that the complaint merits no further action, conciliation or similar resolution.

- 5.3 The Investigating Officer or Monitoring Officer will decide whether he/she needs to meet you or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents need to be seen and who needs to be interviewed.

- 5.4 As referred to in section 3.5, upon receipt of your complaint the member that is the subject of the complaint will ordinarily be informed that you have made a complaint about them and will be provided with details of the complaint. If an investigation is to be undertaken, the Investigating Officer or Monitoring Officer will normally write to the Member against whom you have complained and provide him/her with full details of your complaint, (including your name and address but excluding any additional or sensitive personal information) and formally ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is felt appropriate to continue to keep your identity confidential or where disclosure of details of the complaint to the Member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay providing full details of the complaint to the member until the investigation has progressed sufficiently.
- 5.5 At the end of his/her investigation, the Investigating Officer or Monitoring Officer will produce a draft report (“the Investigation Report”) and will, in all cases, send copies of that draft report, in confidence, to you and to the Member concerned, to give you both an opportunity to identify any matters in that draft report which you disagree with or which you consider requires more consideration.
- 5.6 Having received and taken account of any comments which you, or the Member that is the subject of the complaint, may make on the draft Investigation Report, the report will be finalised. Where an Investigating Officer has been appointed the Investigating Officer will send his/her final report to the Monitoring Officer together with a conclusion as to whether the evidence supports a finding of failure to comply with the Code of Conduct.
- 6. What happens if the Investigating Officer or Monitoring Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**
- 6.1 If an Investigating Officer has been appointed, the Monitoring Officer will review the Investigating Officer’s report and may consult with the Independent Person(s). If he/she is satisfied that the Investigating Officer’s report is sufficient, the Monitoring Officer will write to you and to the member concerned (*and, if appropriate, to the Town and Parish Council, where your complaint relates to a Town or Parish Councillor*), notifying you that he/she is satisfied that no further action is required, and give you both a copy of the Investigation Final Report. The Monitoring Officer will also notify the Standards Committee or Sub-Committee and the relevant Independent Person.
- 6.2 If an Investigating Officer has been appointed and if the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer to reconsider his/her report.

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

7.1 If an Investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer's report and will then either refer the matter for a hearing before the Standards Committee or Sub-Committee or in consultation with one of the Independent Persons seek an informal resolution or mediation.

7.1.1 Informal Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with one of the Independent Persons and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Member accepting that his/her conduct was unacceptable and/or offering an apology, and/or mediation and/or other remedial action by the Authority. If the Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee or Sub-Committee (*and the Town or Parish Council*) for information, but will take no further action.

7.1.2 Hearing

If the Monitoring Officer considers that informal resolution is not appropriate, or the councillor concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigation Report to the Standards Committee or Sub-Committee which will conduct a hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

At the hearing, following the Council's procedures, a copy of which will be provided, the Investigating Officer or the Monitoring Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer or Monitoring Officer may ask you as the complainant to attend and give evidence to the Standards Committee or Sub-Committee. The Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Standards Committee or Sub-Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Members of the Standards or Sub-Committee, after hearing all the evidence and information, may adjourn the meeting for a short period and deliberate together in private. The hearing will then be reconvened and the Decision will be announced in public. It is expected that this will usually be on the same day.

The Standards Committee or Sub-Committee, with the benefit of any comments or advice from one of the Independent Persons, may conclude that the Member did not fail to comply with the Code of Conduct, and dismiss the complaint. If the decision is contrary to a recommendation from the Investigating Officer and/or Monitoring Officer, detailed reasons will be required to be published in the Decision Notice. The Decision of the Standards Committee or Sub-Committee will also be reported to the next meeting of Full Council.

If the Standards Committee or Sub-Committee concludes that the Member did fail to comply with the Code of Conduct, the Chairman will inform the Member of this finding and the Committee or Sub-Committee will then consider what action, if any, the Committee or Sub-Committee should take as a result of the Member's failure to comply with the Code of Conduct. In doing this, the Committee or Sub-Committee will give the Member an opportunity to make representations and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

8. What action might the Standards Committee or Sub-Committee take where a member has failed to comply with the Code of Conduct?

8.1 The Standards Committee or Sub-Committee has the power to take action in respect of individual Members as may be relevant and proportionate, and necessary to promote and maintain high standards of conduct. Accordingly the Standards Committee or Sub-Committee may:-

- 8.1.1 Publish its findings in respect of the Member's conduct on the Council's website;
- 8.1.2 Report its findings to Council (*or to the Town or Parish Council*) for information;
- 8.1.3 Recommend to the Member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committee) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 8.1.4 Recommend to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 8.1.5 Instruct the Monitoring Officer to (*or recommend that the Town or Parish Council*) arrange training for the member;
- 8.1.6 Recommend to the relevant Group Leader (or in the case of un-grouped members, recommend to Council or to Committee) that the Member be removed (*or recommend to the Town or Parish Council that the Member be removed*) from all outside appointments to which he/she has been appointed or nominated by the authority (*or by the Town or Parish Council*);
- 8.1.7 Recommend to relevant Group Leader (or in the case of un-grouped members, recommend to Council or to Committee) the withdrawal of (*or recommend to the Town or Parish Council that it withdraws*) facilities provided to the member by the Council, such as a computer, website and/or email and internet access; or

- 8.1.8 Recommend to the relevant Group Leader (or in the case of un-grouped members, recommend to Council or to Committee) the exclusion of (*or recommend that the Town or Parish Council exclude*) the Member from the Council's Offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- 8.2 In each circumstance, where the Member subject of the complaint is the Group Leader, appropriate alternative arrangements will be required, this will be dependent upon whether the Group has allocated a Deputy to undertake this role, involve the Group Leader directly or an independent individual or suitable alternative, depending upon the circumstances.
- 8.3 In each circumstance, where the Standards Committee or Sub-Committee recommend the Group Leaders take action, it is expected that the Group Leader will within 6 weeks of the referral to them, or as soon as reasonably practicable thereafter, submit a report back to the Standards Committee or Sub-Committee giving details of the action taken or proposed to comply with the Committee's direction.
- 8.4 The Standards Committee or Sub-Committee has no power to suspend or disqualify the Member or to withdraw Members' special responsibility allowances.

9. What happens at the end of the hearing?

- 9.1 At the end of the hearing, the Chairman will state the decision of the Standards Committee or Sub-Committee as to whether the Member failed to comply with the Code of Conduct and as to any actions which the Committee or Sub-Committee resolves to take.
- 9.2 Within 5 days, the Monitoring Officer shall prepare a formal Decision Notice in consultation with the relevant Chairman of the Standards Committee or Sub-Committee, and send a copy to you and to the Member (*and to the Town or Parish Council if appropriate*), make that Decision Notice available for public inspection and, report the decision to the next convenient meeting of the Council for information.
- 9.3 Should a police investigation result in a Member being convicted of a criminal offence the Monitoring Officer in consultation with an Independent will determine whether it is in the public interest for the matter to be reported to Council for information. In such circumstances the Group Leader will also be consulted and notified of the decision accordingly.

10. Who forms the Standards Committee or Sub-Committee?

- 10.1 The Standards Committee will comprise of 7 District Councillors;
- 10.2 The Standards Town and Parish Sub-Committee will comprise of 3 District Councillors and 3 Town and Parish Councillors (nominated by the Association of Local Councils);

- 10.3 At least one of the three Independent Persons must have been consulted on their views and taken into consideration before the Standards Committee or Sub-Committee takes any decision on whether the member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

11. Who are the Independent Persons?

- 11.1 The Council has appointed three Independent Persons to support the Standards Committee and Sub-Committee.
- 11.2 An Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.
- 11.3 Section 28 (8) of the Localism Act 2011 provides the definition and restriction of the Independent Person. The Council has adopted an Independent Person Protocol which sets out some general principles.

12. Revision of these arrangements

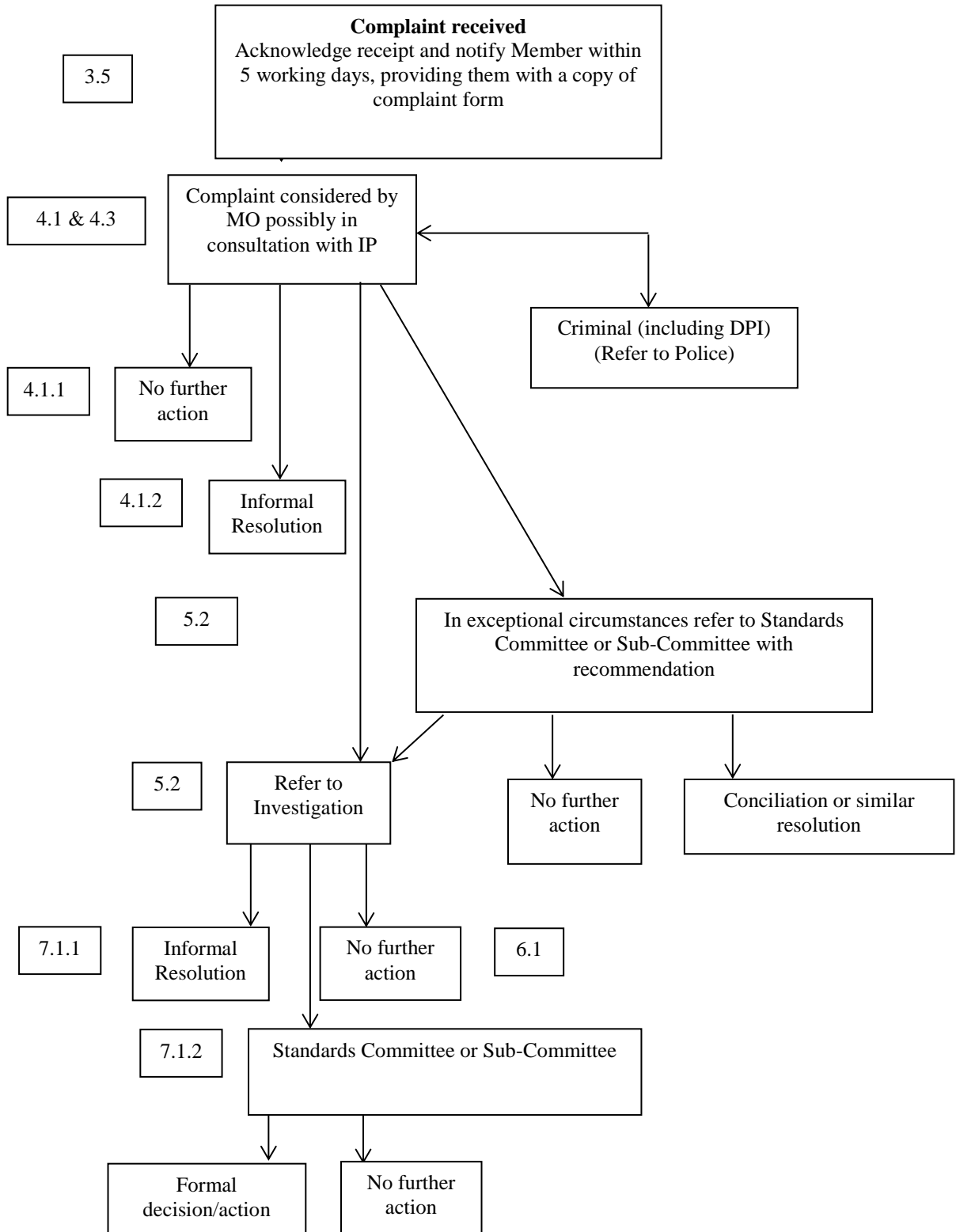
The Council may by resolution agree to amend these arrangements, upon the advice of the Monitoring Officer where it is necessary, fair, proportionate and expedient to do so.

13. Appeals

- 13.1 There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Standards Committee.
- 13.2 If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

ANNEX B

This Flowchart is to be read in conjunction with the Tendring District Council's Complaints Procedure (Reference is made to the relevant paragraphs of the Procedure in the boxes on the left hand side)



ANNEX D

CONDUCT COMPLAINTS ASSESSMENT CRITERIA

Complaints which would not normally be referred for investigation or to the Standards Committee or Sub-Committee

1. The complaint is not considered sufficiently serious to warrant investigation;
2. The complaint appears to be simply motivated by malice or is “tit-for-tat”;
3. The complaint appears to be politically motivated;
4. It appears that there can be no breach of the Code of Conduct; for example that it relates to the Councillor’s private life or is about dissatisfaction with a Council decision;
5. It is about someone who is no longer a Councillor
6. There is insufficient information available;
7. The complaint has not been received within 3 months of the alleged misconduct unless there are exceptional circumstances, e.g. an allegation of bullying, harassment etc.
8. The matter occurred so long ago that it would be difficult for a fair investigation to be carried out;
9. The same, or similar, complaint has already been investigated and there is nothing further to be gained by seeking the sanctions available to the Member Development and Conduct Committee;
10. It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct; or
11. Where the member complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction.

Complaints which may be referred to the Standards Committee or Sub-Committee

1. It is serious enough, if proven, to justifying the range of sanctions available to the Standards Committee or Sub-Committee; or
2. There are individual acts of minor misconduct which appear to be a part of a continuing pattern of behaviour that is unreasonably disrupting the business of the Council and there is no other avenue left to deal with it other than by way of an investigation; or
3. When the complaint comes from a senior officer of the Council, such as the Chief Executive or the Monitoring Officer and it would be difficult for the Monitoring Officer to consider; or
4. The complaint is about a high profile Member such as the Leader of the Council and it would be difficult for the Monitoring Officer to consider; or
5. Such other complaints as the Monitoring Officer considers it would not be appropriate for him/her to consider.

Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, deciding to investigate a complaint or to take further action will cost both public money and officers’ and Members’ time. This is an important consideration where the complaint is relatively minor.

ANNEX E

STANDARDS COMPLAINTS INVESTIGATION PROCEDURE

1. Planning Stage:

Upon receipt of an instruction to carry out an investigation the Investigator should :-

- Acknowledge receipt of the instruction to conduct the investigation.
- Maintain a written record throughout the investigation.
- Assess whether any additional information is required from the complainant.
- Identify the paragraph(s) of the Member Code of Conduct that are alleged to have been breached.
- Identify the facts which will need to be determined to establish if the Member has breached the Member Code of Conduct.
- Identify the evidence that is needed to determine the issues.
- Consider how to undertake the evidence gathering.
- Identify how long it is likely to take to conduct the investigation.

2. Evidence Gathering Stage:

- Contact the complainant to request any supporting or documentary evidence relating to the complaint.
- Contact the subject member with details of the complaint and seek an explanation.

3. Interview Stage:

- Identify witnesses.
- Arrange interview dates.
- Conduct interviews (with complaint, subject member and witnesses).

4. Report Stage:

- Review evidence from interviews and any documentary evidence provided.
- Draft the report to contain :-
 - Agreed facts
 - Facts not agreed and corresponding conflicting evidence
 - Conclusions as to whether a breach has occurred.
 - Where a draft report is issued this will be supplied to both the complainant and subject member for comment.

In all cases the Investigator will issue a final report and the Monitoring Officer will then determine appropriate action to be taken in line with the report conclusion

**Tendring District Council
Monitoring Officer Investigation Report**

***(In accordance with the Council's Complaints Procedure
– alleged breach of the Members' Code of Conduct)***

Report date: 18th September 2017

**Lisa Hastings
Monitoring Officer
Head of Governance and Legal Services
Tendring District Council**

1. INTRODUCTION & BACKGROUND:

- 1.1 I am the District Council's Monitoring Officer and Head of Governance and Legal Services.
- 1.2 Mr Anthony Chandler and Mr William Hones (the Complainants) submitted separate complaints alleging that the behaviour of Councillor Lis Bennison (Councillor Bennison) had breached the Members' Code of Conduct.
- 1.3 Tendring District Council adopted the Members' Code of Conduct in November 2013.
- 1.4 The alleged breaches related to:
- (i) Paragraph 3.1: The Leadership Principle of Public Life;
 - (ii) Paragraphs 3.2: In fulfilling the Duties and Responsibilities, a Councillor must not:
 - (b)** disrespect others; and
 - (c)** bully or harass any person
 - (iii) Paragraph 3.4(a): A Councillor must not conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute; and
 - (iv) Paragraph 3.7(a): A Councillor must comply and observe the law.
- 1.5. The Complaint Form completed by Mr Chandler referred to an email sent to the Monitoring Officer in 2016, which was the initial contact regarding the alleged assault by Councillor Bennison however, no further action could be taken, at that time, under the Members' Code of Conduct whilst criminal proceedings against Councillor Bennison were being considered by Essex Police. The incident had occurred at the Clacton Airshow in August 2016, whereby Councillor Bennison whilst acting as a steward on behalf of the District Council assaulted Mr Chandler, a member of the public.
- 1.6 On 17th July 2017, Mr Chandler contacted the Council's Monitoring Officer and confirmed that Councillor Bennison had been convicted of assault at Southend

Magistrates Court on 13th July 2017. Subsequently, a Complaint Form was completed and received on 19th July 2017.

- 1.7 A second Complaint Form concerning the same incident was received from Mr William Hones on 25th July 2017.
- 1.8 On 19th and 25th July 2017, acting as the Monitoring Officer for Tendring District Council, I wrote to Councillor Bennison, providing copies of the respective complaint forms and requesting comments to the allegations of a potential breach of the Code of Conduct, as I was obliged to consider this aspect further. In accordance with the Complaints Procedure, 15 working days are provided for responses to be received.
- 1.9 On 23rd August 2017, all parties were notified of my decision as Monitoring Officer, that due to the criminal conviction it was not appropriate to take 'no further action' or seek informal resolution or mediation. However, it was not considered a detailed investigation was required, as the conviction is the outcome of criminal proceedings before the Magistrates Court. Therefore, a light touch investigation would be undertaken and referral to the Standards Committee. To carry out a detailed investigation would be an unnecessary use of resources, in both cost and time and prolong determination of this matter.

2. SCOPE OF THE INVESTIGATION:

- 2.1
 - (a) Whether Councillor Bennison acted in an official capacity?
 - (b) Whether the criminal conviction proves there has been a breach of the Code of Conduct?
 - (c) If there is evidence of a breach of the Code of Conduct, which paragraphs have been contravened?
- 2.2 Section 5 of the Complaints Procedure sets out how an investigation is conducted and under Section 5.6, the investigation report must contain a conclusion as to whether the evidence supports a finding of failure to comply with the Code of Conduct. Annex E of the Complaints Procedure sets out the Investigation Procedure.

2.3 When providing the parties with my Decision Notice, I informed them that my intention was not to conduct interviews, unless I received a specific request to do so. However, the parties were invited to provide any additional comments they wished to submit as part of the light touch investigation to ensure that I have gathered all the evidence.

2.3 If the investigation concludes that there is evidence of a failure to comply with the Code of Conduct, the Council's Complaints Procedure at Section 7.1 provides the Monitoring Officer with the authority to obtain an informal resolution without the need for a hearing by the Standards Committee.

3. INTERVIEWS:

3.1 Due to the fact that the conviction is an outcome of the criminal proceedings in the Magistrates' Court, the only matter which required determination is whether that conviction proves there is a failure to comply with the Members' Code of Conduct. Therefore, no individuals have been interviewed through this investigation, although as set out in 2.3 above the parties were invited to request an interview if they wished to provide any additional information. Councillor Bennison, requested that the Judge's summing be included within the report to the Standards Committee together with an extract of Section 44 of the Offences Against the Person 1861. Mr Hones wanted to ensure all aspects of his complaint would be considered within the investigation. No further information was supplied by Mr Chandler.

4. DOCUMENTATION:

4.1 I have requested and/or been supplied with the following key documents. This is an exhaustive list of all the documents that I have considered:

- a. Complaint Forms dated the 19th & 25th July 2017 (Appendix A & B);
- b. Email sent in September 2016 from Mr A. Chandler being the initial contact regarding the assault (Appendix C);

- c. Written responses from Councillor L Bennison dated 27th July and 25th August 2017 (Appendix D);
- d. Notes of the District Judge's reasons received from the Magistrates' Court (Appendix E) plus a note referring to Section 44 of the Offences against the Person Act 1861 (not enclosed as ruled out by the District Judge as irrelevant); and
- e. Monitoring Officer Decision Notice issued to all parties (Appendix F).

5. PROCEDURAL MATTERS:

Was Councillor Bennison acting in an official capacity?

- 5.1 This is clearly the case. Section 2.2 of the Members' Code of Conduct applies:
- (a) Whenever a Councillor is present at a meeting of the Council; or
 - (b) Whenever they act, claim to act or give the impression they are acting in the role of a Member, to which they are elected or appointed; or
 - (c) Whenever they act as a representative of the Authority.
- 5.2 Councillor Bennison was acting a steward on behalf of Tendring District Council at its Air Show in Clacton in August 2016. In addition, Councillor Bennison was wearing an identity badge as well as a t-shirt which would have identified her as a steward.

The Standard of proof

- 5.3 The civil standard of proof is applicable to this matter (on the balance of probabilities).

The Code of Conduct

- 5.4 The Code of Conduct applicable to this investigation is that adopted by the District Council in November 2013.

Independent Persons

- 5.5 As part of any investigation, the Councillor who is the subject of the complaint has the opportunity to speak to an Independent Person as part of the process, in accordance with the Independent Person Protocol contained within the Council's Constitution. If this opportunity is taken, a different Independent Person will be

consulted by the Monitoring Officer. The Independent Person allocated to the Councillor is able to provide their thoughts and comments to the Monitoring Officer to take into account, but it does not form part of the investigation. If such comments are received, they will be provided to the Standards Committee in the covering report.

6. CONVICTION & SENTENCE:

- 6.1 It is not disputed that Councillor Bennison has received a criminal conviction for assault against Mr Chandler at Southend Magistrates Court on 13th July 2017. This was the outcome of a criminal prosecution which concludes in a judgement that the defendant is guilty of the crime charged. Consequently, it has not been necessary to investigate the facts surrounding the incident, as the criminal conviction is evidence that Councillor Bennison was guilty of assault as determined by a District Judge in a court of law. The Judge's reasons for the decision has been captured in a note compiled by a court official and are attached to the report as Appendix E.
- 6.2 The sentence attached to the conviction was an 'Absolute Discharge', which means no further action is taken, since either the offence was very minor, or the court considers that the experience has been enough of a deterrent, however the offender will receive a criminal record.

7. EVIDENCE GATHERING:

- 7.1 As part of the Complaints Procedure, any Councillor the subject of a complaint has the opportunity to respond to the allegation when it is initially made. The initial response prior to the investigation commencing is contained within the Decision Notices dated 23rd August 2017 (Appendix F).
- 7.2 Councillor Bennison has not been interviewed however, confirmed her during a telephone conversation in which procedural matters were being clarified, Councillor Bennison confirmed her understanding and acceptance as to why it was necessary for a further investigation to be undertaken by the Council's Monitoring Officer in accordance with the Council's Complaints Procedure. It was confirmed the

investigation related to whether by virtue of the criminal conviction Councillor Bennison had failed to comply with the Members' Code of Conduct.

- 7.4 The Complainants have not interviewed and did not wish to provide any additional information to be taken into account, other than that which was contained within their complaints.
- 7.5 I indicated to all the parties that if they wished to provide me with any further material during the investigation stage they could do so.
- 7.6 In the response Councillor Bennison submitted the following statement as an apology:

"I wish to put on record my sincere apologies for any embarrassment caused to Tendring District Council or grievance to the people of Clacton resulting from my conviction for an assault, taking place at the 2016 Clacton Airshow.

On that day, there were no police nor officials near to my brochure selling point and, therefore, as a quasi-representative of authority I felt obliged to try to stop a man dangerously driving at speed so very close to spectators. I had to make an immediate decision of action to save lives, including those of very young children. Memories of very recent terrorist murders of the innocent by a man in Nice careering a vehicle into crowds also entered my mind. Having had no police nor crowd control training, I did what I thought necessary to stop this current danger. It seems that I was unintentionally over-zealous.

Regrettably, an altercation took place with the man, Mr Chandler, but only over a matter of a few seconds, during which time he punched me in the face and used loud, disgusting, threatening language and my hand accidentally touched his face. All I had tried to do was prevent injury or worse to spectators at our Airshow.

For this I was prosecuted for assault but, unaccountably, Essex Police have taken no action whatsoever against Chandler.

In his judgement, the District Judge said Chandler drove in a thoroughly dangerous manner and said he admired me for taking action. He called Chandler a 'boorish bloke' and a 'boorish oaf' and found that he had assaulted me and had thought of nobody's safety. He sentenced me to an Absolute Discharge, strongly stating that there would be no award for prosecution or victim costs. The Judge also strongly criticised the CPS for bring this prosecution and could not conceive why Chandler was not prosecuted for careless driving, threatening behaviour and assault on me.

I would add that he and my barrister advised that this sentence immediately became a spent conviction. I would ask you to read the attached judgement transcript,

together with the Section 44 OPA 1861 referred to in the Judge's summing up, to confirm all that I state, and accept newspaper reporting for what it is: wilful journalistic misrepresentation designed to sell newspapers, using the familiar witch-hunt of public bodies and their personnel.

I hope this helps you in your deliberations and I reiterate my deep regret for any hurt to the Council or local residents, no less of course than for the terrible anguish caused to myself and my family. I wish never to be placed in that position again when representing the Council in any way.

Agreed facts and Facts in dispute

8.1 As part of any Code of Conduct investigation, it is necessary that the allegations are put to the member who is the subject of the complaint to respond to. Whilst the apology was received, despite being provided with a further opportunity to respond specifically to the complaints, Councillor Bennison did not provide an express admission as to whether the Code of Conduct had been breached. Cllr Bennison:

- believes that her actions demonstrated that she was tackling poor behaviour;
- denies being disrespectful, harassment or bullying;
- denies that neither her office or that of the Council has been brought into disrepute; and
- in respect of the failure to comply with the law, pleaded not guilty to the alleged offence and requested the Judge's summing up and the Section 44 alluded to in his summing up to be included in the report.

It is however, undisputed that a criminal conviction was obtained and the sentence was an Absolute Discharge. Nothing else remains in dispute.

9. PARAGRAGHS OF THE CODE OF CONDUCT

9.1 Complaint: Alleged breach of Leadership Principle of Public Life (Para 3.1);

9.1.1 The Leadership Principle of Public Life states *"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"*. This is one of 7 Principles of Public which all elected members of Tendring District Council shall have regard to when conducting themselves in their official capacity.

9.1.2 For the Code of Conduct to be breached it is necessary to look at the Rules of Conduct set out in paragraphs 3.2 to 3.7. The Principles of Public Life exist as underlining principles to the rules therefore whether Leadership has been compromised will be revisited after consideration of the remaining subsections of paragraph 3 of the Code, referred to in the complaints.

9.2 **Complaint: In fulfilling the Duties and Responsibilities, a Councillor must not:**
(d) disrespect others; and
(e) bully or harass any person (Paragraph 3.2)

9.2.1 'To disrespect others' requires demonstration of a lack of respect and at first, it would be reasonable to assume that a conviction for assault is evidence of being disrespectful to the individual. However, the reasons given by the District Judge in his decision are relevant because the Judge takes into account the evidence of the witnesses before passing judgement. The note of the proceedings confirms he found that the member of public had used unpleasant language prior to the assault. Respect is to show consideration for each other.

9.2.2 'To bully' is to intimidate a weaker person and again having reviewed the District Judges reasoning, and there was no evidence that Mr Chandler was intimidated by Councillor Bennison. 'Harassment' requires action to be continuous and this was clearly a one –off incident.

9.2.3 **Therefore, I would conclude that there is no evidence that Councillor Bennison disrespected, bullied or harassed Mr Chandler to compromise or breach Paragraph 3.2.**

9.3. **Complaint: A Councillor must not conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute (Paragraph 3.4(a)):**

9.3.1 Mr Hones alleges that any reasonable person would clearly believe that Councillor Bennison has brought both the office of the Member and the Authority into disrepute. I have to agree with this statement, an elected member receiving a criminal conviction of assault for an incident which occurred at a Council event will no doubt

have a detrimental impact on the reputation of the Council and Councillor Bennison herself. I have read the Councillor's response to the allegations and the apology but the fact remains a member of the public was slapped by an elected member whilst acting in an official capacity representing the District Council.

9.3.2 Therefore, as Monitoring Officer I have to conclude that a criminal conviction for assault is prima facie evidence that the Councillor's actions brought the Council into disrepute and consequently, there is evidence that paragraph 3.4(a) has been compromised and breached.

9.4 Complaint: A Councillor must comply and observe the law (Paragraph 3.7(a))

9.4.1 There is no dispute that the law has not been complied with, as a criminal conviction for assault was received. I have taken into account the Judge's reasons in his decision and the sentence however, to obtain a conviction the Judge has decided that the law was breached, which falls foul of the Members' Code of Conduct

9.4.2 Therefore, as Monitoring Officer I have to conclude that a criminal conviction is without doubt evidence that Councillor Bennison's actions failed to comply with the law and consequently, there is evidence that paragraph 3.7(a) has been compromised and breached.

10. CONCLUSIONS

Complaint:

10.1 I have already found that evidence exists to support findings that Councillor Bennison's criminal conviction for assault brings both her and the Council into disrepute and that her behaviour failed to comply with the law, being breaches of the Code of Conduct.

10.2 In addition to Paragraphs 3.4(a) and 3.7(a) of the Code of Conduct it is necessary to revisit that elected members are required to conduct themselves in a way which is consistent with the Principles of Public Life and that *“holders of public office should exhibit these principles in their own behaviour. They should be actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs”*. Therefore, in obtaining a criminal conviction for assault, Councillor Bennison has contravened the Openness Principle of Leadership. I have read Councillor Bennison’s comments surrounding the incident and in effect, believed she was in tackling poor behaviour however, slapping an individual is not a reasonable reaction of an elected member and does not promote or maintain high standards of conduct or demonstrate Leadership.

Sanction:

10.1 It must be noted that Councillor Bennison has through the investigation apologised for the incident. Although, I am authorised, in consultation with one of the Independent Persons and in accordance with Section 7.1.1 of the Council’s Complaints Procedure, to seek an informal resolution, I believe that in these circumstances, it is proportionate to refer the matter to the Standards Committee to determine whether any other sanctions are appropriate due to the fact a criminal conviction has been obtained.

11. CONSULTATION WITH AN INDEPENDENT PERSON:

Clarissa Gosling, one of the Council’s Independent Persons has responded:

“Thank you for sending the details about this case which you had told me earlier might arise. I would like to make the point that living near Bury St Edmunds I had not seen any newspaper reports in your local paper that are referred to.

There is a great deal of detail involved and justifications given for actions by both sides, but I have tried to boil it down to the actual action complained of: that Councillor Bennison slapped Mr Chandler in the face when he swore at her.

She describes this as ‘my hand accidentally touched his face’ and her statement blurs over whether he hit her first. He states that ‘she slapped me over the right side of my face’. The magistrate’s summing- up said that she slapped him and this was seen by two of the staff. Because of this she received the conviction.

*It is my view, acting as an Independent Person, that initiating **any** violent action is not justified unless it is to prevent imminent harm to another. It appears from the papers I read that Councillor Bennison's action in slapping Mr Chandler was not the only way to prevent driving that endangered the public, but happened because she was angered by being sworn at.*

Councillor Bennison requested that the judge's comments be included, but I have not commented on Mr Chandler's actions in general. I do not believe my sympathies on either side on the driving and general behaviour issues are relevant, as in every circumstance adults should be have the self control to keep dispute verbal not resort to the physical. This should be demonstrated particularly by leaders in the public eye setting an example of dignity and restraint.

Councillor Bennison was clearly acting in her official capacity, wearing a badge and t-shirt, there seems to be no dispute about this, this would have been plain to Mr Chandler and members of the public who witnessed these events. It does not appear however that Mr Chandler was intimidated by her official position. Thus though she did initiate a violent action by slapping him, 'bully or harass' would imply an attack on a weaker from the stronger, and this does not seem to be the case either physically or emotionally.

When acting in an official capacity, Councillor Bennison used physical aggressive action in response to verbal abuse, this is not edifying and in my view does bring her and the council she represents into disrepute. The force of the action is not important it is a precedent no one would wish followed privately or publically.

The fact that this led to a criminal conviction has drawn more public attention to the unfortunate event, confirming the facts. I am not sure that a criminal conviction per se brings a councillor into disrepute: though 'a councillor must comply and observe the law' seems to imply that. There are many laws on the statute book and motives for breaking them and the public might consider some more reputable than others.

From the papers I have read, I do not believe it was necessary to use physical violent action in response to the bad language and 'dangerous driving behaviour' Councillor Bennison reported. I am sorry that her apology did not acknowledge this crucial point, even in retrospect, and in my view this lack regret about her actions reflects badly upon her".

12. OBSERVATIONS

12. In response to my draft report I received a letter(s) from the Complainant(s) and from Councillor Bennison. I will set out a summary of the points made:

(a) The Complainant(s):

(i) Mr Chandler:

- *After reading through the report I am contacting you as I am disappointed by the constant accusations about myself made by Councillor Bennison. Councillor Bennison has made claims I was speeding and trying to run down families and young children with my vehicle and that she was assaulted by me. I have held my driving licence for fifteen years and I have never had a driving conviction or any penalty points on my license and I am a safe and careful driver.*
- *As I explained to the Court, Pier Gap is a short dead end road not a motorway, and the road was open to vehicles there were others parked on the road and on the Pier. On the day of the air show there was thousands of families and people attending the air show, if someone was trying to run down families there would of been an immediate response from the police and hundreds of witnesses and I would of been arrested and quite rightly so.*
- *There was other witnesses on the day who saw Councillor Bennison approach my stationary vehicle and slap me across the face.*
- *Since that day even after being found guilty of assaulting me and admitting her actions to the attending police officers, Councillor Bennison has shown no remorse for her actions on the day towards me.*
- *In Councillor Bennison's apology letter to the Council I read how a father dropping his children off for a family event was compared to the terrible terrorist atrocities which happened in France in 2016 which I feel is highly disrespectful to all those sadly affected by what happened in France and quite inappropriate.*
- *Our police and court services in this country do not arrest and prosecute people for no reason, if there was any truth to these claims then I would of been the person arrested and charged.*

(b) Councillor Bennison:

- I have no further comments to make

- 13.** In response to these observations, I have nothing further to add for the purposes of the undertaking the investigation, other than to state that the criminal proceedings would have related to Councillor Bennison as an individual and the Code of Conduct applies to elected members acting in public life, who are under a statutory duty to promote and uphold high standards of conduct..

Lisa Hastings,
Investigating Officer,
18th September 2017



Complaint alleging a breach of the Members' Code of Conduct
by a Tendring District Councillor or Town/Parish Council

COMPLAINTS FORM

YOUR DETAILS

Name: Anthony CHANDLER

Address: [Redacted]

Post Code: [Redacted]

Telephone (day): Telephone (eve):

E-mail address: [Redacted]

Please identify which complainant type best describes you:

- A member of the public
- An elected or co-opted member of an authority
- A Standards Committee Independent Person
- Member of Parliament
- Local Authority Monitoring Officer
- Other council officer or authority employee
- Other (please specify):

Confidentiality

A copy of your complaint (as set out in this form), together with your name and address will be provided to the Member that is the subject of your complaint. In exceptional cases, we may agree to withhold your name and address from the Member. If you want to keep your name and address confidential, please indicate this in the space provided below along with the reasons why you feel it is necessary for the name



and address to be withheld. The Monitoring Officer will consider your request and if granted we will not disclose your name and address to the Member against whom you make the complaint, without your prior consent.

Please note that the Monitoring Officer is unlikely to withhold your identity or the details of your complaint unless you have a good reason to believe that not to do so would impede the Council's ability to deal with your complaint or would have personal safety or other serious implications for you or your family.

If you make a request for your name and address to be withheld, the Monitoring Officer will advise you of the decision on this before disclosing your details to the Member that is the subject of your complaint.

Please insert your reasons requesting your name and address to remain confidential in the box below:

I have no issues with my name being shared but as i was assaulted by Mrs bennison i do not want mine and my familys home address shared.

The Council will not normally accept an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct and there is a clear public interest in doing so.

As with all personal data provided to the Council, your personal data will be held in accordance with the Data Protection Act 1998.



YOUR COMPLAINT

Please state which Councillor(s) your complaint is about

Title	First name	Last name	Council name
Mrs	Lis	Bennison	Tendering

Please indicate below which paragraph(s) of the Code of Conduct you believe have been breached. Please note that it is not possible to proceed without reference to Code:

I have been advised that the paragraphs are 3.2(b) and/or (c) and 3.4(a) and 3.7(a). I do not know if it relates to others as I do not know the code of conduct.

Please explain below (or on separate sheets) what the Member has done that you believe breaches the Code of Conduct.

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



It is important that you provide all the information you wish to have taken into account by the Monitoring Officer when they decide whether to take any action on your complaint. For example:

- o 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 and how that affected you.
- o 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.
- o You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- o You should provide any relevant background information including any evidence you hold which supports the complaint.

On August 25th 2016 I was assaulted down pier gap at approximately 1.55pm by Tending district councillor Liz Bennison. I made a full detailed account via email to Mrs Lisa Hastings the Council's monitoring officer but was told I could not make a complaint until the police investigation had been concluded. On the 17th of July 2017 Mrs Bennison was found guilty of assault at Southend Magistrate Court. So I am now writing my complaint to the Council. If you can not retrieve the email with the detailed account from Mrs Hastings then please contact me and I will be happy to send it via email.



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Please continue on a separate sheet if there is not enough space on the form.

Signed: Dated :/...../.....
(To be signed by the person making the complaint)

Additional Information

Further details can be found in the Code of Conduct Complaints Procedure, which is available on the Council's website or by emailing or telephoning the Council's Monitoring Officer (details below).

- If you wish to make a complaint, please complete the official complaints form and send or email it to:

The Monitoring Officer,
Tendring District Council
Corporate Services,
Town Hall, Station Road
Clacton-on-Sea
Essex CO15 1SE

standards@tendringdc.gov.uk

- Complaints must be submitted in writing. This includes fax and electronic submissions. However, in line with the requirements of the Equality Act 2010, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.



We can also help if English is not your first language.

If you need any support in completing this form, please let us know as soon as possible.

- Following receipt of your complaint, the Monitoring Officer will: -
 - a) Acknowledge receipt of your complaint within 5 working days of receiving it;
 - b) Notify, within 5 working days, the Member that is the subject of the complaint that you have made a complaint about them and provide them with the information set out on the complaint form; excluding any personal information but including your name and address, unless the Monitoring Officer has agreed to this being withheld;
 - c) Keep you and the Member that is the subject of the complaint informed of the progress of your complaint.
- Your complaint will be given a reference number which will appear on complaint documentation.
- The Monitoring Officer will review every complaint received and may consult with one of the Independent Persons before taking a decision as to whether it:
 - a) Merits no further action
 - b) Merits early informal conciliation
 - c) Should be referred for further investigation or to the Standards Committee with a recommendation.
- The Monitoring Officer may require additional information in order to come to a decision, and may come back to you for such information. In the absence of a response from you within 15 working days the Monitoring Officer may close the complaint.
- The Monitoring Officer may request information from the Member against whom your complaint is directed to help them to come to a decision. In the absence of the subject Member's response within 15 working days the Monitoring Officer may proceed with the complaint.
- This decision as to how the complaint is to be progressed will normally be taken within 15 working days of receipt of your complaint. Your complaint will be considered in accordance with the Assessment Criteria (which are appended to



the Complaints Procedure). Where the Monitoring Officer has taken a decision, you will be informed of the decision and the reasons for that decision (Where your complaint relates to a Town or Parish Councillor, the Monitoring Officer may also inform the Town or Parish Council of your complaint and seek the views of the Town or Parish Council before deciding whether the complaint merits formal investigation).

- Further detail on what will happen if the Monitoring Officer decides that a complaint merits further investigation is contained in the Complaints Procedure.
- Please note that the Monitoring Officer maintains openness and transparency with regards to their decision making and therefore, the final decision, may be disclosed.
- There is no right of appeal for you as complainant or for the Member against a decision of the Monitoring Officer has the power to call in the Police or other regulatory agencies.
- If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman www.lgo.org.uk/making-a-complaint.

F.A.O. LISA HASTINGS



Complaint alleging a breach of the Members' Code of Conduct by a Tendring District Councillor or Town/Parish Council

COMPLAINTS FORM

YOUR DETAILS

Name: WILLIAM HONES
Address: [Redacted]
Post Code: [Redacted]
Telephone (day): N/A Telephone (eve): N/A
E-mail address: [Redacted]

Please identify which complainant type best describes you:

- A member of the public
An elected or co-opted member of an authority
A Standards Committee Independent Person
Member of Parliament
Local Authority Monitoring Officer
Other council officer or authority employee
Other (please specify):

Confidentiality

A copy of your complaint (as set out in this form), together with your name and address will be provided to the Member that is the subject of your complaint. In exceptional cases, we may agree to withhold your name and address from the Member. If you want to keep your name and address confidential, please indicate this in the space provided below along with the reasons why you feel it is necessary for the name



and address to be withheld. The Monitoring Officer will consider your request and if granted we will not disclose your name and address to the Member against whom you make the complaint, without your prior consent.

Please note that the Monitoring Officer is unlikely to withhold your identity or the details of your complaint unless you have a good reason to believe that not to do so would impede the Council's ability to deal with your complaint or would have personal safety or other serious implications for you or your family.

If you make a request for your name and address to be withheld, the Monitoring Officer will advise you of the decision on this before disclosing your details to the Member that is the subject of your complaint.

Please insert your reasons requesting your name and address to remain confidential in the box below:

The Council will not normally accept an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct and there is a clear public interest in doing so.

As with all personal data provided to the Council, your personal data will be held in accordance with the Data Protection Act 1998.



YOUR COMPLAINT

Please state which Councillor(s) your complaint is about			
Title	First name	Last name	Council name
MRS	LIS	BENNISON	TENDRING

Please indicate below which paragraph(s) of the Code of Conduct you believe have been breached. Please note that it is not possible to proceed without reference to Code:

3. Rules of Conduct

3.1 As a Member of Tendring District Council you shall have regard to the Seven Principles of Public Life.

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.

3.4 Conduct You must: (a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute,

.....

.....

Please explain below (or on separate sheets) what the Member has done that you believe breaches the Code of Conduct.

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

It is important that you provide all the information you wish to have taken into account by the Monitoring Officer when they decide whether to take any action on your complaint. For example:



- o 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 and how that affected you.
- o 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.
- o You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- o You should provide any relevant background information including any evidence you hold which supports the complaint.

On July 13th, 2017 Councillor Lis Bennison was found guilty of assault Southend Magistrates' Court.

She assaulted a member of the public at Clacton Airshow in 2016. At the time she was acting on behalf of Tendring District Council as a steward. She, along with all the UKIP Councillors acting as steward, was wearing her Councillor's Identity badge.

She has failed to show the quality of leadership expected of a Member by the poor conduct she exhibited when she assaulted the member of the public.


Any reasonable person would clearly believe she has brought both the office of Member and the Authority itself into disrepute.

The Code of Conduct applies in this case because:

- (i) she was conducting the business of the Authority when she was acting as a steward at the Airshow and assaulted the member of the public**
- (ii) in wearing her Member's Identity badge at the time of the assault she was giving the impression she was acting in the role of Member**
- (iii) there has been a conviction for the criminal offence of assault**



Please continue on a separate sheet if there is not enough space on the form.

Signed:  Dated : ...25/07/2017.....
(To be signed by the person making the complaint)

Additional Information

Further details can be found in the Code of Conduct Complaints Procedure, which is available on the Council's website or by emailing or telephoning the Council's Monitoring Officer (details below).

- If you wish to make a complaint, please complete the official complaints form and send or email it to:

The Monitoring Officer,
Tendring District Council
Corporate Services,
Town Hall, Station Road
Clacton-on-Sea
Essex CO15 1SE

standards@tendringdc.gov.uk

- Complaints must be submitted in writing. This includes fax and electronic submissions. However, in line with the requirements of the Equality Act 2010, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

We can also help if English is not your first language.

If you need any support in completing this form, please let us know as soon as possible.

- Following receipt of your complaint, the Monitoring Officer will: -
 - a) Acknowledge receipt of your complaint within 5 working days of receiving it;
 - b) Notify, within 5 working days, the Member that is the subject of the complaint that you have made a complaint about them and provide them with the information set out on the complaint form; excluding any personal information but including your name and address, unless the Monitoring Officer has agreed to this being withheld;



- c) Keep you and the Member that is the subject of the complaint informed of the progress of your complaint.
- Your complaint will be given a reference number which will appear on complaint documentation.
 - The Monitoring Officer will review every complaint received and may consult with one of the Independent Persons before taking a decision as to whether it:
 - a) Merits no further action
 - b) Merits early informal conciliation
 - c) Should be referred for further investigation or to the Standards Committee with a recommendation.
 - The Monitoring Officer may require additional information in order to come to a decision, and may come back to you for such information. In the absence of a response from you within 15 working days the Monitoring Officer may close the complaint.
 - The Monitoring Officer may request information from the Member against whom your complaint is directed to help them to come to a decision. In the absence of the subject Member's response within 15 working days the Monitoring Officer may proceed with the complaint.
 - This decision as to how the complaint is to be progressed will normally be taken within 15 working days of receipt of your complaint. Your complaint will be considered in accordance with the Assessment Criteria (which are appended to the Complaints Procedure). Where the Monitoring Officer has taken a decision, you will be informed of the decision and the reasons for that decision (Where your complaint relates to a Town or Parish Councillor, the Monitoring Officer may also inform the Town or Parish Council of your complaint and seek the views of the Town or Parish Council before deciding whether the complaint merits formal investigation).
 - Further detail on what will happen if the Monitoring Officer decides that a complaint merits further investigation is contained in the Complaints Procedure.
 - Please note that the Monitoring Officer maintains openness and transparency with regards to their decision making and therefore, the final decision, may be disclosed.
 - There is no right of appeal for you as complainant or for the Member against a decision of the Monitoring Officer has the power to call in the Police or other regulatory agencies.



- If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman www.lgo.org.uk/making-a-complaint.

From: tony c [<mailto:tonytoni@live.co.uk>]
Sent: 29 September 2016 10:21
To: Lisa Hastings
Subject: Re: Assault complaint

Dear Mrs Hastings I would like to apologise for taking up your time and thank you for getting back to me. I understand you are very busy at the council so if I write my complaint then I will not have to take up any more of your time. On the first day of the Clacton air show I think it was Thursday 25th August 2016 I was dropping off my children and a family friend at the Clacton air show as I had to pick my partner up from work at 2pm. At approximately 1:55pm I drove down pier gap towards Clacton pier and my children and friend got out of the car, I was starting to turn my car round looking over my left shoulder but a family was waiting to cross behind my vehicle, I stopped the car and waved them to cross, when I looked forward a lady I have never seen before had her face close to mine looking in my car window, she bellowed in my

face who do you think you are and said something about pedestrian area I said to her to move from me and my vehicle and she then slapped me across the right side of my face I raised my arm to stop her hitting me again, she then stepped back from my car and raised a badge hanging around her neck and said were tendering district council councillors, I said if your a councillor should you be slapping members of the public in the face, the lady then said she was calling the police which I said call them you have just assaulted me, the lady was telling the people she was with to take my registration number which I read out to her and she was asking the people she was with to take pictures of my car. I had to leave to pick my partner up from work and as I was leaving there was a man who was with the lady who had the same badge around his neck that she was wearing, I asked if he had seen what had just happened and he said he did, I asked if I could take his name and he said yes, he showed me his badge and told me his name was councillor pembleton. After I left I waited for the police or the council to contact me as the lady said she was reporting it to the police and did not hear anything, after I contacted the police to be told the lady had not reported to them and I reported the assault to them. I would like to make a complaint to the council about this as I do not think that I deserved to be struck in my face for dropping off my family at the air show. Can I just thank you again for your time Mrs Hastings and await your response. Thank you Anthony Chandler

On 29 September 2016, at 09:21, Lisa Hastings <lhastings@tendringdc.gov.uk> wrote:

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Debbie Bunce

From: Cllr L. Bennison
Sent: 27 July 2017 10:59
To: Lisa Hastings
Cc: Martyn Knappett; Cllr. Mark Stephenson; Debbie Bunce
Subject: Re: confirmation of outcome of criminal proceedings - new Standards Complaints

Dear Lisa

Thank you for your email and I note your comment about the complainants not being elected members.

You are right not to believe everything you read in the paper. The Gazette did not send a reporter and phoned me to ask me to let them know the verdict. My Barrister rang them and gave them all the information that was required, including the Judge's summing up.

The Gazette saw fit not to report the summing up in which the Judge heavily criticised the police and the CPS for bringing the case to court. The CPS consistently withheld evidence, including the details of my independent witness which had been taken from me by the police on the day of the incident. The PCSO's pocket book was not made available until around 11.30am on the morning and I had not seen it since the day of the incident, although I had signed it whilst still in a state of shock. The PCSO had, incidentally, written that I had provided her with the registration number of the car, which was not the case, I had not written it down although others had.

The Judge was also highly critical of the complainant, who has a history of GBH with weapons and which was read out in court. He had argued with the prosecution, the defence and the Judge whilst on the witness stand. The Judge also questioned why my original complaint of dangerous driving endangering lives had not been followed up and commended me for taking action when others stood by.

I have applied to the court for a copy of the transcript for when I appear before the Standards committee.

I suspect I know the identity of the second complainant; he has already made himself known on the comments section of the Gazette.

I should be grateful for the opportunity to speak to an Independent Person and will contact Debbie Bunce since Martyn is a member of the choir in which I sing.

Regards
Lis Bennison

Cllr Lis Bennison
 Peter Bruff Ward
 Tendring District Council
 07854 604368

From: Lisa Hastings <lhastings@tendringdc.gov.uk>
To: Cllr L. Bennison <lisbennison@btinternet.com>
Cc: Martyn Knappett <mknappett@tendringdc.gov.uk>; Cllr. Mark Stephenson <cllr.mstephenson@tendringdc.gov.uk>; Debbie Bunce <dbunce@tendringdc.gov.uk>
Sent: Thursday, July 27, 2017 9:21 AM
Subject: RE: confirmation of outcome of criminal proceedings - new Standards Complaints

Dear Councillor Bennison

Debbie Bunce

From: Cllr L. Bennison
Sent: 25 August 2017 09:37
To: Lisa Hastings; Cllr. Lis Bennison
Cc: Debbie Bunce; Cllr. Mark Stephenson
Subject: Re: Complaints alleging breach of the Code of Conduct

Dear Lisa

Thank you for your email and attached documentation. I was out yesterday so apologise for not replying sooner.

Following my meeting with Debbie Bunce and John Wolton on Friday 18th August, I have emailed Debbie a document further to a decision that was made at that meeting. I have asked Debbie to let me know if any amendments need to be made.

Kind regards

Lis Bennison

Cllr Lis Bennison
Peter Bruff Ward
Tendring District Council
07854 604368

From: Lisa Hastings <lhastings@tendringdc.gov.uk>
To: Cllr. Lis Bennison <cldr.lbennison@tendringdc.gov.uk>
Cc: Debbie Bunce <dbunce@tendringdc.gov.uk>; Cllr. Mark Stephenson <cldr.mstephenson@tendringdc.gov.uk>
Sent: Wednesday, August 23, 2017 10:16 PM
Subject: Complaints alleging breach of the Code of Conduct

Dear Councillor Bennison,

Please find attached a letter enclosing my Decision Notice and setting out the next steps in this matter, the contents of which are hopefully self-explanatory. Do not hesitate to contact me should you wish to discuss this matter further.

Yours sincerely,

Lisa Hastings Dip.L.G.
Head of Governance and Legal Services
& Monitoring Officer
Corporate Services
Tendring District Council

Town Hall, Station Road, Clacton-on-Sea, Essex CO15 1SE

| T: 01255 686561 | E: lhastings@tendringdc.gov.uk | W: www.tendringdc.gov.uk

This e-mail contains confidential (and potentially legally privileged) information solely for its intended recipients and others may not distribute, copy or use it.

Tendring District Council does not accept service of documents by e-mail

I wish to put on record my sincere apologies for any embarrassment caused to Tendring District Council or grievance to the people of Clacton resulting from my conviction for an assault, taking place at the 2016 Clacton Airshow.

On that day, there were no police nor officials near to my brochure selling point and, therefore, as a quasi-representative of authority I felt obliged to try to stop a man dangerously driving at speed so very close to spectators. I had to make an immediate decision of action to save lives, including those of very young children. Memories of very recent terrorist murders of the innocent by a man in Nice careering a vehicle into crowds also entered my mind. Having had no police nor crowd control training, I did what I thought necessary to stop this current danger. It seems that I was unintentionally over-zealous.

Regrettably, an altercation took place with the man, Mr Chandler, but only over a matter of a few seconds, during which time he punched me in the face and used loud, disgusting, threatening language and my hand accidentally touched his face. All I had tried to do was prevent injury or worse to spectators at our Airshow.

For this I was prosecuted for assault but, unaccountably, Essex Police have taken no action whatsoever against Chandler.

In his judgement, the District Judge said Chandler drove in a thoroughly dangerous manner and said he admired me for taking action. He called Chandler a 'boorish bloke' and a 'boorish oaf' and found that he had assaulted me and had thought of nobody's safety.

He sentenced me to an Absolute Discharge, strongly stating that there would be no award for prosecution or victim costs. The Judge also strongly criticised the CPS for bring this prosecution and could not conceive why Chandler was not prosecuted for careless driving, threatening behaviour and assault on me.

I would add that he and my barrister advised that this sentence immediately became a spent conviction. I would ask you to read the attached judgement transcript, together with the Section 44 OPA 1861 referred to in the Judge's summing up, to confirm all that I state, and accept newspaper reporting for what it is: wilful journalistic misrepresentation designed to sell newspapers, using the familiar witch-hunt of public bodies and their personnel.

I hope this helps you in your deliberations and I reiterate my deep regret for any hurt to the Council or local residents, no less of course than for the terrible anguish caused to myself and my family. I wish never to be placed in that position again when representing the Council in any way.

Lisbeth Bennison

23rd August 2017

R v Bennison

Crown – Miss Owen

Def – Mr Sweeney

13th July 2017

DJ reasons 14:37

Mrs Bennison was working at the air show on a day in August, attended by thousands of people

She was working with other council staff

A service road, Pier Gap, used to gain access to the pier in normal circumstances.

It should have been closed as people were at danger

Drivers thought it was for them and no one else

Exactly what the prosecution witness did, he wanted to go and drop off his family, perhaps he was late, or just arrogant.

I accept Mrs Bennison's evidence and the 2 independent witnesses, he was driving in a thoroughly careless and dangerous manner. No regard to children when carrying out the manoeuvres.

He wanted to use the road and wasn't going to listen to anyone else, if they were not police officers he wasn't going to listen to them.

She decided it needed to be dealt with, and I admire her for doing this, no one else did.

She went up to Mr Chandler and asked him to slow down.

He denied using unpleasant language but on the evidence of defendant and 2 independent witnesses he did.

Unfortunately for me and those around me, we are not shocked by it as we hear it every day

He says she slapped him, but more importantly 2 other members of staff quite clearly saw her slap.

He did what you would expect from a boorish bloke, he punched her square in the face, didn't think of anyone's safety.

He drove off and didn't make a report.

Police attended and she gave an account

During this she quite openly said her first reaction to swearing quite openly at her, was to slap him

This concurs with the 2 witnesses who had not yet made statements

He tells the officer when tracked down the same thing, although he wouldn't have been aware of what she had said

What she told the officer wasn't made under caution, she was being spoken to as a victim and it was only when she said what she did she was treated as a suspect

Interview not before me, the CPS didn't put it before me

Sadly I have to apply the law, and I have no doubt that she did slap him, a reaction not surprisingly by a boorish oaf

He wasn't acting in self defence, he was being violent.

He quite clearly assaulted her, but he is not the defendant

My duty as a judge is to convict, but that said I can't understand why any lawyer for the CPS would bring these proceedings, and not against him for careless driving, threatening behaviour and assault on her

On all the evidence I have heard he assaulted her, drove carelessly without consideration for other road users, and abusive language

I did consider s44 OPA 1861 but it wasn't relevant in these circumstances.

FG of assault by beating.

Monitoring Officer

Decision Notice

This Decision records the outcome of the Decision taken by the District Council's Monitoring Officer on 23rd August 2017 in accordance with the Tendring District Council's arrangements for dealing with an allegation that an elected member has failed to comply with the Members' Code of Conduct.

These arrangements were approved by full Council on 26th November 2013.

Councillor:	Lis Bennison – Tendring District Council
Complainant:	Mr A. Chandler and Mr W. Hones 2 separate complaints received
Relevant Paragraph(s) of the Members' Code of Conduct:	The Complaints considered that the following paragraphs were contravened: <ul style="list-style-type: none"> • 3.1 – The Leadership Principle of Public Life; • 3.2 – in fulfilling the Duties and Responsibilities, a Councillor must not: <ul style="list-style-type: none"> (b) disrespect others; and (c) bully or harass any person • 3.4(a) – a Councillor must not conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute. • Clause 3.7(a) A Councillor must comply and observe the law
Summary of Complaint:	On 17 th July 2017, Councillor Bennison was convicted of assault at Southend Magistrates Court.
Complaints dated 19th & 25th July 2017	The incident occurred at the Clacton Airshow in August 2016, whereby Councillor Bennison whilst acting as a steward on behalf of the District Council assaulted a member of the public. Councillor Bennison failed to show the quality of Leadership expected by a member and by virtue of the criminal conviction has clearly brought the office of elected members and Tendring District Council into disrepute.
Councillors Response:	The Gazette did not send a reporter and phoned me to ask me to let them know the verdict. My Barrister rang them and gave them all the information that was required, including the Judge's

	<p>summing up.</p> <p>The Gazette saw fit not to report the summing up in which the Judge heavily criticised the police and the CPS for bringing the case to court. The CPS consistently withheld evidence, including the details of my independent witness which had been taken from me by the police on the day of the incident. The PCSO's pocket book was not made available until around 11.30am on the morning and I had not seen it since the day of the incident, although I had signed it whilst still in a state of shock. The PCSO had, incidentally, written that I had provided her with the registration number of the car, which was not the case, I had not written it down although others had.</p> <p>The Judge was also highly critical of the complainant, who has a history of GBH with weapons and which was read out in court. He had argued with the prosecution, the defence and the Judge whilst on the witness stand. The Judge also questioned why my original complaint of dangerous driving endangering lives had not been followed up and commended me for taking action when others stood by.</p> <p>I have applied to the court for a copy of the transcript for when I appear before the Standards committee.</p> <p>I should be grateful for the opportunity to speak to an Independent Person.</p>
<p>Monitoring Officer Recommendation</p>	<p>The Complaints Procedure (paragraph 4) allows the Monitoring Officer to review every complaint received and, may consult with one of the Independent Persons before taking a decision as to whether the complaint:</p> <p>4.1.1 Merits no further action 4.1.2 Merits early informal resolution or mediation 4.1.3 Merits further investigation</p> <p>Due to the criminal conviction it is not appropriate to take no further action or seek informal resolution or mediation. However, it is not considered that detailed further investigation is required, as the conviction is the outcome of criminal proceedings before the Magistrates Court.</p> <p>The Monitoring Officer will therefore undertake a light touch investigation and referral to the Standards Committee. To carry out a detailed investigation would be an unnecessary use of resources, in both cost and time and prolong determination of this matter.</p>
<p>Consultation</p>	<p>This will take place prior to the Standards Committee and be</p>

<p>with Independent Person</p>	<p>included within the Monitoring Officer's report.</p> <p>Councillor Bennison has seen and spoken to an Independent Person therefore, the Monitoring Officer will consult a different one.</p>
<p>Relevant Paragraph of Complaints Procedure and assessment criteria:</p>	<p>4.2</p>
<p>Reasons for Decision:</p>	<p>A light touch investigation will include any information received from either the complainant or the member the subject of the complaint. This information will be sought by the Monitoring Officer and included within the report to the Standards Committee. It is proposed that the Report will follow the usual investigation format, as this will give the opportunity for all parties to provide any additional comments when the draft is shared.</p> <p>If the parties agree an investigation could be dispensed with, the Monitoring Officer will simply report the conviction to the Standards Committee as evidence of a failure to comply with the Code of Conduct, with the parties representations included in the Report and allow the Committee to decide whether the breach has occurred and if so, the appropriate sanctions.</p>



Signed:

Dated: 23rd August 2017

Monitoring Officer

STANDARDS COMMITTEE

27 SEPTEMBER 2017

REPORT OF THE MONITORING OFFICER

A.3 REVIEW OF THE MEMBERS' CODE OF CONDUCT

(Report prepared by Lisa Hastings)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

For the Standards Committee to complete the review the Members' Code of Conduct and consider the proposed changes made following the suggested revisions at its meeting in June 2017 for recommendation to Council for adoption.

EXECUTIVE SUMMARY

As part of its annual work programme the Standards Committee commenced a review of the Members' Code of Conduct, with particular attention paid to the definitions of interests.

At its meeting on 29 June 2016 Members were informed that there would be some merit in undertaking a light touch review of the Code of Conduct and to consider removing the distinction between "Other and Non Pecuniary Interests" by joining them together and reviewing the definitions. The three different types of interest had caused confusion with Members and the public and therefore, could be made simpler. In addition, it had been raised whether the provisions on declarations of interests had gone far enough and questions had been asked whether the Council should be retaining a register of interests. Matters such as membership of various groups or organisations had caused concerns with elected Members and the public where these were not registered, and whilst this was not required on a statutory basis, provisions could be included within the local Code. Members discussed the advantages of a register of interests, beyond the statutory minimum which is required by the legislation and welcomed further exploration in this area.

The Monitoring Officer informed Members that nationally, a number of Councils had reviewed their Codes since adoption, some in response to feedback on definitions or areas which were missing, or due to the lack of sanctions available if the obligations were compromised. New ideas such as a voluntary acceptance of suspension and a recall scheme were emerging and information on those could be presented to the Committee for information through the review of the Code.

At its meeting on 26 September 2016, potential changes and additions to the Code were discussed to provide clarity in relation to:

- Separating the Rules of Conduct and General Obligations from the introduction and interpretation part of the Code;
- Merge Other Pecuniary Interests with Non-Pecuniary Interests; and

- Effect of Other or Non-Pecuniary Interests on participation.

It was agreed that the Monitoring Officer would produce a revised draft Code of Conduct for further discussion to take place at the next meeting so that the Committee could work towards recommending minor changes to the Members' Code of Conduct to full Council.

At its meeting on 28 June 2017, the Committee continued with its review on the Members' Code of Conduct and considered the proposed changes made following the suggested revisions at its previous meeting.

The Monitoring Officer produced a revised draft Code of Conduct showing tracked changes and went through it with the Committee stage by stage. A clean copy had also been produced for further consideration by the Committee.

The Monitoring Officer confirmed that she would action the further amendments suggested at that meeting by the Committee and would provide a further amended version of the Members' Code of Conduct at its next meeting before going to full Council.

At that meeting, Members resolved that the review of the Members' Code of Conduct be continued and that the draft revised Code of Conduct be endorsed, subject to the changes put forward by the Committee.

The Monitoring Officer has now produced a revised draft Members' Code of Conduct showing changes in Appendix A for the Committees consideration.

RECOMMENDATION

That the Standards Committee finalises its review and provides comments on the revised draft Members' Code of Conduct before recommending adoption to full Council.

APPENDICES

- Appendix A – Revised draft Members' Code of Conduct (Changes highlighted in yellow)

**TENDRING DISTRICT COUNCIL
MEMBERS' CODE OF CONDUCT**

1. INTRODUCTION TO THE CODE OF CONDUCT

1.1 Trust and confidence in public office-holders and institutions are important for the functioning of local authorities. This is particularly true in the case of elected office-holders. The Council has therefore adopted this Code of Conduct for elected members (also referred to as "Councillors") to promote and maintain high standards of conduct in public life. It is each Councillor's responsibility to comply with the provisions of this Code.

1.2 The Code of Conduct applies to all elected Councillors, voting co-opted members and appointed members.

1.3 The Code covers three main areas:

- **Part 1** sets out some general obligations regarding the behaviour of elected and co-opted members ("**Rules of Conduct**")
- **Part 2** explains how members should behave if they have a personal/code interest in an item of Council business ("**Members' Interests**")
- **Part 3** sets out rules requiring registration of interests for public inspection ("**Register of Members' Interests**")

The Principles of Public Life are set out in the Appendix.

2. Interpretation when the Code of Conduct applies?

2.1 In this Code "meeting" means any meeting of

- (a) Tendring District Council ("the Authority");
- (b) the **Cabinet (also known as the Executive)** of the Authority
- (c) any of the Authority's or Cabinet's committees, sub committees joint committees, joint sub-committees, or area committees (including working parties and panels); or
- (d) informal meetings with other Members and/or Officers relating to the discharge of the Authority's functions.

2.2 The Code of Conduct applies—

- (a) whenever you conduct the business, or are present at a meeting, of the Authority; or
- (b) whenever you act, claim to act or give the impression you are

- acting in the role of Member to which you were elected or appointed; or
- (c) whenever you act, claim to act or give the impression you are acting as a representative of the Authority (including representation on outside bodies); or
 - (d) at all times and in any capacity, in respect of conduct identified in paragraphs 3.4(a) and 3.5; or
 - (e) in respect of any criminal offence for which you have been convicted during your term of office.
- 2.3 Where you are elected, appointed or nominated by the authority to serve on any other authority or body you must, when acting for that other authority or body, comply with the code of conduct of that other authority or body.
- 2.4 Where you are elected, appointed or nominated by the authority to serve on any other body which does not have a code relating to the conduct of its members, you must, when acting for that other body, comply with this code of conduct, unless it conflicts with any other lawful obligations to which that other body may be subject.

3. Principles of Public Life

- 3.1 The Localism Act 2011 requires the Authority to have a code of conduct which is consistent with the 'Nolan Principles' determined by the Committee on Standards in Public Life. These Principles are set out in the Appendix A to this Code. The Code is consistent with the Nolan Principles but any breach of the principles is not by itself a breach of the Code.

As a Member of Tendring District Council you shall have regard to the Seven Principles of Public Life as it is these principles which underpin the Rules of Conduct set out below.

PART 1 **RULES OF CONDUCT**

3.2 In fulfilling your Duties and Responsibilities

You must not:

- (a) breach your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;
- (b) disrespect others;
- (c) bully or harass any person; or
- (d) do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf

of, the Authority.

3.3 Information

You must not:

- (a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so;
- (b) prevent any person from gaining access to information to which that person is entitled by law.

3.4 Conduct

You must:

- (a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute;
- (b) not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, the Authority.
- (c) comply with any request of the authority's Monitoring Officer or Section 151 Officer, in connection with an investigation conducted in accordance with their respective statutory powers.

3.5 Use of your Position

You must not:

- (a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;
- (b) use, or authorise others to use, the resources of the Authority—
 - (i) imprudently;
 - (ii) in breach of the Authority's requirements;
 - (iii) unlawfully;
 - (iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the Authority or of the office to which you have been elected or appointed;
 - (v) improperly for political purposes; or
 - (vi) improperly for private purposes.

3.6 Registration of Interests

In accordance with and subject to Part 2 of the Code you are required to

register details of your Disclosable Pecuniary Interests and your Personal Interests within 28 days of becoming a Member (or being re-elected or reappointed) or a change in those details, in the Authority's Register of Interests.

3.7 Decision Making

You must:

- (a) when participating in meetings or reaching decisions regarding the business of the Authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by the Authority's officers, in particular by—
 - (i) the Authority's Head of Paid Service;
 - (ii) the Authority's s.151 Officer/ Chief Finance Officer;
 - (iii) the Authority's Monitoring Officer/ Chief Legal Officer;
- (b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the authority.

3.8 Compliance with the Law and the Authority's Rules and Policies

You must:

- (a) observe the law and the Authority's rules governing the claiming of expenses and allowances in connection with your duties as a member;
- (b) comply with the Local Authority Code of Publicity made under the Local Government Act 1986 and any relevant guidance issued;
- (c) comply with the provisions of the Bribery Act 2010 or similar;
- (d) comply with the Authority's Gifts and Hospitality Policy;
- (e) comply with any other policy (or part of policy) which sets out required conduct from Members, for example the Member/Officer Working Protocol and Planning Code for Members, or similar.

PART 2 MEMBERS' INTERESTS

Holding the position of a District Councillor is NOT an interest which is required to be declared at any Council, Committee, Sub-Committee or Cabinet meetings, unless you are involved in the decision making affecting the ward you were elected to.

4. Disclosable Pecuniary Interests

4.1 Disclosable Pecuniary Interests (DPIs) are defined by ***The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012*** and are set out in Appendix B to this Code. It is important that Councillors understand what amounts to a DPI, that they identify carefully all DPIs relevant to them and that they take the necessary action required by law. Breach of the requirements related to DPIs is a criminal offence and are referred to the Police.

4.2 You have a Disclosable Pecuniary Interest in any business of your Authority if it is of a description set out in Appendix B and is either:

- (a) an interest of yours, or that of a Relevant Person being:
- (b) an interest of your spouse,
- (c) an interest of your civil partner, or
- (d) an interest of a person you are living with as a spouse or civil partner,

and in the case of paragraphs 4.2(b) – (d) you are aware that the Relevant Person has the interest.

5. Personal Interests

5.1 You have a **Personal** Interest in any item of business of the Authority where it relates to or is likely to affect –

- (a) any person or body who employs or has appointed you;
- (b) any existing contract for goods, services or works, which has not been fully discharged **or has expired within the last 2 years**, and made between the Authority and

- (i) you,
- (ii) a Related Person;
- (iii) a body in which you have a Disclosable Pecuniary Interest; or
- (iv) a person or body of the description specified in paragraphs 5.1 (c)-(d) below;

- (c) any body of which you are a member or **in which you hold** a position of general control or management and to which you are appointed or nominated by the Authority;
- (d) **any other body of which you are a member and in which you hold a position of general control or management** –
- (i) exercising functions of a public nature;
 - (ii) directed to charitable purposes; or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);
- (e) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50;
- (f) a decision in relation to that business which might reasonably be regarded as affecting **the financial position or wellbeing of:**
- (i) yourself or
 - (ii) **a Related Person (if you are aware of its existence)**

to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, affected by the decision;

5.2 **Related Person is defined as:**

- a member of your family; or
- any person with whom you have a close business or personal association.

In the case of a Related Person, you are only required to declare those interests which you are aware or ought reasonably to be aware of the existence.

6. Declaration of Members' Interests

- 6.1 Subject to sub-paragraphs 6.2 to 6.3, where you have a Disclosable Pecuniary or **Personal Interest** in any business of the Authority and you are present at a meeting of the Authority at which the business is considered, you must **declare** to that meeting the existence and nature of that interest whether or not such interest is registered on your Register of Interests or for which you have made a pending notification.

- 6.2 Sub-paragraph 6.1 only applies where you are aware or ought reasonably to be aware of the existence of the Relevant Person's (as defined in 4.2 above) Interest **or the Related Person's (as defined in 5.2 above) Interest.**
- 6.3 Where you have an interest in any business of the Authority which would be **declarable** by virtue of paragraph 6.1 but by virtue of paragraph 11 (Sensitive Information) details of the interest are not registered in the Authority's published Register of Members' Interests and the interest is a Disclosable Pecuniary **or Personal** Interest you need not **declare** the nature of the interest to the meeting.
- 6.4 Where you have an interest in any business of the Authority which would be **declarable** by virtue of paragraph 6.1 and you **are acting as a Cabinet Member, making** an executive decision in relation to that business you must ensure that any written statement of that decision records the existence and nature of that interest. In this paragraph "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

7. **Declaration of Personal Interests generally**

- 7.1 Subject to sub-paragraphs 7.2 & 7.3 below, you have a duty to **declare** any **Personal** Interest, as set out in paragraph 5 above, in considering any business of the Authority, where that interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- 7.2 **Holding the position of a District Councillor is NOT an interest which is required to be declared at any Council, Committee, Sub-Committee or Cabinet meetings, unless you are involved in the decision making affecting the ward you were elected to.**
- 7.3 You do not have a **declarable** interest in any business of your Authority where that business relates to the functions of your Authority in respect of:
- i. housing, where you are a tenant of your Authority provided that those functions do not relate particularly to your tenancy or lease;
 - ii. school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - iii. statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - iv. an allowance, payment or indemnity given to Members;
 - v. any ceremonial honour given to Members; and
 - vi. setting Council Tax or a Precept under the Local Government Finance Act 1992

8. Effect of Disclosable Pecuniary Interests on participation

- (a) If you are present at a meeting of the Authority or of any committee, sub-committee, joint committee or joint sub-committee of the Authority and you have a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at the meeting and you are aware of that Interest:
 - (i) You must not participate, or participate further, in any discussion of the matter at the meeting, or participate in any vote, or further vote, taken on the matter at the meeting.
 - (ii) You must withdraw from the room or chamber where the meeting considering the business is being held unless you have received a dispensation from the Authority's Monitoring Officer.
- (b) If you have a Disclosable Pecuniary Interest in any business of the Authority you must not:
 - (i) exercise executive functions in relation to that business; and
 - (ii) seek improperly to influence a decision about that business
- (c) If a function of the Authority may be discharged by a Member acting alone and you have a Disclosable Pecuniary Interest in any matter to be dealt with or being dealt with in the course of discharging that function you may not take any steps or any further steps in relation to the matter (except for the purpose of enable the matter to be dealt with otherwise than by yourself).

9. Effect of Personal Interests on participation

- 9.1 If you have a Personal interest (not a Disclosable Pecuniary Interest) in any business of your Authority which a Member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and you are present at a meeting of the authority at which such business is to be considered or is being considered you must:-
 - (a) Declare the existence and nature of the interest in accordance with paragraph 7.1 (but subject to paragraph 12)
 - (b) Withdraw from the room or chamber where the meeting considering the business is being held, immediately after making your representations or in any other case when the business is under consideration, unless you have obtained a dispensation from your authority's Monitoring Officer

PART 3
REGISTER OF MEMBERS' INTERESTS
Registration of Members' Interests

10.1 Subject to paragraph 11, you must, within 28 days of—

- a. this Code being adopted by or applied to your authority; or
- b. your election, re-election or appointment or re-appointment to office (where that is later), or co-option onto the authority,

register in your authority's register of members' interests (maintained by the Monitoring Officer under Section 29(1) of the Localism Act 2011) details of Disclosable Pecuniary Interests as referred to in paragraph 4, and defined in Appendix B, that you, your spouse, civil partner or person with whom you live as if they were your spouse or civil partner in so far as you are aware of their interests at that time.

10.2 Subject to paragraph 11, you must, within 28 days of becoming aware of any new or amended Disclosable Pecuniary Interest as referred to in paragraph 4, and defined in Appendix B, that you, your spouse, civil partner or person with whom you live as if they were your spouse or civil partner or change to any interest registered under paragraph 4 above by providing written notification to your Authority's Monitoring Officer.

10.3 Subject to paragraphs 10.5 and 11, you must, within 28 days of—

- a. this Code being adopted by or applied to your authority; or
- b. your election, re-election or appointment or re-appointment to office (where that is later), or co-option onto the authority,

register in your Authority's Register of Members' Personal Interests details of personal Interests as referred to in paragraph 5, that you are aware of their interests at that time.

10.4 Subject to paragraphs 10.5 and 11, you must, within 28 days of becoming aware of any new or amended Personal Interest as referred to in paragraph 5 or change to any interest registered under paragraph 5 above by providing written notification to your Authority's Monitoring Officer.

10.5 The provisions of paragraphs 10.3 and 10.4 above, do not apply to any Personal Interest which concerns a Related Person, as these interests are not

required to be registered in advance and only declared at a meeting of the authority at which the business is considered and you are present.

11. Sensitive Information

- 11.1 Where you have an interest referred to in paragraphs 4 or 5, and the nature of the interest is such that you and your Authority's Monitoring Officer consider that disclosure of details of the interest could lead to you or a person connected with you being subject to violence or intimidation if the interest is entered in the Authority's register then copies of the register available for inspection and any published version of the register should not include details of the interest but may state that you have an interest details of which are withheld under s32(2) of the Localism Act 2011 and/or this paragraph.
- 11.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 12.1 is no longer sensitive information, notify your Authority's Monitoring Officer.
- 11.3 In this Code "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subject to violence or intimidation.

APPENDIX A

The Principles of Public Life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services and state that holders of public office.

The Nolan Principles

- 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 declare 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

“Disclosable Pecuniary Interests” are defined by *The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012* and are:-

Employment, office, trade, profession or vacation

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

Sponsorship

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

Contracts

Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant Authority—

- (a) under which goods or services are to be provided or works are to be executed; and
- (b) which has not been fully discharged.

Land

Any beneficial interest in land which is within the area of the relevant Authority.

Licences

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

Corporate tenancies

Any tenancy where (to the Member’s knowledge)—

- (a) the landlord is the relevant Authority; and
- (b) the tenant is a body in which the relevant person has a beneficial interest.

Securities

Any beneficial interest in securities of a body where—

- (a) that body (to the Member’s knowledge) has a place of business or land in the area of the relevant Authority; and
- (b) either—

- (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
- (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

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