



STANDARDS COMMITTEE

DATE:	Wednesday, 24 April 2024
TIME:	10.00 am
VENUE:	Essex Hall - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE

MEMBERSHIP:

Councillor Talbot (Chairman)	Councillor Land
Councillor Wiggins (Vice-Chairman)	Councillor Newton
Councillor Ferguson	Councillor Oxley
Councillor J Henderson	

PLEASE NOTE THAT THIS MEETING WILL BE HELD IN THE ESSEX HALL AND NOT THE COMMITTEE ROOM WHICH IS UNAVAILABLE ON THIS OCCASION.

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DATE OF PUBLICATION: Tuesday, 16 April 2024

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 5 - 12)

To confirm and sign as a correct record, the minutes of the meeting of the Standards Committee, held on Wednesday 20 March 2024.

3 Declarations of Interest

Councillors are invited to declare any Disclosable Pecuniary Interests, Other Registerable Interests of Non-Registerable Interests, and the nature of it, in relation to any item on the agenda.

4 Questions on Notice pursuant to Council Procedure Rule 38

Subject to providing two working days' notice, a Member of the Committee may ask the Chairman of the Committee a question on any matter in relation to which the Council has powers or duties which affect the Tendring District **and** which falls within the terms of reference of the Committee.

5 Report of the Monitoring Officer - A.1 - Annual Report on Declarations of Interest and Associated Matters (Pages 13 - 20)

To present the Committee with an overview on the register of, and declarations of, interests made by Members from 1 January 2023 until 31 March 2024.

6 Report of the Monitoring Officer - A.2 - Members' Code of Conduct Complaints Procedure - Hearing Procedure (Pages 21 - 30)

To present the Standards Committee with a proposed updated Hearing Procedure, reflecting best practice and case law, for consideration for approval supplementing the Council's Complaints Procedure dealing with allegations that a Member has breached the Code of Conduct.

7 Draft Committee Work Plan for 2024/2025 (Pages 31 - 32)

The Committee is invited to give consideration to its draft Work Plan for the 2024/2025 Municipal Year.

8 Complaints Update (Pages 33 - 34)

The Committee will receive the Monitoring Officer's update regarding standards complaints.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Standards Committee is to be held in the Committee Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE at 10.00 am on Thursday, 16 May 2024.

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.

Please heed the instructions given by any member of staff and they will assist you in leaving the building and direct you to the assembly point.

Please do not re-enter the building until you are advised it is safe to do so by the relevant member of staff.

Your calmness and assistance is greatly appreciated.

**MINUTES OF THE MEETING OF THE STANDARDS COMMITTEE,
HELD ON WEDNESDAY, 20TH MARCH, 2024 AT 10.00 AM
IN THE COMMITTEE ROOM, AT THE TOWN HALL, STATION ROAD, CLACTON-
ON-SEA, CO15 1SE**

Present:	Councillors Talbot (Chairman), J Henderson, Newton and Oxley
Also Present:	Councillor Baker
In Attendance:	Lisa Hastings (Assistant Director (Governance) & Monitoring Officer), Keith Simmons (Head of Democratic Services and Elections & Deputy Monitoring Officer), Karen Hayes (Executive Projects Manager (Governance)), Ian Ford (Committee Services Manager) and Bethany Jones (Committee Services Officer)
Also in Attendance:	Clarissa Gosling, David Irvine and Jane Watts (three of the Council's four appointed Independent Persons)

9. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillors Ferguson, Land and Wiggins and Sue Gallone (Independent Person). There were no substitutions.

10. MINUTES OF THE LAST MEETING

It was moved by Councillor Talbot, seconded by Councillor J Henderson and:-

RESOLVED that the Minutes of the meeting of the Committee held on Wednesday 19 July 2023 be approved as a correct record and be signed by the Chairman.

11. DECLARATIONS OF INTEREST

There were no Declarations of Interest made by Members at this time.

12. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

No Questions on Notice had been submitted by Members pursuant to Council Procedure Rule 38 on this occasion.

13. REPORT OF THE ASSISTANT DIRECTOR (GOVERNANCE) & MONITORING OFFICER - A.1 - INDEPENDENT REMUNERATION PANEL AND INDEPENDENT PERSONS RECRUITMENT

The Committee considered whether to comment on the Independent Remuneration Panel and Independent Persons' term of office, exploring alternative options and future recruitment, with a view to making relevant recommendations to Full Council.

The Committee was reminded of the current situation as follows:-

At its meeting held on 27 November 2018, Full Council had agreed the appointment of Mr David Irvine, Mrs Clarissa Gosling, Mrs Jane Watts and Mrs Sue Gallone as the Council's Independent Remuneration Panel for the purposes of making recommendations to Council on Members' allowances. Mr David Irvine, Mrs Clarissa

Gosling, Ms Jane Watts and Ms Sue Gallone had also confirmed as the Council's Independent Persons for the purposes of standards arrangements.

The roles of Independent Remuneration Panel and Independent Persons were still separate but the same individuals had been appointed to both and were, currently, in place until Annual Council in April 2024. Each role was covered by separate legislation and were different in their nature.

The appointments as Independent Persons (IPs) had been extended for a year from May 2023 to April 2024, by Full Council at its meeting held on 22nd November 2022 (Minute 52 referred) and as Independent Remuneration Panel (IRP) members by Full Council at its meeting held on 2nd March 2023 (Minute 108 referred).

Following the decision by Full Council on 22nd November 2022, there was a requirement that alternative arrangements for the IRP be explored further in order to maximise options available with other Councils within Essex and to give consideration to the outcome prior to any future recruitment. During the last year, Braintree District Council (BDC) had expressed an interest in joint working on the role of the IRP (not IP) and had recently advertised to recruit to their IRP role and had included reference to working with other Essex Councils (although Tendring District Council had not been specifically named).

The Assistant Director (Governance) & Monitoring Officer had participated in the BDC interview process and each candidate had confirmed that they would be interested in joint working with TDC, if this was approved locally as an approach going forward.

Following the aforementioned decision of Full Council in November 2022, the Monitoring Officer reported there was interest in a joint working arrangement whereby a pool of IRPs could be appointed to undertake reviews of Members' Allowance Schemes for different Councils and the successful candidates through the BDC process could be recommended for appointment by Tendring District Council.

The advertisement of vacancies for the position of Independent Person(s) and the Independent Remuneration Panel, the review of applications received, the interview of suitable candidates and the making of recommendations to Council as to who should be appointed was delegated to the Chief Executive under the Council's Constitution. It was recommended that this delegation be amended to include the Monitoring Officer together with the Chief Executive, so that the administrative process for Tendring could be undertaken and recommendations made to Full Council in July 2024. Currently, there was no requirement for a review of Tendring's Members' Allowances Scheme during that interim period.

It was recommended that, in light of the proposed joint working arrangements for IRPs, the automatic appointment to both roles at Tendring ceased in order to allow different arrangements to be implemented.

It was further recommended that the existing appointments to IPs were extended, to those who expressed a wish to continue, to ensure this Council complied with the requirements of the Localism Act 2011. The current appointments were working well and there were a few ongoing standards cases whereby consistency and continuity would be beneficial.

The available recruitment and other alternative options were reported as follows:-

- (1) With regard to the roles of Independent Persons for the Ethical Standard arrangements, a pool of Independent Persons was available through the Public Law Partnership (covering Essex, Hertfordshire and Suffolk) that could be called on by any authority, subject to the necessary approvals through formal appointments. Those arrangements were considered appropriate to use where capacity or conflicts of interest were an issue. Whilst this Council had previously approved and adopted this flexibility, using the pool had not been required due to this Council having four Independent Persons. Therefore, it was still considered prudent for Tendring District Council to continue appointing its own Independent Persons whilst retaining the flexibility of a wider pool to call upon if necessary.
- (2) The IP and the IRP could continue as joint appointments or be separated.
- (3) The term of office for IRP and IPs were currently aligned to the term of office for District Councillors and consideration should be given to alternative approaches such as staggering and overlapping of terms, providing consistency and effective use of resources, preventing regular recruitments.
- (4) Since the last recruitment undertaken in 2018, the Committee on Standards in Public Life had published its report in January 2019 which, with regards to the role of the Independent Persons and their recommendations, had been responded to by Government in March 2022. Therefore, it was timely for Tendring District Council to review its own approach and give consideration to different options.

The Committee was reminded of the statutory and constitutional requirements as follows:-

Section 28(6) and (7) of the Localism Act 2011 required the Council to appoint at least one Independent Person to work with the Monitoring Officer within the Standards Framework.

Section 20 of The Local Authorities (Members' Allowances) England Regulations 2003 required that an Independent Remuneration Panel shall be established in respect of each authority and that the Panel shall consist of at least three people.

In this Council's Constitution, the advertisement of vacancies of Independent Person(s) and the Independent Remuneration Panel, the review of applications received, the interview of suitable candidates and the making of recommendations to Council as to who should be appointed, were delegated to the Chief Executive. However, as both of those independent roles required strong engagement with Councillors it was considered appropriate that the views of this Committee were sought. It was recommended that the existing Independent Persons term of office be extended for a year in order to allow the joint working opportunities for the Independent Remuneration Panel to be implemented.

A Member queried whether this Council could be comfortable with having IPs from Braintree District given the distance that they would have to travel to get to meetings et cetera in Tendring District. The Monitoring Officer responded by stating that all candidates that she had interviewed jointly at Braintree had confirmed that they were happy to participate in joint working and, by implication, travelling. There would be

opportunities for hybrid working. In addition, two of this Council's IPs currently travelled to meetings in the Tendring District from Suffolk.

A Member queried the seven year appointment period as potentially being too long. The Monitoring Officer replied that the appointment period would be up to seven years in order to overlap into the next Council term; there would be a need to carry out a fundamental review of Members' Allowances in early 2027; this approach would also allow a rolling process of recruitment rather than an "all at once" process.

At the invitation of the Chairman, the Council's Independent Persons present gave their views on this matter which were summarised as follows:-

- the roles of the IRP and the IP were quite different and involved differing skill sets so it could be a good approach to separate the two roles going forward;
- believed that IRP and IP involvement should be 'in person' rather than online; and
- different Councils work in different ways so forming a 'pool' might be difficult.

It was moved by Councillor Oxley, seconded by Councillor J Henderson and:-

RESOLVED that the Standards Committee -

- (a) notes the contents of this report (A.1);
- (b) recommends to Full Council that:
 - (i) the previous local arrangements for joint appointments to both roles, being the Independent Remuneration Panel and Independent Persons ceases;
 - (ii) future arrangements continue to be explored for a joint Independent Remuneration Panel with other Councils, and the delegation for recruitment be extended to the Chief Executive and Monitoring Officer for recommendations to be made to a future meeting of Full Council;
 - (iii) for the purposes of (b)(ii) the term of office of future Independent Remuneration Panel members be for a period of up to 7 years, being staggered if appropriate, to cover the Review of the Members' Allowances Scheme required for 2026/27 and into the next term of office for District Councillors; and
 - (iv) the term of office for those Independent Persons who express an interest in doing so, be extended for a further year without an application process, in order to allow a separate recruitment exercise to be undertaken for the sole role of Independent Person.

14. REPORT OF THE MONITORING OFFICER - A.2 - PRE-ELECTION GUIDANCE FOR TENDRING DISTRICT COUNCIL MEMBERS AND OFFICERS

The Committee was requested to note the Pre-Election Publicity Guidance produced for elections within the Tendring District ensuring that its contents were clear for Members and Officers in readiness for the Police, Fire and Crime Commissioner election due in May 2024.

Members were reminded that a Guidance Note concerning publicity and resources had been routinely issued, to all District Council Members and Officers, in the run up to elections since 2014, in the format as shown in Appendix A to the Monitoring Officer's report (A.2). In readiness for the Police, Fire and Crime Commissioner election in May 2024, the Standards Committee was requested to provide any comments or seek clarification on the content of the guidance to ensure that it was clear, concise and easily understood. The Standards Committee's feedback would be considered by the Chief Executive (who was also the Local Returning Officer for the aforementioned election in the District of Tendring) when issuing the revised guidance later on in March 2024.

It was reported that, in preparing the guidance now presented, due regard had been given to the LGA's published advice about the applicability of pre-election restrictions and the need for caution to avoid doing anything which offered undue influence or advantage that might affect the forthcoming election.

It was moved by Councillor J Henderson, seconded by Councillor Newton and:-

RESOLVED that the Standards Committee -

- a) notes the contents of the Monitoring Officer's report (A.2);
- b) endorses the Guidance being circulated to all Tendring District Councillors together with a reminder of paragraph 7 of the Members' Code of Conduct; and
- c) supports the Guidance being circulated to all Town and Parish Councils in the District.

15. **QUARTERLY COMPLAINTS UPDATE AND OTHER GENERAL MATTERS**

The Committee had before it the Monitoring Officer's quarterly schedule, which updated it on existing and new conduct complaint cases, along with other general matters.

TENDRING DISTRICT COUNCIL MONITORING OFFICER UPDATE MARCH 2024				
Council	Complainant	Current status	Final outcome	Comments
Existing Cases from last update:				
Council	Complainant	Current status	Final outcome	Comments
PARISH	PUBLIC	CLOSED	NO FURTHER ACTION	Matter did not constitute a non-declaration of interest.
DISTRICT	PUBLIC	CLOSED	NO FURTHER ACTION	Matter did not relate to acting in an official

				capacity.
PARISH	PARISH COUNCILLOR	CLOSED		Member resigned.
DISTRICT	METROPOLITAN BOROUGH COUNCILLOR	ONGOING		Matter related to behaviour whilst acting in an official capacity.
DISTRICT	PUBLIC	ONGOING		Matter related to behaviour whilst acting in an official capacity and misuse of Council resources.
New Cases since last update				
TOWN	PUBLIC	ONGOING		Matter related to behaviour whilst acting in an official capacity.
<u>General Notes – 2023/24 Summary:</u>				
<p>Overall 8 cases had been received in 2023/24. Five of the cases had merited no further action, one due to the Member not being re-elected at the May 2023 elections, two due to the Member resigning from their position, one which had not constituted a non-declaration of interest and one which had not related to acting in an official capacity.</p> <p>The other three cases remained ongoing.</p> <p>Code of Conduct training session for Town and Parish Members were required at suitable venues across the District. Dates would be determined taking into consideration Officer and venue availability.</p> <p>The Monitoring Officer reported verbally at the meeting that, though the number of complaint cases remained stable, they were increasing in their complexity and time consumption. In addition, an email had been sent to all Members as part of an annual review of their register of interests. This was a requirement of the Council's External Auditors.</p>				
Requests for dispensations:				
<p>A dispensation for all District Members had been granted by the Monitoring Officer for the purpose of the report of the Assistant Director (Finance & IT) – Formal Confirmation of Council Tax Amounts for 2024/25 following the Notification of the</p>				

Precepts from the Major Precepting Authorities, which had been determined at the meeting of the Human Resources and Council Tax Committee on 26 February 2024.

The Monitoring Officer verbally reported at the meeting that, at the meeting of the Cabinet held on 12 March 2024, a Portfolio Holder had declared a Disclosable Pecuniary Interest in relation to a draft Strategy that he was presenting and in respect of his position as a Trustee of a property that was referred to in that Strategy. The Monitoring Officer had decided to grant a Dispensation for that meeting on the basis that she considered it appropriate to do so as this was a draft Strategy which was being presented to Cabinet to then go out for consultation and that there were no decisions within the report being considered at that meeting which would impact directly on the property in question.

The Committee **NOTED** the foregoing.

The meeting was declared closed at 10.33 am

Chairman

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STANDARDS COMMITTEE

24 APRIL 2024

REPORT OF THE MONITORING OFFICER

A.1 ANNUAL REPORT ON DECLARATIONS OF INTEREST AND ASSOCIATED MATTERS

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To present the Committee with an overview on the register of, and declarations of, interests made by Members from 1 January 2023 until 31 March 2024.

EXECUTIVE SUMMARY

It was agreed at the meeting of the Standards Committee held on 29 June 2016 that, as part of its annual work programme, the Committee would receive an annual report on declarations of interest and associated matters. The Standards Committee included the annual item at its meeting on 15 March 2023 (minute no. 28).

RECOMMENDATION(S)

It is recommended that -

- (a) the Committee notes the contents of this report, subject to any comments or recommendations that the Committee may wish to make following its consideration of the report; and
- (b) the Committee requests that the Monitoring Officer issue a reminder to all Members that, when declaring Interests at Committee et cetera meetings, they should use the correct terminology for such Interests as detailed in Appendix B of the adopted Members' Code of Conduct.

REASON(S) FOR THE RECOMMENDATION(S)

To provide a timely update to the Committee as part of its agreed work programme.

ALTERNATIVE OPTIONS CONSIDERED

There are no alternative options associated with this report.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Declarations of Interest in accordance with the Members' Code of Conduct, forms part of effective and positive governance, being a theme of the previous Corporate Plan for 2020-24 and Financial Sustainability and Openness within the Corporate Plan for 2024-2028 adopted by full Council at its meeting in November 2023 (minute. No. 76).

Members' Declaration of Interests comes within Principle A of the Council's Annual Governance Statement - Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

The Council's Code of Conduct for Members sets out the requirements for Councillors regarding the registration and disclosure of interests. The relevant legislation is the Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

During the period covered by the report, the District Council changed its Code of Conduct with effect from May 2023 by adopting the Local Government Association's Model Code of Conduct, consequently the description of the non-DPI changed from Personal Interests to Other Registerable Interests and Non-Registerable Interests as defined in the Local Government Association's Model Code of Conduct.

The Council has approved and adopted a Local Code of Corporate Governance, which is consistent with the principles of the **CIPFA / SOLACE *Delivering Good Governance in Local Government Framework (2016 Edition)***. A copy of the Council's Code is available to be viewed or downloaded from the website (www.tendringdc.gov.uk) or can be obtained by contacting the Assistant Director – Governance.

The Annual Governance Statement explains how the Council has complied with the Code, and also meets the requirements of the Accounts and Audit Regulations 2015, regulation 6(1), which requires an authority to conduct a review, at least once in a year, of the effectiveness of its systems of internal control and include a statement reporting on the review with any published Statement of Accounts.

FINANCE AND OTHER RESOURCE IMPLICATIONS

There are no finance or resource implications associated with this report.

USE OF RESOURCES AND VALUE FOR MONEY

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	The agendas for the Council, Cabinet and Committee meetings include declarations of interest as a formal item of business.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	This is an annual report presented to the Standards Committee for openness and transparency in its decision making.

MILESTONES AND DELIVERY

This is an annual report presented to the Committee in accordance with the work programme.

ASSOCIATED RISKS AND MITIGATION

Not presenting this information could have a detrimental impact on the Council's reputation.

OUTCOME OF CONSULTATION AND ENGAGEMENT	
None undertaken.	
EQUALITIES	
Equality considerations are taken into account for each decision made.	
SOCIAL VALUE CONSIDERATIONS	
Social value considerations are taken into account for each decision made.	
IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030	
This is taken into account for each decision made.	
OTHER RELEVANT IMPLICATIONS	
Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.	
Crime and Disorder	Not applicable
Health Inequalities	Not applicable
Area or Ward affected	No Wards are directly affected by the contents of the report.
ANY OTHER RELEVANT INFORMATION	
None	

PART 3 – SUPPORTING INFORMATION

BACKGROUND
<p>In accordance with the Committee's Work programme, this is an annual report on declarations of interest and associated matters. This report covers the period from 1 January 2023 to 31 March 2024 and provides statistics on:</p> <ul style="list-style-type: none"> • the number of declarations of interest made at meetings; • the number of offers of gifts and hospitality that have been registered by Members during this period; and • updates to the Members' Register of Interests. <p>The data has been collated from the Committee system Modern.gov which the Council started using as of August 2016 and from Members' submissions.</p> <p><u>Register of Members' Disclosable Pecuniary Interests</u></p> <p>The Council is required to publish the 'Register of Disclosable Pecuniary Interest' on its website in accordance with the Localism Act 2011 and The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, which prescribes the categories of interests.</p> <p>It is confirmed that the Council's website includes a Register of Disclosable Pecuniary Interests and Other Registerable Interests for all District Councillors and that this is updated when a Member provides details of an amendment direct to the Monitoring Officer. Any entry,</p>

which is relevant to a business item on an agenda, must be declared by the individual Member and they must subsequently remove themselves from the meeting, unless a prior dispensation has been granted by the Monitoring Officer.

There have been two requests for dispensation during this period. Additionally, a dispensation for all District Members was granted by the Monitoring Officer for the purpose of the report of the Assistant Director (Finance & IT) – Formal Confirmation of Council Tax Amounts for 2024/25 Following the Notification of the Precepts from the Major Precepting Authorities, heard at the meeting of the Human Resources and Council Tax Committee on 26 February 2024.

Declarations of interest at meetings

Members are required to declare Disclosable Pecuniary Interests, Other Registerable Interests and Non-Registerable Interests at meetings and those recorded on the committee system, as declared by District Councillors for the period 1 January 2023 to 31 March 2024 are set out in Appendix A to this report. All minutes of the meetings also record the declarations. **The Committee will note that the Appendix only refers to Personal Interests (which were in place prior to May 2023) and not ‘Other Registerable Interests’, which are set out in the current adopted Members’ Code of Conduct. This is because Members are still referring to Personal Interests when making such declarations at meetings. That being so, the Committee may wish to request that all Members be issued with a reminder.**

Use of blanket dispensations

Tendring District Council’s former Members’ Code of Conduct at paragraph 7.3, as agreed by full Council in January 2018, contained blanket dispensations for any business of the Authority where that business relates to the Council functions in respect of:

- i. housing, where the Member is a tenant of the Authority provided that those functions do not relate particularly to their tenancy or lease;
- ii. school meals or school transport and travelling expenses, where the Member is 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 the Member is in receipt of, 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

Since their introduction, only category iv and vi dispensations have been relied upon at meetings of the Cabinet and full Council.

The current Code of Conduct which took effect in May 2023 does not include blanket dispensations consequently, the Monitoring Officer gave a blanket dispensation for the purposes of setting Council Tax under the Local Government Finance Act 1992, at the District Council’s budget meeting on 13 February 2024 (minute no. 115).

Declarations of offers/receipt of gifts and hospitality

Following the Standards Committee review of the Council’s Gift and Hospitality Policy for

Members, guidance and a notification form was produced for all District Councillors in May 2016. Reference to declarations of offers/receipt of gifts and hospitality was included within the mandatory Members' Code of Conduct training delivered by the Monitoring Officer in June and July 2023. There has been one recorded declaration of offers/receipt of gifts and hospitality made by District Councillors in the time period covered by this report.

Members' Register of Interests

Pursuant to the Localism Act 2011, within 28 days of becoming a Member or re-election or re-appointment to office, Members must register with the Monitoring Officer the interests which fall within the categories set out in Table 1 of the Members' Code of Conduct, namely, Disclosable Pecuniary Interests (DPIs) which are as described in the "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. Members should also register details of other personal interests which fall within the categories set out in Table 2 (Other Registerable Interests).

At the conclusion of the May 2023 District, Town and Parish Council elections, all Members received the relevant Disclosable Pecuniary Interest and Other Registerable Interests form as part of their induction procedure, to complete and return to the Monitoring Officer, for inclusion on the Council's website within a central register. Registration and the obligations to disclose DPIs, Other Registerable Interests and Non-Registerable Interests and the effect on participation was covered within the mandatory Members' Code of Conduct training delivered by the Monitoring Officer in June and July 2023.

PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.

It was agreed at the meeting of the Standards Committee held on 29 June 2016 that, as part of its annual work programme, the Committee would receive an annual report on declarations of interest and associated matters.

Full Council on 22 November 2022 (minute no. 51) - **RESOLVED** that Council approves:-

- (a) the adoption of the Local Government Association's Model Members' Code of Conduct, as set out in Appendix 2, for the purposes of Sections 27 & 28 of the Localism Act 2011, with a commencement date of the Annual Meeting of the Council in May 2023.

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

There are no background papers associated with this report.

APPENDICES

Appendix A – Table of Members' Declarations of Interest made at Council, Cabinet or Committee meetings 1 January 2023 to 31 March 2024.

REPORT CONTACT OFFICER(S)

Name

Karen Hayes

Job Title

**Executive Projects Manager -
Governance**

Email	khayes@tendringdc.gov.uk
Name	Ian Ford
Job Title	Committee Services Manager
Email/Telephone	iford@tendringdc.gov.uk (01255) 686584

A.1 Appendix A

Declarations of Interest in the Period of 1 January 2023 – 31 March 2024

	No. of Meetings	Disclosable Pecuniary Interest	Personal Interest	Points of Information for the Public Record Declarations	Pre-determined on a Planning Application (Planning Committee only)
Audit Committee	5	0	0	0	
Cabinet	11	1	9	6	
Community Leadership Overview and Scrutiny Committee	4	0	0	0	
Council	10	1	3	0	
Human Resources and Council Tax Committee	4	0	0	6	
Licensing and Registration Committee	5	0	0	5	
Miscellaneous Licensing Sub-Committee	6	0	1	6	
Planning Committee	17	0	8	12	2
Planning Policy and Local Plan Committee	6	1	1	4	
Premises / Personal Licences Sub-Committee	7	0	0	0	
Resources and Services Overview and Scrutiny Committee	7	0	2	2	
Standards Committee	4	0	0	0	

Town and Parish Councils' Standards Sub-Committee	0	0	0	0	
Tendring / Colchester Borders Garden Community Joint Committee	2	0	0	0	

STANDARDS COMMITTEE

24 APRIL 2024

REPORT OF THE MONITORING OFFICER

A.2 MEMBERS' CODE OF CONDUCT COMPLAINTS PROCEDURE - HEARING PROCEDURE

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To present the Standards Committee with a proposed updated Hearing Procedure, reflecting best practice and case law, for consideration for approval supplementing the Council's Complaints Procedure dealing with allegations that a Member has breached the Code of Conduct.

EXECUTIVE SUMMARY

The Council approved the Standards Framework with effect from November 2013, which included a Complaints Procedure. The Complaints Procedure makes reference to the hearing in paragraph 7.1.2 and that it will follow the relevant procedures setting out how the hearing will be conducted. The purpose of the document is to ensure that all parties understand the process which will be followed at the hearing and to assist the Chairman to conduct a fair and proper hearing. When a hearing is convened, a copy of the procedures will be set out with the Report.

The current Hearing Procedure was approved by the Standards Committee in March 2014 and in consideration of the length of time since its adoption and with a Hearing pending, it is important to ensure the Council's procedures reflect best practice and are up to date.

The proposed amendments cover the expectation that the purpose of the Hearing is to consider the Investigators Report, the evidence in support and representations from the Parties. The process of the hearing is inquisitorial, and not adversarial. The purpose of the hearing is to establish the facts. Cross-examination of the Investigating Officer, the Councillor and witnesses is not permitted, all questions should be made through the Chair.

Evidence before the Committee may be given orally or by written statement. At any stage during the proceedings the Committee can request the attendance, in person or joining remotely, of any person making a written statement or any other person they consider will be able to assist them, but the Committee has no power to require the attendance of any person. Local authorities' committees are legally permitted to join third parties remotely so long as the decision makers are in person.

The Standards Committee will make its decision on the balance of probability, based on the evidence before it during the hearing.

All Hearings will be held in public unless the relevant paragraph of Schedule 12A of the Local Government Act 1972 applies, however the public interest test must be considered and therefore it would only be in exceptional circumstances that the hearing will be held in private. The Council's Monitoring Officer will provide the relevant advice.

The Standards Committee is required to take into account the views of an Independent Person before it makes its decision on an allegation, which has been investigated (Section 28(7) of the Localism Act 2011). These views should be given in the formal meeting, prior to the Committee retiring to deliberate, therefore small amendments are required to ensure that an Independent Person does not retire with the Committee (following best practice and supported by case-law).

Where District Councillors were required to make a decision in respect of a hearing held by the Town and Parish Sub-Committee, they will have due regard to, and take into account any views expressed by Town and Parish Councillors in reaching their decision.

RECOMMENDATION(S)

It is recommended that the Committee notes the contents of this report and approves the amended Hearing Procedure, as set out in Appendix A for immediate adoption for both the Standards Committee and the Town & Parish Councils' Standards Sub-Committee.

REASON(S) FOR THE RECOMMENDATION(S)

To ensure the Council's procedures follow best practice and case law.

ALTERNATIVE OPTIONS CONSIDERED

An alternative would be not to amend the Hearing Procedure at this time, however this option is not recommended as it is important to ensure the Council's procedures reflect best practice and case law. The last review of the Hearing Procedure was undertaken in 2014.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The Hearing Procedure supplements Section 7.1.2 of the Council's Complaints Procedure for Members' Code of Conduct matters.

All Hearings will be held in Public unless the relevant paragraph of Schedule 12A of the Local Government Act 1972 applies, however the public interest test must be considered and therefore it would only be in exceptional circumstances that the hearing will be held in Private.

The Members' Code of Conduct and hearings held by the Standards Committee to determine whether there has been a breach of the Code of Conduct supports the Financial Sustainability and Openness theme within the Corporate Plan for 2024-2028 adopted by full Council at its meeting in November 2023 (minute. No. 76).

Members' conduct comes within Principle A of the Council's Annual Governance Statement - behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

The Council has formally adopted a Complaints Procedure which sets out the Council's 'arrangements' under **Section 28(6) and (7) of the Localism Act 2011 (as contained with Part 6 of the Council's Constitution)**. 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.

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.

Within the Complaints Procedure, Section 7 sets out what happens if the Investigating Officer or Monitoring Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

7.1.2 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.

To conduct a hearing, the Standards Committee must be convened and a Committee Agenda and Report is published and made available for public and press inspection, however, the Investigators Report will be kept confidential and will remain in Part B, until the day of the hearing to protect the parties.

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.

Full Council has delegated the non-executive responsibility to approve procedures for the conduct of hearings into complaints against Members to the Standards Committee (Constitutional Reference Part 3.25).

FINANCE AND OTHER RESOURCE IMPLICATIONS

There are no finance or resource implications associated with this report.

USE OF RESOURCES AND VALUE FOR MONEY

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	The Localism Act 2011 sets out the District Council's statutory duties for dealing with Members' Code of Conduct complaints.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	Full Council has delegated the non-executive responsibility to approve procedures for the conduct of hearings into complaints against Members to the Standards Committee (Constitutional Reference Part 3.25).
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	The Hearing Procedure should follow best practice, natural justice and case law ensuring that the Council's resources are used in an effective and efficient manner.

MILESTONES AND DELIVERY

If approved for adoption, the amended Hearing Procedure would come into immediate effect.

ASSOCIATED RISKS AND MITIGATION

Not presenting this information could have a detrimental impact on the Council's reputation.

OUTCOME OF CONSULTATION AND ENGAGEMENT

None undertaken.

EQUALITIES

Equality considerations are taken into account for each decision made.	
SOCIAL VALUE CONSIDERATIONS	
Social value considerations are taken into account for each decision made.	
IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030	
This is taken into account for each decision made.	
OTHER RELEVANT IMPLICATIONS	
Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.	
Crime and Disorder	Not applicable
Health Inequalities	Not applicable
Area or Ward affected	No Wards would be directly impacted by this decision.
ANY OTHER RELEVANT INFORMATION	
None	

PART 3 – SUPPORTING INFORMATION

BACKGROUND
Covered elsewhere within the report.
PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.
Minute No. 11 Standards Committee 18 th March 2014 - RESOLVED that Hearing Procedures, as set out in Appendix 1 to the report, for both the Standards Committee and the Town and Parish Councils' Standards Sub-Committee, be approved, subject to the following additional wording: That where District Councillors were required to make a decision in respect of a hearing, they have due regard to, and take into account any views expressed by Town and Parish Councillors in reaching their decision.
BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL
There are no background papers associated with this report.

APPENDICES	
Appendix A – Draft updated Hearing Procedure	
REPORT CONTACT OFFICER(S)	
Name	Lisa Hastings
Job Title	Assistant Director – Governance & Monitoring Officer
Email	lhastings@tendringdc.gov.uk

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HEARING PROCEDURE (approved March 2014)

Proposed amendments in red

**STANDARDS COMMITTEE &
TOWN & PARISH COUNCILS' STANDARDS SUB-COMMITTEE**

This procedure supplements Section 7.1.2 of the Council's Complaints Procedure and a copy will be provided to the both the Complainant and the Member the subject of the Complaint ("Councillor").

All Hearings will be held in Public unless the relevant paragraph of Schedule 12A of the Local Government Act 1972 applies, however the public interest test must be considered and therefore it would only be in exceptional circumstances that the hearing will be held in Private. The Council's Monitoring Officer will provide the relevant advice.

Where District Councillors were required to make a decision in respect of a hearing, they have due regard to, and take into account any views expressed by Town and Parish Councillors in reaching their decision.

<u>Item No.</u>	<u>Procedure</u>
1	<u>Quorum</u> 1.1. Three Members must be present throughout the hearing to form a quorum. 1.2. Where the complaint refers to a Town or Parish Councillor a non-voting Town and Parish representative of the Town and Parish Councils' Standards Sub-Committee must be present. 1.3. The Committee or Sub-Committee shall nominate the Chairman for the meeting in accordance with the terms of reference of the relevant Committee.
2	<u>Opening</u> 2.1 The Chairman explains that: (i) The hearing has been convened in accordance with the Council's Complaints Procedure and that an investigation has been conducted, the outcome of which is that it is considered there is evidence of a failure to comply with the Members' Code of Conduct. (ii) The Parties have been aware of the content of the Investigator's Report and this has been circulated to all Members of the

	<p>Committee.</p> <p>(iii) The Monitoring Officer has referred the matter for a hearing either because upon conclusion of the investigation, informal resolution has not been successful or it is not appropriate to do so, for the reasons given within the Committee Report.</p> <p>(iv) Purpose of the Hearing is to consider the Investigators Report, the evidence in support and representations from the Parties. The process of the hearing is inquisitorial, and not adversarial. Any witnesses in attendance should not be made to feel uncomfortable or that their integrity is being questioned. The purpose of the hearing is to establish the facts. Cross-examination of the Investigating Officer, the Councillor and witnesses is not permitted, all questions should be made through the Chair.</p> <p>(v) Evidence before the Committee may be given orally or by written statement. At any stage during the proceedings the Committee can request the attendance, in person or joining remotely, of any person making a written statement or any other person they consider will be able to assist them, but the Committee has no power to require the attendance of any person.</p> <p>(vi) The Standards Committee will make its decision on the balance of probability, based on the evidence before it during the hearing.</p> <p>(vii) If the Committee or Sub-Committee depart from the recommendation from either the Investigating Officer and/or Monitoring Officer detailed reasons are required and published in the Decision Notice.</p> <p>2.2 The Chairman asks all present to introduce themselves.</p>
<p>3</p>	<p style="text-align: center;"><u>The Complaint</u></p> <p>3.1 The Investigating Officer or Monitoring Officer shall be invited to present their report including:</p> <p>(i) any documentary evidence or other material; (ii) call such witnesses as considered necessary; and (iii) make representations to substantiate the conclusion that the Councillor has failed to comply with the Code of Conduct</p> <p>This report and documentary evidence must be based on the complaint made to the Council – no new points will be allowed.</p> <p>It is only under 3.1 (ii) that the Complainant will take part in the hearing.</p> <p>3.2 The Councillor (or their representative) may question:</p>

	<p>(i) the Investigating Officer upon the content of their report and/or; (ii) any witnesses called by the Investigating Officer.</p> <p>This is the Councillor's opportunity to ask questions rising from the Investigators report and not to make a statement.</p> <p>3.3 Members of the Committee or Sub-Committee may question:</p> <p>(i) the Investigating Officer upon the content of their report and/or (ii) any witnesses called by the Investigating Officer.</p> <p>This is the Committee or Sub-Committees' opportunity to ask questions rising from the Investigators report and not to make statements.</p>
<p>4</p>	<p style="text-align: center;"><u>The Councillor's case</u></p> <p>4.1 The Councillor (or their representative) may:</p> <p>(i) present their case; (ii) call any witnesses as required by the Councillor or their representative and (iii) make representations as why they consider that they did not fail to comply with the Code of Conduct.</p> <p>4.2 The Investigating Officer may question the Councillor and/or any witnesses.</p> <p>4.3 Members of the Committee or Sub-Committee may question the Member and/or any witnesses.</p> <p>In all instances, only questions will be permitted relating to the allegation and the Councillor's case and no statements should be made.</p>
<p>5</p>	<p style="text-align: center;"><u>Summing Up</u></p> <p>5.1 The Investigating Officer may sum up the Complaint.</p> <p>5.2 The Councillor (or their representative) may sum up their case.</p>
<p>6</p>	<p style="text-align: center;"><u>Decision</u></p> <p>6.1 Members of the Committee or Sub-Committee will deliberate in private to consider the complaint (if required, in consultation (*) with the Independent Person) prior to reaching a decision.</p> <p>(*) Note any consultation with the Independent Person must be undertaken in</p>

the open session so all parties can hear their views.

6.2 Upon the Committee or Sub-Committee's return the Chairman will announce the Committee or Sub-Committee's decision in the following terms:-

- (i) The Councillor has failed to comply with the Code of Conduct; or
- (ii) The Councillor has not failed to comply with the Code of Conduct

The Committee or Sub-Committee will give detailed reasons for their decision, which will be included within the published Decision Notice.

6.3 If the Committee or Sub-Committee decides that the Councillor has failed to comply with the Code of Conduct they will then consider any representations from the Investigator and/or the Councillor as to:

- (i) The appropriate sanction, as set out in Section 8 of the Complaints Procedure.
- (ii) Based on relevance to the breach, being proportionate and necessary to promote and maintain high standards of conduct.

6.4 The Committee or Sub-Committee is required by law to do so in consultation (*) with the Independent Person. (*) Note any consultation with the Independent Person must be undertaken in the open session so all parties can hear their views.

6.5 The Committee or Sub-Committee will then deliberate in private to consider what action, if any, should be taken.

6.6 On the Committee or Sub-Committee's return the Chairman will announce the Committee or Sub-Committee's decision as to what actions they resolve to take (in relation to a Town or Parish Councillor a recommendation to their Council).

6.7 The Committee or Sub-Committee will consider whether it should make any specific recommendations to the Council or in relation to a Town or Parish Councillor to their Council with a view to promoting and maintaining high standards of conduct among Members.

6.8 The Chairman will confirm that a full written Decision Notice shall be issued within 7 working days following the hearing and that the Committee or Sub-Committee's findings will be published on the Council's website and reported to the next full Council.

DRAFT COMMITTEE WORK PLAN 2024/25 – STANDARDS COMMITTEE

10th July 2024

- Review of the Planning Probity Protocol
- Update on Mandatory Training for Members
- Regular Complaints update by Monitoring Officer

9th October 2024

- Review of the Independent Person recruitment preparations for 2025
- Licensing Committee Probity Protocol
- Town and Parish Councils Code of Conduct and Interests review
- Regular Complaints update by Monitoring Officer

5th February 2025

- Case review and guidance update for the Committee on decisions and actions taken nationally
- Regular Complaints update by Monitoring Officer

9th April 2025

- Update on Mandatory Training for Members
- Annual Report on declarations of interest (meetings, gifts and hospitality)
- Regular Complaints update by Monitoring Officer
- Annual Work Programme for 2025/26

Individual matters may be referred to these meetings by the Monitoring Officer in accordance with the Committee's Terms of Reference as necessary, for example, an appeal against dispensation decision or a Code of Conduct hearing.

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TENDRING DISTRICT COUNCIL MONITORING OFFICER UPDATE APRIL 2024				
Council	Complainant	Current status	Final outcome	Comments
Existing Cases from last update:				
Council	Complainant	Current status	Final outcome	Comments
DISTRICT	METROPOLITAN BOROUGH COUNCILLOR	ONGOING		Matter relates to behaviour whilst acting in an official capacity
DISTRICT	PUBLIC	ONGOING		Matter relates to behaviour whilst acting in an official capacity and misuse of Council resources
TOWN	PUBLIC	CLOSED	NO FURTHER ACTION	Matter relates to behaviour whilst acting in an official capacity
New Cases since last update - NIL				
<u>General Notes – 2023/24 and 2024/25 Summary:</u>				
<p>Overall 8 cases were received in 2023/24 and non-so far in 2024/25. Six of the cases merited no further action, one due to the Member not being re-elected at the May 2023 elections, two due to the Member resigning from their position, one which did not constitute a non-declaration of interest, one which did not relate to acting in an official capacity and one where an apology had already been offered to achieve resolution.</p> <p>The other two cases remain ongoing.</p> <p>Code of Conduct training session for Town and Parish Members are required at suitable venues across the District. Dates will be determined taking into consideration Officer and venue availability.</p>				
Requests for dispensations:				
There have not been any requests for dispensations during this period.				

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