



Exeter City Council

To the Chair and Members
of the Standards Committee

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Our ref:
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A meeting of the **STANDARDS COMMITTEE** will be held in the Bad Homburg Room, Civic Centre, Paris Street, Exeter at **4.30 pm** on **THURSDAY 21 JUNE 2012** to consider the following business. If you have an enquiry regarding any items on this agenda, please contact Sharon Sissons, Member Services Officer on **Exeter 265115**.

Entry to the Civic Centre can be gained through the Customer Service Centre, Paris Street.

Pages

AGENDA

Part I: Items suggested for discussion with the press and public present

1 **APOLOGIES**

To receive apologies from Committee members.

2 **MINUTES OF PREVIOUS MEETING**

To sign the minutes of the meeting held on 4 April 2012.

3 **DECLARATIONS OF INTEREST**

Councillors are reminded of the need to declare personal and prejudicial interests, including the nature and extent of such interests, in relation to business on the agenda, before any discussion takes place on the item. Councillors requiring clarification should seek the advice of the Monitoring Officer prior to the day of the meeting.

4 **EXCLUSION OF PRESS AND PUBLIC**

It is considered that the Committee would be unlikely to exclude the press and public during the consideration of the items on this agenda, but if it should wish to do so, then the following resolution should be passed:

"RESOLVED that, under Section 100A (4) of the Local Government Act 1972, the press and public be excluded from the meeting for the particular items of business on the grounds that they involve the likely disclosure of exempt information as defined in the relevant paragraph(s) of Part 1 of Schedule 12A of the Act."

Office of Corporate Manager Democratic & Civic Support

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THE REVISED ETHICAL FRAMEWORK

To consider the report of the Monitoring Officer/Corporate Manager Legal – *report circulated* 1 - 26

The next meeting of the Standards Committee will be held on Wednesday 12 September 2012 at 4.30 pm

Membership -

Mr A Mimmack (Chair), Councillors Branston, S Brock, D J Henson, Laws, Payne and Winterbottom

Independent members:

Professor B Kirby

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**EXETER CITY COUNCIL
17 JULY 2012**

**STANDARDS COMMITTEE
21 JUNE 2012**

THE REVISED ETHICAL FRAMEWORK

1. PURPOSE OF THE REPORT

1.1 To further update Members on the significant changes to the Standards Regime relating to:

- the Members Code of Conduct,
- declaration of interests and
- arrangements for Standards brought about as a result of the Localism Act 2011("the Act").

1.2 These changes were originally to have been put in place by the 1 April 2012. However, this date was postponed by the Localism Act 2011(Commencement No.6 and Transitional, Savings and Transitory Provisions) Order 2012 ("the Order") laid before Parliament on the 8 June and comes into force on the 1 July 2012.

2. BACKGROUND INFORMATION

2.1 The Localism Bill as originally drafted proposed sweeping away the current ethical framework. It was suggested that Councils would be free to adopt their own voluntary Code of Conduct should they so wish. However, in the light of the views expressed, the Bill was amended and the following provisions were eventually incorporated into the Act which received Royal Assent in November last year:

- Councils are required to have a new or amended Code of Conduct to take effect from 1 July 2012.
- The Code must be based on the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- The Code must include a requirement for members to register and disclose Pecuniary Interests.
- Councils must put in place a system to deal with any allegation that a member has breached the provisions of the Code.
- Councils must appoint at least one "Independent Person" who must be consulted in relation to complaints before reaching a decision on any allegation made.

3. THE FUTURE OF STANDARDS COMMITTEE

3.1 The current legislation relating to Standards will be repealed with effect from the 1 July 2012, meaning that there will no longer be a legal requirement to retain a statutory Standards Committee.

3.2 Whilst there will no longer be a mandatory requirement for Authorities to have a Standards Committee, Section 27 of the Act imposes a statutory duty to "maintain high standards of conduct by members and co-opted members". The Council will

therefore need to determine whether it wishes to appoint a revised Standards Committee or instead discharge these functions through another committee.

- 3.3 Members have previously shown support for the work of the Standards Committee and therefore it is suggested that the most appropriate way to comply with the Council's legal obligation to maintain high standards of conduct is to re appoint a Standards Committee made up of six councillors. The terms of reference recommended for this Committee are set out in Appendix 1.
- 3.4 It is important for Members to note that whilst the Act introduced a new general duty to promote and maintain high standards of conduct, the Act provides a very limited mechanism or power to enforce those standards since it does not contain any specific power to undertake investigations, conduct hearings or compel Members or officers to attend hearings. The new regime provides an opportunity for local resolution rather than formal investigation, with an emphasis on identifying and resolving underlying issues.
- 3.5 The Council is required to determine its own procedure for dealing with complaints being careful to observe the rules of natural justice. In practice the Act only provided for sanctions for a breach of the Code limited to "naming and shaming" though the Council can agree to formal written warnings, formal censure or removal of a Member from a relevant Committee.

4. REQUIREMENT TO ADOPT A CODE OF CONDUCT

- 4.1 As set out previously, the Localism Bill as originally drafted proposed the removal of the requirement to have a mandatory Code of Conduct. However, this provision was subsequently amended to require Authorities to amend the existing Code of Conduct or to introduce a new Code.
- 4.2 Any Code adopted must be consistent with the seven Nolan principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership. These are similar to the ten existing general principles.
- 4.3 The Code must include a provision requiring members to register any "Disclosable Pecuniary Interests" the definition for which has only just been set out in Relevant Authorities (Discloseable Pecuniary Interests) Regulations ("the Regulations") which were laid before Parliament on the 8 June and come into force on the 1 July 2012. These are set out in Appendix 2 of this report.
- 4.4 There is no nationally prescribed Code of Conduct. Apart from the obligations set out in paragraphs 4.2 and 4.3 above, Authorities are free to decide what to include in their Code. Full Council must make the decision to adopt the Code and all Standards' matters are not to be Executive functions.
- 4.5 The following organisations have produced a template Code of Conduct:
 - The Local Government Association
 - The Department of Communities and Local Government
 - The National Association of Local Councils.

These template documents are set out as Appendix 3 to this report.

4.6 In addition to the above, discussions between the Monitoring Officers have been held locally in an attempt to adopt a Devon wide Code of Conduct. This has resulted in the draft Code which is set out as Appendix 4 to this report. Some have suggested that a Devon wide Code is the most appropriate way forward given that many of the members are “dual hatted” being both District and County Councillors.

5. REGISTER OF INTEREST

5.1 The Monitoring Officer must establish and maintain a Register of Members’ Interest. This register must be published on the Council’s web site.

5.2 On the whole it is for the Authority to decide what is to be entered in the Register. However, the register must include “Disclosable Pecuniary Interests” as described in paragraph 4.3 to this report.

5.3 As is the current practice, where the Monitoring Officer considers that there is a risk to a Member or some connected person being the subject of violence or intimidation, neither the entry to the Register or the disclosure at the meeting need to be specific as to the nature of the Interest.

6. DISCLOSING INTERESTS AT MEETINGS

6.1 Where a Member is aware that he/she has a Discloseable Pecuniary Interest in a matter to be considered at a meeting where that Member is present but which has yet to be entered in the Register of Interests, he/she must disclose that interest at the meeting.

6.2 Where a member discloses an interest, he/she must not participate in any discussion or vote on the matter at the meeting. Unless the Code adopted by Exeter City Council specifically requires it, there is no legal obligation for a Member to leave the room whilst the matter is being debated.

7. OFFENCE FOR FAILING TO DISCLOSE A PECUNIARY INTEREST

7.1 The Act creates a criminal offence if any person fails, without reasonable excuse, to notify the Monitoring Officer of a Disclosable Pecuniary Interest or participates in any discussion or vote at a meeting where he/she had a disclosable pecuniary interest.

7.2 A Member guilty of an offence may be liable on conviction in the Magistrates Court to a fine not exceeding Level 5 on the standard scale (currently £5,000)

8. BREACHES OF THE CODE OF CONDUCT

8.1 Section 28 of the Act requires Authorities to have in place a procedure under which allegations of failure to comply with the provisions of the Code of Conduct can be considered, investigated (if necessary) and decisions on the allegations taken with or without an investigation or hearing. However, the new regime provides an opportunity for local resolution rather than formal investigation with an emphasis on resolving issues.

8.2 The most significant change brought about by the Act is the removal of the cumbersome and nationally applied framework for dealing with complaints brought against Members. In practice, this means that the current arrangement for dealing with complaints will cease with effect from the 30 June 2012 and this must be

replaced with a new complaints procedure to take effect on the 1 July 2012. A suggested outline for the new complaints procedure is set out as Appendix 5 to this report.

9. APPOINTMENT OF INDEPENDENT PERSON

9.1 The Act removed the requirement to appoint an Independent Member to Chair the Standards Committee and sub committees. Instead, Local Authorities are required, with effect from the 1 July 2012, to appoint an “Independent Person” whose views must be sought and taken into account:

- After a matter has been investigated.
- Where some other form of action is proposed.

A member about whom an allegation has been made also has the right to consult the Independent Person.

9.2 The Independent Person would not be a member of the Council’s Standards Committee although he/she may be invited to attend meetings if necessary.

9.3 A person may not be appointed as an “Independent Person”:

- Where he/she is a relative or a close friend of any member or co-opted member.
- Where he/she was a member or co-opted member of the Authority’s Standards Committee within the last 5 years ending on the 30 June 2013.
- Unless the vacancy for an “Independent Person” has been advertised and the person has completed an application for the vacancy.
- The appointment is approved by a majority of the Authority’s Members.

9.4 Members should note that the Regulations expressly provide that the restriction on the appointment of an Independent Person set out in paragraph 9.3 above shall not apply to any appointment made before the 1 July 2013. In practice, this means the Council may appoint the current Independent members of Standards Committee as the “Independent Person” for the duration of this municipal year.

9.5 Section 7 of the Act requires the appointment of at least one “Independent Person” to provide the assistance set out in paragraph 9.1 above. Given the nature of this new role, it is suggested that Exeter City Council should appoint two Independent Persons to assist with the new regime.

9.6 Given the relaxation of the rule prohibiting previously serving Independent Members from being appointed as an Independent Person during the transitional period, it is recommended that Council approve the appointment of Andrew Mimmack and Professor Brian Kirby (both of whom currently serve as the Independent Members on the Council’s Standards Committee) for the duration of this municipal year.

10. GRANT OF DISPENSATIONS

10.1 The Council may grant a dispensation releasing a Member, who submits such an application to the “Proper Officer ” from participating in a discussion and or voting in a matter where he/she has an Interest.

- 10.2 It is suggested that authority be granted to the Monitoring Officer, in consultation with the Chair of the Standards Committee, to deal with any such application to enable dispensations to be granted at short notice.

RECOMMENDED that:-

- 7.1 The City Council approve the following recommendations:
- 7.1.1 The City Council discharge its obligation to maintain high standards of conduct through a newly appointed Standards Committee, the terms of reference for which are set out in Appendix 1.
 - 7.1.2 The Council adopt the outline procedure for dealing with complaints against members as set out in Appendix 5.
 - 7.1.3 The Council decides which draft Code of Conduct to adopt as set out in Appendix 3 and 4 to this report to come into full force and effect from 1 July 2012.
 - 7.1.4 In consultation with the Chair of Standards Committee to designate the Monitoring Officer as the "Proper Officer" authorised to determine requests from Members for dispensations to take part in the debate and/or vote in a meeting where he/she has an interest to declare.
 - 7.1.5 To authorise the Monitoring Officer, in consultation with the Chair of Standards Committee and the Independent Person, to deal with any complaint received alleging a breach of the Code of Conduct in accordance with the complaints procedure set out in Appendix 5 . This shall include the authority to decide whether an allegation merits investigation.
 - 7.1.6 The Council agrees to appoint two Independent Persons on an annual basis to assist the Standards Committee.
 - 7.1.7 The Council approves the appointment of Andrew Mimmack and Professor Brian Kirby as the Council's "Independent Persons" for the duration of this municipal year and with effect from 1 July 2012.
- 7.2 That Members note the new obligation placed on them to disclose any Pecuniary Interest they may have with effect form the 1 July 2012.
- 7.3 That Members note the new offence of failing to disclose a Pecuniary Interest where that person fails, without reasonable excuse, to notify the Monitoring Officer of a Disclosable Pecuniary Interest or participates in any discussion or vote at a meeting where he/she had a disclosable pecuniary inter.

CORPORATE MANAGER LEGAL AND MONITORING OFFICER

Local Government (Access to Information) Act 1985 (as amended)

Background papers used in compiling this report:-

None

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Appendix 1

STANDARDS COMMITTEE

1. To advise the City Council on the adoption of Codes of Conduct with the aim of promoting and maintaining high standards of conduct by members and officers and the subsequent monitoring and updating of the Codes.
2. To develop and adopt a Code of Practice on relations between members and officers.
3. To develop and monitor a Local Planning Code.
4. To ensure the provision of advice and training to members and officers on the above Codes of Conduct/Practice.
5. To hear and determine allegations of misconduct.
6. To be responsible for the Council's procedure for investigating and responding to complaints.
7. To give advice to members on the declaration of interests.
8. To monitor the "Whistle blowing Policy" which meets the requirements of the Public Interest Disclosure Act 1998, to encourage employees to report suspected malpractice, fraud or crime by other staff, the public or organisations having dealings with the Council.
9. To monitor the Council's constitution and, having regard to any report of the Monitoring Officer, to make appropriate recommendations where necessary.
10. To receive reports from the Councillor Development Group on an annual or more regular basis and to provide guidance as required.

Membership

Six Exeter City Councillors

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APPENDIX 2

2012 No. 1464

LOCAL GOVERNMENT, ENGLAND

**The Relevant Authorities (Disclosable Pecuniary Interests)
Regulations 2012**

<i>Made</i> - - - -	<i>6th June 2012</i>
<i>Laid before Parliament</i>	<i>8th June 2012</i>
<i>Coming into force</i> - -	<i>1st July 2012</i>

The Secretary of State, in exercise of the powers conferred by sections 30(3) and 235(2) of the Localism Act 2011(a), makes the following Regulations.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and shall come into force on 1st July 2012.

(2) In these regulations—

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

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

“M” means a member of a relevant authority;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

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

(a) 2011 c.20.

Specified pecuniary interests

2. The pecuniary interests which are specified for the purposes of Chapter 7 of Part 1 of the Act are the interests specified in the second column of the Schedule to these Regulations.

Signed by authority of the Secretary of State for Communities and Local Government

Grant Shapps
Minister of State

6th June 2012

Department for Communities and Local Government

SCHEDULE

Regulation 2

<i>Subject</i>	<i>Prescribed description</i>
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 M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (b) .
Contracts	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 M'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.

(a) 2000 c. 8.
(b) 1992 c. 52.

Securities

Any beneficial interest in securities of a body where—

(a) that body (to M'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.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 30 of the Localism Act 2011 provides that a member or co-opted member of a relevant authority as defined in section 27(6) of the Localism Act 2011, on taking office and in the circumstances set out in section 31, must notify the authority's monitoring officer of any disclosable pecuniary interest which that person has at the time of notification. These Regulations specify what is a pecuniary interest. Section 30(3) of the Act sets out the circumstances in which such an interest is a disclosable interest.

A full impact assessment has not been produced for these Regulations as no impact on the private or voluntary sectors is foreseen.

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Template Code of Conduct

As a member or co-opted member of *[X authority]* I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

SELFLESSNESS: Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP: Holders of public office should promote and support these principles by leadership and example.

The Act further provides for registration and disclosure of interests and in *[X authority]* this will be done as follows: *[to be completed by individual authorities]*

As a Member of [*X authority*], my conduct will in particular address the statutory principles of the code of conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the [*county*][*borough*][*Authority's area*] or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.

Illustrative text for code dealing with the conduct expected of members and co-opted members of the authority when acting in that capacity

You are a member or co-opted member of the [name] council and hence you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Accordingly, when acting in your capacity as a member or co-opted member -

You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.

You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below.

You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

Registering and declaring pecuniary and non-pecuniary interests

You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.

If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.¹

Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non pecuniary interest as defined by your authority.

¹ A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

NALC's template code of conduct for parish councils

As explained in paragraph 13 of LTN 80 – 'Members' conduct and the registration and disclosure of their interests (England)', NALC has produced a template code of conduct for parish councils because:

- it does not recommend that parish councils adopt the LGA's template code of conduct and
- parish councils may not want to draft their own or adopt their principal authority's code of conduct.

Unlike the LGA's template code of conduct, the attached NALC template code of conduct has the following features:

1. It uses concise and clear language to define members' obligations in respect of their conduct.
2. It incorporates members' mandatory obligations in respect of disclosable pecuniary interests. These are yet to be defined by regulations which are expected to be made before 1 July 2012 and will be inserted in Appendix A of the NALC template.
3. It sets out other pecuniary interests and non pecuniary interests in Appendix B of the NALC template about which members have obligations with regard to registration, disclosure, and speaking at meetings.
4. It describes the circumstances in which a parish council may grant a dispensation for members to participate and vote on a matter at a meeting.
5. It accommodates variations to be made to it except in relation to members' mandatory obligations about disclosable pecuniary interests in Appendix A. Substantive amendments to the NALC template code of conduct are not recommended because it establishes (i) the minimum standards for members' conduct which are consistent with the Nolan principles of conduct in public life and (ii) a proportionate range of pecuniary and non pecuniary interests which members are subject to.

It is likely that some of the interests presently included in Appendix B of the NALC template will constitute disclosable pecuniary interests, prescribed by regulation, and that any such interests will need to be included in Appendix A. NALC will publish the final version of its template code of conduct after regulations which define disclosable pecuniary interests have been made.

This briefing was issued by Meera Tharmarajah, Solicitor and Head of Legal Services

DRAFT

NALC template code of conduct for parish councils

Introduction

Pursuant to section 27 of the Localism Act 2011, X [Parish/Town/Village/Community/Neighbourhood] Council ('the Council') has adopted this Code of Conduct to promote and maintain high standards of behaviour by its members and co-opted members whenever they conduct the business of the Council including the business of the office to which they were elected or appointed or when they claim to act or give the impression of acting as a representative of the Council.

This Code of Conduct is based on the principles of selflessness, integrity, objectivity, accountability, openness, honesty, and leadership.

Definitions

For the purposes of this Code, a 'co-opted member' is a person who is not a member of the Council but who is either a member of any committee or sub-committee of the Council, or a member of, and represents the Council on any joint committee or joint sub-committee of the Council, and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.

For the purposes of this Code, a 'meeting' is a meeting of the Council, any of its committees, sub-committees, joint committees or joint sub-committees.

For the purposes of this Code, and unless otherwise expressed, a reference to a member of the Council includes a co-opted member of the Council.

Member obligations

When a member of the Council acts, claims to act or gives the impression of acting as a representative of the Council, he/she has the following obligations.

1. He/she shall behave in such a way that a reasonable person would regard as respectful.
2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.
3. He/she shall not seek to improperly confer an advantage or disadvantage on any person.
4. He/she shall use the resources of the Council in accordance with its requirements.
5. He/she shall not disclose information which is confidential or where disclosure is prohibited by law.

Registration of interests

6. Within 28 days of this Code being adopted by the Council, or the member's election or the co-opted member's appointment (where that is later), he/she shall register all interests which fall within the categories set out in Appendices A and B.
7. Upon the re-election of a member or the re-appointment of a co-opted member, he/she shall within 28 days re-register any interests in Appendices A and B.
8. A member shall register any change to interests or new interests in Appendices A and B within 28 days of becoming aware of it.

9. A member need only declare on the public register of interests the existence but not the details of any interest which the Monitoring Officer agrees is a 'sensitive interest'. A sensitive interest is one which, if disclosed on a public register, could lead the member or a person connected with the member to be subject to violence or intimidation.

Declaration of interests

9. Where a matter arises at a meeting which relates to an interest in Appendix A the member shall not participate in a discussion or vote on the matter. He/she only has to declare what his/her interest is if it is not already entered in the member's register of interests or if he/she has not notified the Monitoring Officer of it.
10. Where a matter arises at a meeting which relates to an interest in Appendix A which is a sensitive interest, the member shall not participate in a discussion or vote on the matter. If it is a sensitive interest which has not already been disclosed to the Monitoring Officer, the member shall disclose he/she has an interest but not the nature of it.
11. Where a matter arises at a meeting which relates to an interest in Appendix B, the member shall withdraw from the meeting. He/she may speak on the matter before withdrawing only if members of the public are also allowed to speak at the meeting.
12. A member only has to declare his/her interest in Appendix B if it is not already entered in his/her register of interests or he/she has not notified the Monitoring Officer of it or if he/she speaks on the matter before withdrawing. If he/she holds an interest in Appendix B which is a sensitive interest not already disclosed to the Monitoring Officer, he/she shall declare the interest but not the nature of the interest.
13. Where a matter arises at a meeting which relates to a financial interest of a friend, relative or close associate, the member shall disclose the nature of the interest and

withdraw from the meeting. He/she may speak on the matter before withdrawing only if members of the public are also allowed to speak at the meeting. If it is a 'sensitive interest' the member shall declare the interest but not the nature of the interest.

Dispensations

14. On a written request made to the Council's proper officer, the Council may grant a member a dispensation to participate in a discussion and vote on a matter at a meeting even if he/she has an interest in Appendices A and B if the Council believes that the number of members otherwise prohibited from taking part in the meeting would impede the transaction of the business; or it is in the interests of the inhabitants in the Council's area to allow the member to take part or it is otherwise appropriate to grant a dispensation.

Appendix A

Such interests, as prescribed by regulations, are.....

Appendix B

[Unless they are interests prescribed by regulation for inclusion in Appendix A] any interest which relates to or is likely to affect:

- (i) any body of which the member is in a position of general control or management and to which he/she is appointed or nominated by the Council;
- (ii) any body—
 - (a) exercising functions of a public nature;
 - (b) directed to charitable purposes; or
 - (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)of which the member of the Council is a member or in a position of general control or management;
- (iii) any employment or business carried on by the member;
- (iv) any person or body who employs or has appointed the member;
- (v) any person or body, other than the Council, who has made a payment to the member in respect of his/her election or any expenses incurred by him/her in carrying out his/her duties;
- (vi) any person or body who has a place of business or land in the Council's area, and in whom the member has a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);

- (vii) any contract for goods, services or works made between the member's Council and the member or a firm in which he/she is a partner, a company of which he /she is a remunerated director, or a person or body of the description specified in paragraph (vi);
- (viii) any gifts or hospitality worth more than an estimated value of £50 which the member has received by virtue of his or her office.
- (ix) any land in the Council's area in which the member has a beneficial interest;
- (x) any land where the landlord is the Council and the member is, or a firm in which the member is a partner, a company of which the member is a remunerated director, or a person or body of the description specified in paragraph (vi), is the tenant;
- (xi) any land in the Council's area for which the member has a licence (alone or jointly with others) to occupy for 28 days or longer.

EXETER CITY COUNCIL MEMBERS' CODE OF CONDUCT

Part 1 agreed with Districts as devonwide code

Red=mandatory changes + bold red=Devon'ing it! (+ subject to Regs)

Blue + local adaption of agreed devonwide code

PART 1 GENERAL PROVISIONS

Public Duty and Private Interests: An introduction

- 1 This Code applies to you as a Member or a Co-opted Member of Exeter City Council (The Council").
- 1.2 You should have regard to the Principles of Public Life namely, Selflessness, Honesty/Integrity, Objectivity, Accountability, Openness, Personal judgment, Respect for others, Duty to uphold the law, Stewardship and Leadership.
- 1.3 When acting in your capacity as a Member or Co-opted Member of the Council:
 - (a) you must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, a member of your family, close associate or relevant person;
 - (b) you must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties;
 - (c) when carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit;
 - (d) you are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office;
 - (e) you must be as open as possible about your decisions and actions and the decisions and actions of the City Council and should be prepared to give reasons for those decisions and actions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council or contained in its Constitution,

(f) you must declare any private interests, [whether disclosable or personal](#), that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out at Part 2 of this Code;

(g) you must, when using or authorising the use by others of the resources of the Council, ensure that such resources are not used improperly for political purposes (including party political purposes) and that any use is in accordance with the Council's reasonable requirements;

(h) you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986 [or any similar Communications Protocol or Code produced by the Council](#);

(i) you must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

- 1.4 Whilst you may be strongly influenced by the views of others, it is your responsibility alone to decide what view to take on any question which Members have to decide.
- 1.5 Do nothing as a Member which you could not justify to the public.
- 1.6 The reputation of the Council depends on your conduct and what the public believes about your conduct.
- 1.7 It is not enough to avoid actual impropriety, you should at all times avoid any occasion for suspicion or appearance of improper conduct.
- 1.8 It is your responsibility to comply with the provisions of this Code.

Definitions

2. In this Code –

“Close associate” means someone with whom you are in close regular contact over a period of time who is more than an acquaintance. It may be a friend, a colleague, a business associate or someone you know through general social contacts; it is someone a reasonable member of the public would think you might be prepared to favour/disadvantage.

“Member of your family” means:

- partner (i.e. your spouse/civil partner/someone you live with in a similar capacity);

- a parent/parent-in-law, son/daughter, step-son/step-daughter, child of partner;
- a brother/sister, grandparent/grandchild, uncle/aunt, nephew/niece

or the partners of any of these persons.

“Relevant person” means:

- any member of your family;
- any of your close associates;
- any person or body with whom you, a member of your family, or a close associate has a financial interest or a contractual relationship, including by employment;
- any body of which you are in a position of general control or management

“well-being” means your general sense of contentment and quality of life

“relevant period” means a period of 12 months ending with the date on which you notified the Monitoring Office of an interest

“meeting” means any meeting of –

- the Council;
- the Executive;
- any of the Council's or the Executive's, Committees, Sub-Committees, Joint Committees, Joint Sub-committees or Area committees;
- one or more Members, formal or informal and with or without officers, relating to the discharge of the Council's functions where a formal record is made by a Council Officer.

“interest or interests” have the meanings set out in Part 2 of this Code

Scope

3. You must comply with this Code whenever you are acting in your official capacity, when:
 - (a) you are engaged on the business of the Council; or
 - (b) you behave so as to give a reasonable person the impression that you are acting as a representative of the Council.

General obligations

4. You **must** –

- (a) treat others with courtesy and respect,
- (b) when reaching decisions on any matter, do so on the merits of the circumstances and in the public interest and have reasonable regard to any relevant advice provided to you by an officer of the Council.

5. You **must not** –

- (a) attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;
- (b) do anything which may cause the Council to breach a statutory duty or any of the equality enactments (as defined in section 149 of the Equality Act 2010);
- (c) bully any person (bullying may be characterised as any single act or pattern of offensive, intimidating, malicious, insulting or humiliating behaviour; an abuse or misuse of power or authority which attempts to undermine or coerce or has the effect of undermining or coercing an individual or group of individuals by gradually eroding their confidence or capability which may cause them to suffer stress or fear);
- (d) intimidate or attempt to intimidate any person who is or is likely to be –
 - (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings,in relation to an allegation that any Member has failed to comply with the Council's Code of Conduct; or
- (e) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council;
- (f) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where –
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is –
 - (A) in the public interest; and
 - (B) made in good faith and
 - (C) in compliance with the reasonable requirements of the Council;

(g) prevent another person from gaining access to information to which that person is entitled by law;

(h) conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you have brought your office or the Council into disrepute.

DRAFT

PART 2 INTERESTS

Registration of Interests

6. You must, within 28 days of—

- (a) this Code being adopted by, or applied to, the Council; or
- (b) your taking office as a Member or Co-opted Member of the Council,

whichever is the later, **and annually thereafter**, provide written notification to the Council's Monitoring Officer of:

- (i) any disclosable pecuniary interest as defined by Regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife); and
- (ii) any other **personal** interest laid down by the Council, as set out at paragraph 7 below;

which will be recorded in the Council's Register of Members' Interests and made available for public inspection including on the Council's website.

- 6.1 Within 28 days of becoming aware of any new interest or change to any interest already registered, you must register details of that new interest or change by providing written notification to the Council's Monitoring Officer.
- 6.2 Irrespective of whether an interest within paragraphs 7.1 and 7.2 below has been entered on the Register of Interests, you must disclose any interest you have at any meeting at which you are present in any matter being considered in line with paragraph 8 below where the matter is not a "Sensitive Interest".
- 6.3 Following any disclosure of an interest not on the Council's register or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.

7. The interests you **must** register are:

7.1 **Those disclosable pecuniary interests defined by The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012/ .???.) as set out below, namely:**

(B) any employment, office, trade, profession or vocation carried on for profit or gain by you or a relevant person;

(b) any payment or provision of any other financial benefit (other than from the District Council) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a

Member, or towards your election expenses, including any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992;

(c) any contract which is made between you, or so far as you are aware a relevant person (as defined at Para 2 above) and the Council:

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

(d) any beneficial interest in land held by you or so far as you are aware a relevant person which is within the administrative area of the Council;

(e) any licence (alone or jointly with others) to occupy land held by you or so far as you are aware a relevant person in the administrative area of the Council for a month or longer

(f) any tenancy where (to your knowledge):

- (1) the landlord is the Council; and
- (2) the tenant is a body in which you or so far as you are aware a relevant person has a beneficial interest.

(g) any beneficial interest that you, or so far as you are aware a relevant person has in securities of a body where:

(B) that body (to your knowledge) has a place of business or land in the administrative area of the Council and

(2) either:

(B) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(B) 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.

7.2 Those other personal interests laid down by the Council, namely:

(h) your membership of any body to which you have been appointed by the Council or exercising functions of a public nature, directed to charitable purposes or whose principal purposes include influence of public opinion or policy, including your membership of any other local Authority, any political party or trade union.

(j) any other interest where a reasonable person with knowledge of the relevant facts may regard the interest as so significant and greater

than it would affect the majority or residents or inhabitants in the affected area and may prejudice your judgement of the public interest;

- 7.3 In addition to those interests listed at 7.1 and 7.2 above which you are required to register, you may wish also to declare membership of any body which, in your view, might create a conflict of interest in carrying out your duties as a Councillor, such as membership of the Freemasons or any similar body.
- 7.4 Where the Monitoring Officer agrees that any information relating to your interests is “sensitive information” namely information whose availability for inspection by the public is likely to create a serious risk that any person may be subjected to violence or intimidation, you need not include that information when registering that interest, or, as the case may be, any change to that interest.
- 7.5 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded is no longer sensitive information, notify the Monitoring Officer asking that the information be included in Exeter City Council's Register of Members' Interests.

Declaration of Interests

8. Unless a dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a disclosable pecuniary interest as defined by Regulations referred to at Para 6(b)(i) and you must also observe any restrictions the Council may place on your involvement in matters where you have any interest as defined by the Council and shown at Para 7 above .
- 8.1 Where you have any interest in any business of the Council and you attend any meeting at which that business is to be considered, you must:
- (a) disclose to that meeting the existence and nature of that interest;
 - (b) disclose any interest in accordance with the Council's reasonable requirements, no later than the commencement of the consideration of the business in which you have that interest, or (if later) the time at which the interest becomes apparent to you;
 - (c) where you have a disclosable pecuniary interest, withdraw from the room or chamber where a meeting considering the business is being held at the commencement of the consideration of that business in which you have that interest, or (if later) the time at which the interest becomes apparent to you;
 - (d) not seek to influence improperly any decision about that business;

unless you have obtained a dispensation from the Council's Monitoring Officer.

V4, 1.6.12

**MEMBERS' CODE OF CONDUCT
GENERAL NOTICE OF REGISTERABLE INTERESTS**

2012/13

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I,

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being a Member/Co-opted Member of Exeter City Council,

give notice below of those interests which I am required to declare under The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and Exeter City Council's Code of Conduct:

I understand that in so doing I must declare any interest of my spouse or civil partner or of any person with whom I am living as a husband or wife and also, in relation to categories 3 and 4, of any member of my family, close associate or relevant person, as defined in the Council's Code of Conduct.

**1. Employment, Office, Trade, Profession or Vocation**

Please give details of (i) every employment, job, trade, business or vocation you have, for which you receive any benefit or gain (i.e. profit, salary or benefit in kind) including a short description of the activity e.g. 'Accountant' or 'Farmer' and (ii) the name of any employer or body, firm or company which you own or in which you have any beneficial interest.

|                                                             |  |
|-------------------------------------------------------------|--|
| Description of employment, job, vocation, trade or business |  |
|-------------------------------------------------------------|--|

|                                                                                                                                      |  |
|--------------------------------------------------------------------------------------------------------------------------------------|--|
|                                                                                                                                      |  |
| <p>Name of Employer, body, firm or company by which you are employed or which you own or in which you have a beneficial interest</p> |  |

**2. Sponsorship**

Please give details of any person or body (other than Exeter City Council) who has made any payment to you in respect of your election or any expenses you have incurred in carrying out your duties as a Councillor.

**3. Securities: Interests in Companies**

Please give details of body which has a place of business or owns land in Exeter City Council's area and in which you have a beneficial interest (a shareholding) of more than £25,000 (nominal value) or more than 1/100<sup>th</sup> of the total share issue of that body (whichever is the lower) or if there is more than one class of share, the total nominal value of shares in any class of that body of more than 1/100<sup>th</sup> of the total shares of that class

*Note: It is not necessary to declare the nature or size of the holding, simply the name of the company or other body.*

**4. Contracts: for Goods, Works or Services with the Council**

Please give details of any current, existing contracts for goods, works or services between Exeter City Council and you or any body, firm or company by which you are employed or which you own or in which you have a beneficial interest, as referred to at 3 above.

**5. Landholdings and Licenses in the Area**

Please give the address or other description (sufficient to identify the location) of any land or property in Exeter City Council's area in which you have a beneficial interest, indicating whether you are the owner, lessee or tenant, including land in which you may have a licence, alone or with others, to occupy for a period of one month or longer.

You must include the land and house you live in and for example an allotment you own or use.

**6. Corporate Tenancies: Land leased from Exeter City Council**

Please give the address or other description (sufficient to identify the location) of any land leased or licensed from Exeter City Council by a you or any body firm or company by which you are employed or which you own or in which you have a beneficial interest (specified at 3 above).

|                                                                                                                                                                                                      |  |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <p><b>7. Membership of Other Bodies</b></p> <p><b>Please give details of your membership of, or any position of general control or management, of any bodies in the categories listed below.</b></p> |  |
| <p>Any Body or Organisation to which you have been appointed or nominated by Exeter City Council as its representative</p>                                                                           |  |
| <p>Any other body exercising functions of a public nature</p> <p><i>(e.g. County Council; Health, Police or Fire Authority or Quasi Autonomous Non-Governmental Body)</i></p>                        |  |
| <p>Any body directed to charitable purposes</p> <p><i>(e.g., an Industrial and Provident Society or Charitable Body)</i></p>                                                                         |  |

|                                                                                                                                                                                                                                                                                                                                                                                                                                  |  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
|                                                                                                                                                                                                                                                                                                                                                                                                                                  |  |
| <p>Any Body whose principle purpose is to influence public opinion or policy <u>or</u> which, in your view, might create a conflict of interest in carrying out their duties as a County Councillor.</p> <p><i>(e.g. Political Party; Trade Union, Professional Association, Local Action Forum, Civic Society or Interest Group (e.g. National Trust; RSPB: Greenpeace or membership of the Freemasons or similar body)</i></p> |  |

**DECLARATION**

I recognise that if I fail to comply with Exeter City Council's Code of Conduct for Members or:

- (i) omit any information that should be included in this Notice;
- (ii) give false or misleading information; or
- (iii) do not tell the Monitoring Officer of any changes to this Notice or new interests I acquire,

that may be a criminal offence and/or the matter may be referred to the Council's Standards Committee for investigation.

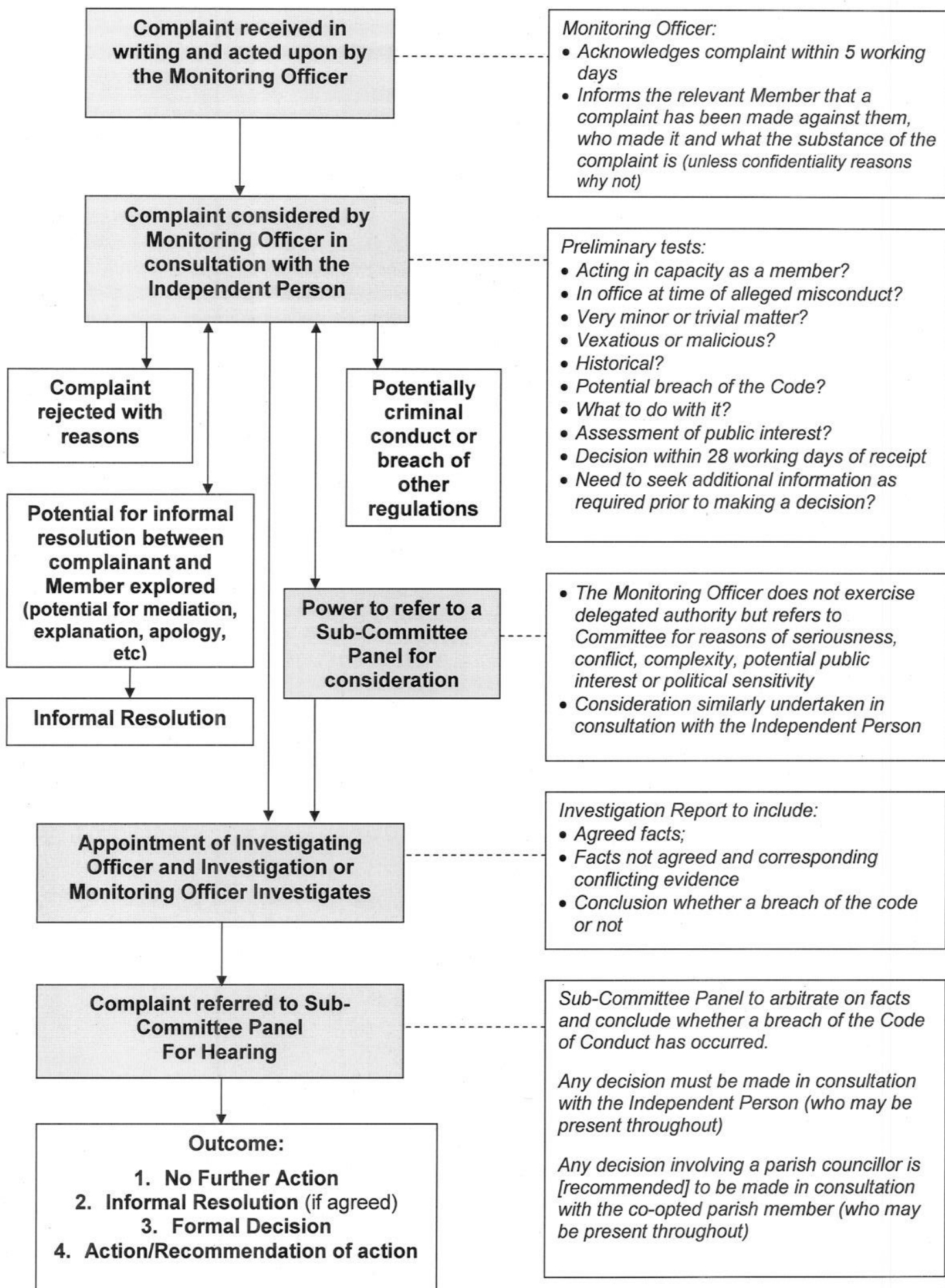
Signed : .....

**FOR OFFICE USE ONLY**

Received: ..... Update .....



## Complaints Procedure Flowchart



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