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Committee Manager: Jane Fulton (Ext. 37611)

3 October 2017

## STANDARDS COMMITTEE

A meeting of the Standards Committee will be held in Committee Room 1 (the Pink Room) at the Arun Civic Centre, Maltravers Road, Littlehampton on **Thursday, 19 October 2017 at 6.00 pm** and you are requested to attend.

District Council Members: Councillors English [Chairman], D Maconachie [Vice Chairman], Mrs Bence, Dillon, Edwards, Mrs Rapnik, Tyler, Dr Walsh and Wheal.

Independent Persons: Mr B Green, Mr M Howdle and Mr J Thompson.

## A G E N D A

### 1. APOLOGIES FOR ABSENCE

### 2. DECLARATIONS OF INTEREST

Members and Officers are reminded to make any declaration of personal and/or prejudicial interests that they may have in relation to items on this agenda.

You should declare your interest by stating:

- a) the item you have the interest in
- b) whether it is a personal interest and the nature of the interest
- c) whether it is also a prejudicial/pecuniary interest

You then need to re-declare your interest and the nature of the interest at the commencement of the item or when the interest becomes apparent.

**3. MINUTES**

To approve as a correct record the Minutes of the meeting held 5 July 2017 which are attached.

**4. ITEMS NOT ON THE AGENDA THAT THE CHAIRMAN OF THE MEETING IS OF THE OPINION SHOULD BE CONSIDERED AS A MATTER OF URGENCY BY REASON OF SPECIAL CIRCUMSTANCES**

**5. \*REVIEW OF THE CODE OF CONDUCT**

As agreed at the last meeting of the Committee on 5 July 2017, this report seeks views on a re-drafted Code of Conduct for Arun District Councillors that identifies disclosable pecuniary and other interests.

**6. \*REVIEW OF THE LOCAL ASSESSMENT PROCEDURE - APPROVING A NEW PROCEDURE**

At its last meeting on 5 July 2017, the Committee agreed that the Local Assessment Procedure for Code of Conduct complaints should be reviewed based on examples of best practice. This report informs the Committee of the outcome of this review and seeks approval to a revised procedure.

**7. \*REVIEW OF THE TERMS OF REFERENCE FOR STANDARDS COMMITTEE ASSESSMENT PANEL AND DISPENSATION PANEL**

The Council's Constitution is undergoing a major review led by the Constitution Working Party. The section currently under review is Part 3, Responsibility for Functions, which sets out the terms of reference for Committees, Sub-Committees and Panels. This report seeks Members' views on re-drafted terms of reference for this Committee and its two Panels – the Assessment Panel and the Dispensation Panel.

**8. \*ASSESSMENT PANEL DECISION - ALLEGATION AGAINST AN ARUN DISTRICT COUNCILLOR**

This report advises the Committee of the outcome of the Assessment Panel's investigation into an allegation against Arun District Councillor Colin Oliver-Redgate.

**9. EXEMPT INFORMATION**

The Committee is asked to consider passing the following resolution:-

That under Section 100A(4) of the Local Government Act 1972, the public and accredited representatives of newspapers be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 and Part 5 of Schedule 12A of the Act by virtue of the paragraph specified against the items.

10. **\*REGISTER OF ASSESSMENTS OF COMPLAINTS AGAINST COUNCILLORS  
(EXEMPT - PARAGRAPH 1 - INFORMATION RELATING TO ANY INDIVIDUAL)**

The Committee is asked to consider the attached report.

11. **\*REVIEW OF ASSESSMENT PANEL DECISION - ARUN DISTRICT COUNCILLOR  
- MRS J MACONACHIE (EXEMPT -PARAGRAPH 1 - INFORMATION RELATING  
TO ANY INDIVIDUAL)**

The Committee is asked to consider the attached report.

Note : \*Indicates report is attached for Members of the Committee only and the press (excluding exempt items). Copies of reports can be obtained on request from the Committee Manager s or accessed via the website at [www.arun.gov.uk](http://www.arun.gov.uk)).

Note : Members are reminded that if they have any detailed questions would they please inform the Chairman and/or Solicitor to the Council in advance of the meeting.

STANDARDS COMMITTEE5 July 2017 at 6.00 p.m.

Present: - Councillors English (Chairman), Maconachie (Vice-Chairman), Mrs Bence, Dillon, Edwards, Mrs Rapnik, Tyler, Dr Walsh and Wheal.

*Independent Persons* – Mr B Green, Mr Howdle and Mr J Thompson.

Councillors Chapman and Mrs Oakley were also present during the meeting.

**67. DECLARATIONS OF INTEREST**

The Monitoring Officer has advised Members of interim arrangements to follow when making declarations of interest. They have been advised that for the reasons explained below, they should make their declarations on the same basis as the former Code of Conduct using the descriptions of Personal and Prejudicial Interests.

Reasons

- The Council has adopted the Government's example for a new local code of conduct, but new policies and procedures relating to the new local code are yet to be considered and adopted.
- Members have not yet been trained on the provisions on the new local code of conduct.
- The definition of Pecuniary Interests is narrower than the definition of Prejudicial Interests, so by declaring a matter as a Prejudicial Interest, that will cover the requirement to declare a Pecuniary Interest in the same matter.

Where a member declares a “Prejudicial Interest”, this will, in the interests of clarity for the public, be recorded in the minutes as a Prejudicial and Pecuniary Interest.

There were no Declarations of Interest made.

Standards Committee  
05.07.17

**68. MINUTES**

The Minutes of the meeting held on 26 October 2016 were approved by the Committee as a correct record and signed by the Chairman.

**69. START TIMES**

The Committee

RESOLVED

That its start times for meetings during 2017/2018 be 6.00 pm.

**70. REVIEW OF THE LOCAL ASSESSMENT PROCEDURE**

The Committee received a report from the Group Head of Council Advice and Monitoring Officer which set out proposals for Members to consider in taking forward the review of the Local Assessment Procedure for complaints against Councillors under the Code of Conduct.

Members were reminded that back in July 2016, the Committee had agreed that a review of the Local Assessment Procedure was needed to address issues raised and lessons learnt from assessments undertaken and as the current Code of Conduct and Local Assessment Procedure had been in place since 2012. This review work had not been progressed by the former Monitoring Officer due to other work pressures. Now that a new Monitoring Officer was in place, it had been agreed with the Chairman that this review should now be taken forward.

The Committee had supported taking forward a number of changes to the existing Procedure [as set out in Appendix 1 to the report] with the key change being to introduce a two stage assessment process, as had been adopted by a number of other local authorities. The principles agreed for this two stage process had been:

**Stage 1**

The Monitoring Officer to have an initial assessment role dismissing complaints that did not qualify or were vexatious, in consultation with the Chairman of the Committee and an Independent Person. Any requests to reive the Monitoring Officer's decision to be referred to the Standards Committee.

**Stage 2**

Complaints that met the preliminary tests proceeding to Assessment Panel with the current Local Assessment Procedure to be redrafted.

The proposal now was to use the good practice from other authorities to develop a new procedure based on this two stage process. Two examples being put forward for the Committee to consider were from Chichester and Huntingdonshire District Councils. The Chichester examples had been based on the experiences of this Committee's Independent Person, Mr John Thompson, who was also an Independent Person for Chichester District Council. The Huntingdonshire template had been highlighted as a good example to use in reviewing this procedure and the Constitution.

Linked to this work, was a proposed review of the Code of Conduct in relation to how the Council identified disclosable pecuniary and other interests which would be discussed at the next agenda item.

The Committee, at this stage, was being asked to put forward its views on the examples provided and to give a steer to the new Monitoring Officer in terms of how a draft Procedure could be developed for consideration at the next meeting of the Committee in October 2017.

Councillors Chapman and Mrs Oakley had been invited to attend the meeting as the current Chairman and Vice-Chairman of the Audit & Governance Committee as this Committee and specifically requested to be updated on work progressing to resolve certain issues and especially a review of pecuniary and other interests.

The Group Head of Council Advice & Monitoring Officer advised the Committee that since proposing the use of Chichester and Huntingdonshire's Local Assessment Procedures as templates for developing a new procedure, she had attended a national workshop for Monitoring Officers which had identified further best practice that would be useful tools to apply to this review. The information presented had highlighted a number of valuable points that needed to be addressed in developing a new procedure. In particular, the setting of clear criteria for each stage of the process and the approach to hearings when a complaint proceeded to the assessment stage and so it was intended that the outcomes of the workshop would be discussed further with the Chairman and Vice-Chairman of the Committee to inform this review. With this in mind, the Group Head of Council Advice & Monitoring Officer proposed slightly amending Recommendation (2) of the report to remove the words "the examples of Chichester and Huntingdonshire District Council" and replace with "best practice".

The Committee then discussed elements of the examples provided from Chichester and Huntingdonshire's Procedures. The Committee liked the extract from Huntingdonshire's Constitution [Appendix 3] which set out a complaints procedure flowchart as this was easy to understand and contained latest best practice. The point was made that any revised procedure should be structured to ensure that complaints in the future would be dealt with quickly and should be both fair to the complainant and the Subject Member.

From this, discussion then took place on the proposed two stage assessment process. Questions were asked about Stage 1 of the process as the Chairman had raised concern at not being involved at this stage. The preliminary tests and criteria in place reassured Members that a complaint would only be taken to the assessment stage if it related to a code of conduct matter and having been initially assessed and consulted upon with an Independent Person. This would ensure that "tit for tat" complaints could be resolved informally without the need for a formal investigation. Such informal resolution might involve the Member accepting that his/her conduct was unacceptable and that an offer of an apology or some other action would resolve the issue. Any decisions taken to not proceed to a formal Local Assessment Panel hearing would be reported to the Committee in any case. It was hoped that a new procedure would reduce the number of assessments held and that any needing to proceed would be dealt with more quickly. All complaints would be assessed using the new criteria which would be agreed by the Committee later when a re-drafted review would be presented for approval.

Concern was expressed by Members that they no longer received a copy of the Customers of Concern Register. Despite the response given at the time this had first been raised back in July 2016, Members still had difficulty in understanding why this document could not be provided to them. Members were of the view that the absence of this information presented a real health and safety risk to them in running constituent surgeries or dealing with casework as a Councillor. The Group Head of Council Advice & Monitoring Officer confirmed that the register could not be provided under data protection rules but that she would work with the Information Management team and would take legal advice in taking this matter forward.

Following some further discussion, the Committee

RESOLVED – That

- (1) The current position on the review of the Local Assessment Procedure be noted;
- (2) The existing Local Assessment Procedure be re-drafted based on the examples of best practice, subject to any specific feedback recorded in the minutes of this meeting; and
- (3) A redrafted Procedure be presented to the next meeting on 5 October 2017.

#### 71. REVIEW OF THE CODE OF CONDUCT

The Committee received a report from the Group Head of Council Advice & Monitoring Offer which sought Members' views on proposals to amend the Code of Conduct which had been in place since June 2012 and in terms of amending the Code so it identified disclosable pecuniary and other interests which had not been agreed at the time of adoption.

As a consequence, an interim Declarations of Interest process had been in place ever since. As this was an outstanding recommendation of the Audit & Governance Committee that this be resolved, it was proposed that this aspect of the Code now be reviewed. This would then link into the review of the Local Assessment Procedure discussed earlier.

The Committee was invited to express its views on the examples put forward from Huntingdonshire and Chichester District Councils and in doing so it was outlined that any change to the Code of Conduct would require the Parish Councils who adopted Arun's Code to review their own practices. What would take place first was Arun's review where it would determine any amendments to its Code. Offers of advice would then be extended to the Parishes with their reviews. An example of a local code adopted by Littlehampton Town Council had also been provided.

In discussing the report, the Committee supported the approach presented by the Group Head of Council Advice & Monitoring Officer in reviewing the Code of Conduct so that a concise definition of interests and when these should be declared could be provided.

Having discussed how the responsibility for data protection also sat with Members, the Committee

**Item No. 3**

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Standards Committee  
05.07.17

RESOLVED – That

- (1) The existing Code of Conduct be re-drafted to identify disclosable pecuniary and other interests, based on examples of best practice; and
- (2) A redrafted Code be presented to the next meeting on 5 October 2017.

(The meeting concluded at 6.40 pm)

**AGENDA ITEM NO. 5****ARUN DISTRICT COUNCIL****REPORT TO STANDARDS COMMITTEE  
ON 19 OCTOBER 2017**

<b>SUBJECT:</b>	<b>Review of the Code of Conduct – Adopting a new Code</b>
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<b>REPORT AUTHOR:</b>	Liz Futcher – Group Head of Council Advice & Monitoring Officer
<b>DATE:</b>	September 2017
<b>EXTN:</b>	01903 737610

**EXECUTIVE SUMMARY:**

As agreed at the last meeting of the Committee on 5 July 2017, this report seeks views on a re-drafted Code of Conduct for Arun District Councillors that identifies disclosable pecuniary and other interests.

**RECOMMENDATIONS:**

It is recommended that:

1. the revised Code of Conduct, as set out in Appendix 1 to the report be approved;
2. all Arun District Councillors be requested to sign up to the revised Code of Conduct within 28 days of its adoption;
3. all Arun District Councillors be requested to update their Register of Interests based on the new Code of Conduct and to ongoing annual reviews; and
4. the Group Head of Council Advice & Monitoring Officer be given authority to liaise with Parish Councils to seek their agreement to signing up to the revised Code of Conduct.

**1.0 BACKGROUND**

- 1.1 At its last meeting on 5 July 2017, the Committee agreed that the Code of Conduct should be reviewed so that it identified disclosable pecuniary and other interests which had not been included in the original version adopted by the Council on 20 June 2012.
- 1.2 This review has now been concluded using examples of best practice and, subject to approval, will allow the current interim Declarations of Interest process on all agendas and minutes to be updated.

## **2.0 PROPOSALS**

- 2.1 As requested by the Committee, the re-drafted Code of Conduct does not alter the principles of the Code, nor the expectations of general conduct. What has changed is the addition of specific direction and guidance to support Members in completing their Register of Interests and making declarations at meetings. It sets out the requirements for:
- (i) disclosable pecuniary interests;
  - (ii) personal interests;
  - (iii) prejudicial interests; and
  - (iv) sensitive interests
- 2.2 The revised Code also covers exempt categories and the criminal sanctions that apply for failure to disclose a pecuniary interest; and gives additional advice for Members of the Overview Select Committee. The final section covers the notification of gifts and hospitality.
- 2.3 What has not yet been considered in this revised Code of Conduct is the request from the Council meeting on 13 September 2017 for the Committee to review how the Code will cover the role of Directors of companies set up by the Council. Advice is currently being sought and it is proposed to bring a report back to a future meeting of the Committee recommending that an additional appendix be added covering this requirement.
- 2.4 The revised Code is attached as Appendix 1 to the report. The shaded areas confirm the areas to be added.
- 2.5 The Committee's views are welcomed. If the new Code of Conduct is adopted, then all Members will be required to sign a new declaration to adhere to the Code and to update their Register of Interests.
- 2.6 In addition, as discussed at the last meeting, those Parish Councils who previously adopted Arun's Code will need to review their own practices. It is proposed that the Group Head of Council Advice & Monitoring Officer is given authority to liaise with the Parishes to support them through this change.

## **3.0 OPTIONS:**

1. To support the revised Code of Conduct.
2. To not support the Code and propose alternative arrangements.

## **4.0 CONSULTATION:**

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council		✓
Relevant District Ward Councillors		✓
Other groups/persons (please specify)	✓	
<ul style="list-style-type: none"> <li>• Chairman and Vice-Chairman of the Standards Committee</li> <li>• Chairman and Vice-Chairman of the Audit &amp; Governance Committee</li> <li>• Group Leaders</li> </ul>		

<b>5.0 ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail below)</b>	YES	NO

Financial		✓
Legal	✓	
Human Rights/Equality Impact Assessment		✓
Community Safety including Section 17 of Crime & Disorder Act		✓
Sustainability		✓
Asset Management/Property/Land		✓
Technology		✓
Other (please explain)		✓

## 6.0 IMPLICATIONS:

The Council needs to ensure that it has a Code of Conduct in place that meets the requirements of the Localism Act 2011.

## 7.0 REASON FOR THE DECISION:

A review of the Code of Conduct has been outstanding to identify disclosable interests. Adopting a revised Code will enable the interim arrangements in place for Declarations of Interests at meetings to be updated.

## 8.0 BACKGROUND PAPERS:

Council's Constitution <https://www.arun.gov.uk/constitution>

Statutory Instrument 2012/1464 The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

[http://www.legislation.gov.uk/ukssi/2012/1464/pdfs/ukssi\\_20121464\\_en.pdf](http://www.legislation.gov.uk/ukssi/2012/1464/pdfs/ukssi_20121464_en.pdf)

Sections 27 and 28 of the Localism Act 2011

<http://www.legislation.gov.uk/ukpga/2011/20/section/27/enacted>

<http://www.legislation.gov.uk/ukpga/2011/20/section/28/enacted>

**Proposed Changes to the Members' Code of Conduct**  
*Additions shown in shaded text and deletions crossed through***SECTION 1 - THE PRINCIPLES BEHIND THE MEMBERS' CODE OF CONDUCT****1. INTRODUCTION**

- 1.1 Arun District Council (the authority) has adopted this Code of Conduct in accordance with the Localism Act 2011 to promote and maintain high standards of behaviour by its members and co-opted members whenever they are acting in their capacity as a member of the authority. The Code was originally introduced on 1 July 2012 and was updated on 8 November 2017 (*subject to Full Council approval*).
- 1.2 As an elected or co-opted member of Arun District Council, councillors have a responsibility to represent the community and work constructively with the Council's staff and partner organisations to secure better social, economic and environmental outcomes for all.

**2. PRINCIPLES OF THE CODE OF CONDUCT**

- 2.1 In accordance with the Localism Act 2011 provisions, when acting in this capacity a councillor is 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. The following are the statutory principles of the Members' Code of Conduct:
1. 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.
  2. 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.
  3. 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.
  4. 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.
  5. 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.
  6. 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.
  7. LEADERSHIP: Holders of public office should promote and support these principles by leadership and example.

**APPENDIX 1****Proposed Changes to the Members' Code of Conduct***Additions shown in shaded text and deletions crossed through***SECTION 2 - MEMBERS' CODE OF CONDUCT****1. SCOPE**

**1.1** This Code of Conduct applies to you whenever you are acting in your capacity as a member, or co-opted member, of the authority, including:

- at formal meetings of the authority
- when acting as a representative of the authority
- in taking any decision as a Cabinet Member or a Ward Councillor
- in discharging your functions as a Ward Councillor
- when corresponding with the authority other than in a private capacity.

**1.2** In this Code "meeting" means any meeting organised by or on behalf of the authority including:

- any meeting of the Council, or a Committee, Sub-Committee, Working Group, Working Party or Panel constituted by the Council
- any meeting of the Cabinet and any Committee of the Cabinet
- any briefing by officers
- any site visit.

**1.3** This Code is based on the principles set out in Section 1 of Part 8 of this Constitution.

**1.4** Any allegations received by the authority that you have failed to comply with this Code will be dealt with under the Local Assessment Procedure.

**2. GENERAL CONDUCT**

~~From 1 July 2012 all Arun District Councillors have agreed to sign up to the following new local Members' Code of Conduct:~~

**2.1** As a member of Arun District Council, I agree to sign up to the local Members' Code of Conduct and that my conduct will in particular address the statutory principles of the Code by:

1. 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.
2. Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
3. 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 district of Arun or the good governance of the authority in a proper manner.
4. 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 of this authority.

**APPENDIX 1****Proposed Changes to the Members' Code of Conduct***Additions shown in shaded text and deletions crossed through*

5. 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.
6. Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
7. 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.
8. 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.
9. 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.
10. Always treating people with respect, including the organisations and public I engage with and those I work alongside.
11. 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.

**In addition:**

12. Within 28 days of taking office, or signing an undertaking to abide by the authority's Members Code of Conduct [whichever is the sooner] and within 28 days of any change of my circumstances I will notify Arun District Council's Monitoring Officer of any disclosable pecuniary interest, where that interest is mine, my spouse's<sup>1</sup> or non pecuniary interest that is required by the authority, by completing and signing a Register of Interests Form, and returning that Register of Interests Form to the Monitoring Officer.
13. If I have a disclosable interest at a meeting, and that matter is not a 'sensitive' interest, and that interest has not been entered onto my Register of Interests Form, I will disclose that interest to the meeting of the authority at which I am present.
14. Following any disclosure of interest in paragraph 13 of the Members' Code of Conduct, I will notify the Monitoring Officer of the interest within 28 days beginning from the date of disclosure by completing and signing a new Register of Interests Form.
15. Unless dispensation has been granted, I will not participate in any discussion of, vote on, or discharge any function related to any matter in which I have a Pecuniary Interest as defined by regulations made by the Secretary of State.
16. I agree that, where I have a Pecuniary Interest in an item to be considered at a meeting, it is my responsibility to ask, before I leave the meeting, for it to be minuted that I am leaving the meeting for that item, so there is clear evidence that I did not take part in the debate or the vote.
17. I will observe the restrictions the authority places on my involvement in matters where I have a Pecuniary or non-Pecuniary interest as defined on my Register of Interests Form.

**APPENDIX 1****Proposed Changes to the Members' Code of Conduct***Additions shown in shaded text and deletions crossed through***3. REGISTER OF INTERESTS**

- 3.1 Within 28 days of this Code being adopted by the Council, or your election (if later), you must register with the Monitoring Officer any interests that fall under any of the descriptions listed in Appendices A and B of this Code.
- 3.2 You must ensure that your Register of Interests is kept up to date and must notify the Monitoring Officer in writing within 28 days of becoming aware of any change in any of the descriptions listed in Appendices A and B of this Code.

**4. DISCLOSABLE PECUNIARY INTERESTS**

- 4.1 You have a disclosable pecuniary interest if it is of a description specified in regulations made by the Secretary State, as set out at Appendix A to this Code, and either:
- a) it is an interest of yours; or
  - b) it is an interest of:
    - (i) your spouse or civil partner; or
    - (ii) a person with whom you are living as husband and wife; or
    - (iii) a person with whom you are living as if you were civil partners and you are aware that other person has the interest.

- 4.2 You must:

4.2.1 make a verbal declaration of the existence and nature of any disclosable pecuniary interest at any meeting at which you are present when an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item or as soon as the interest becomes apparent. Where the interest is deemed a "sensitive interest" you need only declare the existence of the interest but not the detail;

4.2.2 where you have a disclosable pecuniary interest, whether the interest is registered or not, you must not:

- (i) participate, or participate further, in any discussion of the matter at the meeting;
- (ii) remain in the meeting whilst the matter is being debated;
- (iii) participate in any vote taken on the matter at the meeting;

unless you have obtained a dispensation from the Monitoring Officer.

**5. PERSONAL INTERESTS**

- 5.1 You have a personal interest in any business of the authority if it is of a description specified in Appendix B to this Code.

**APPENDIX 1****Proposed Changes to the Members' Code of Conduct***Additions shown in shaded text and deletions crossed through*

**5.2** You have a personal interest in any business of the authority where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position, or the well-being or financial position of a 'relevant person' to a greater extent than the majority of other council tax payers, ratepayers or residents of your ward affected by the decision; or it relates to or is likely to affect any interests you have registered as a disclosable pecuniary interest.

**5.3** A 'relevant person' is:

**5.3.1** a member of your family or any person with whom you have a close association;

**5.3.2** any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

**5.3.3** any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or

**5.3.4** any body of a type described in Appendix B.

**5.4** Where you have a personal interest under paragraphs 5.3.3 or 5.3.4, you must make a verbal declaration of the existence and nature of any personal interest at any meeting at which you are present when an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item or as soon as the interest becomes apparent. Where the interest is deemed a "sensitive interest", you need only declare the existence of the interest but not the detail.

**5.5** Where you have a personal interest under paragraph 5.3.1 and 5.3.2, you need only disclose to the meeting the existence and nature of the interest when you address the meeting on that business.

**5.6** Having disclosed a personal interest and providing it is not a prejudicial interest, you may still continue to participate and vote on the matter at that meeting.

**5.7** Where you have a personal interest and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

## **6. PREJUDICIAL INTERESTS**

**6.1** Where you have a personal interest in any business of the authority, you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest (unless the matter falls within one of the exempt categories referred to at paragraph 9) and where that business:

**APPENDIX 1****Proposed Changes to the Members' Code of Conduct***Additions shown in shaded text and deletions crossed through*

6.1.1 affects your financial position or the financial position of a person or body defined as a 'relevant person'; or

6.1.2 relates to the determining of any approval, consent licence, permission or registration in relation to you or any person or body defined as a 'relevant person'.

**6.2 Where you have a prejudicial interest:**

6.2.1 you must make a verbal declaration of the existence and nature of any such interest at any meeting at which you are present when an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item or as soon as the interest becomes apparent.

6.2.2 you must not:

- (i) participate, or participate further, in any discussion of the matter at the meeting;
- (ii) remain in the meeting whilst the matter is being debated;
- (iii) participate in any vote taken on the matter at the meeting;

unless you have obtained a dispensation from the Monitoring Officer.

6.3 The only exception is that you may attend a meeting for the purpose of making representations, answering questions or giving evidence relating to the business being considered, provided that the public are also allowed to attend the meeting for the same purpose, whether under statutory right or otherwise. You must leave the meeting immediately after making the representations, answering questions or giving questions.

6.4 Where, as a Cabinet Member, you may discharge a function alone, and you become aware of a prejudicial interest in a matter being dealt with, or to be dealt with by yourself, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

**7. SENSITIVE INTERESTS**

7.1 Where you consider that disclosure of the details of a disclosable pecuniary interest could lead to you, or a person connected with you, being subject to violence or intimidation, you should share your concerns with the Monitoring Officer. If the Monitoring Officer agrees, he/she will not include details of the interest in the Register of Interests, but may state that you have registered an interest, the details of which are withheld under Section 32(2) of the Localism Act 2011.

**8. EXEMPT CATEGORIES**

8.1 Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a prejudicial interest that relates to the functions of the authority in respect of:

**APPENDIX 1****Proposed Changes to the Members' Code of Conduct***Additions shown in shaded text and deletions crossed through*

- 8.1.1 housing – where you are a tenant of the authority provided that those functions do not relate particularly to your tenancy or lease;
- 8.1.2 an allowance, payment or indemnity given to Members;
- 8.1.3 any ceremonial honour given to Members; and
- 8.1.4 setting council tax or a precept under the Local Government Finance Act 1992.

**9. CRIMINAL SANCTIONS RELATING TO DISCLOSABLE PECUNIARY INTERESTS**

- 9.1 It is a criminal offence to:

- 9.1.1 fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election;
- 9.1.2 fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register;
- 9.1.3 fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting;
- 9.1.4 participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest (including taking a decision as a Cabinet Member acting alone);
- 9.1.5 fail to notify the Monitoring Officer within 28 days of the interest if you are a Cabinet Member discharging a function acting alone and have a disclosable pecuniary interest in such a matter; and
- 9.1.6 knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting.

- 9.2 The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for a maximum of 5 years.

**10. OVERVIEW SELECT COMMITTEE**

- 10.1 You also have a prejudicial interest in any business before the Overview Select Committee of the authority (or of a sub-committee of this committee) where:
- a) that business relates to a decision made (whether implemented or not) or action taken by the Cabinet or another of the authority's committees, sub-committees, joint committees, or joint sub-committees; and

**APPENDIX 1****Proposed Changes to the Members' Code of Conduct***Additions shown in shaded text and deletions crossed through*

- b) at the time the decision was made or action was taken, you were a member of the Cabinet, committee, sub-committee, joint committee or joint sub-committee and you were present when that decision was made or action was taken.

- 10.2 In such cases, you may only attend a meeting of the Overview Select Committee for the purpose of answering questions or giving evidence relating to the business. You must leave the meeting immediately after making representations, answering questions or giving evidence.

**11. GIFTS AND HOSPITALITY**

- 11.1 You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £25 which you have accepted as a Member from any person or body other than the authority.

- 11.2 The Monitoring Officer will place your notification on a public register of gifts and hospitality.

**APPENDIX 1****Proposed Changes to the Members' Code of Conduct***Additions shown in shaded text and deletions crossed through***APPENDIX A – DISCLOSABLE PECUNIARY INTERESTS**

The duties to register, disclose and not to participate in respect of any matter in which a Member has a disclosable pecuniary interest are set out in Chapter 7 of the Localism Act 2011.

Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows:

<i>Interest</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation	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'. <i>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</i>
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 'Ms' knowledge): (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where: (a) that body (to 'Ms' 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 more than one class, the total nominal value of the shares of any one class in which the

**APPENDIX 1****Proposed Changes to the Members' Code of Conduct***Additions shown in shaded text and deletions crossed through*

	relevant person has a beneficial interest exceeds one hundredth of the total issues share capital of that class.
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These descriptions on Disclosable Pecuniary Interests are subject to the following definitions:

**“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 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 and other securities of any description, other than money deposited with a building society.

**APPENDIX 1****Proposed Changes to the Members' Code of Conduct***Additions shown in shaded text and deletions crossed through***APPENDIX B – PERSONAL INTERESTS**

You have a personal interest in any business of the authority where it either relates to or is likely to affect:

(a) any body of which you are a member or in a position of general control or management and to which are appointed or nominated by the authority;

(b) any body -

- (i) exercising functions of a public nature; or
- (ii) directed to charitable purposes; or
- (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

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

**AGENDA ITEM NO. 6****ARUN DISTRICT COUNCIL****REPORT TO STANDARDS COMMITTEE  
ON 19 OCTOBER 2017**

<b>SUBJECT:</b>	<b>Review of the Local Assessment Procedure – Approving a new procedure</b>
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<b>REPORT AUTHOR:</b>	Liz Futcher – Group Head of Council Advice & Monitoring Officer
<b>DATE:</b>	September 2017
<b>EXTN:</b>	01903 737610

**EXECUTIVE SUMMARY:**

At its last meeting on 5 July 2017, the Committee agreed that the Local Assessment Procedure for Code of Conduct complaints should be reviewed based on examples of best practice. This report informs the Committee of the outcome of this review and seeks approval to a revised procedure.

**RECOMMENDATIONS:**

The Committee is requested to recommend to Full Council that:

1. the revised Local Assessment Procedure, as set out in Appendix 1 to the report, be approved;
2. a copy of the revised Local Assessment Procedure be sent to all Town and Parish Councils; and
3. a review of the Procedure be undertaken following a year of operation and reported back to the Standards Committee.

**1.0 BACKGROUND**

- 1.1 The Committee previously requested a review of the current Local Assessment Procedure, at its meeting on 14 July 2016, to address issues raised and lessons learnt from assessments undertaken. Whilst this review was not taken forward at the time, this latest review has included the proposals that the Committee raised at that time. The key proposal being the introduction of a two stage assessment, as this was seen to speed up the review process from lessons learnt from practice elsewhere.
- 1.2 As the minutes from 14 July 2016 confirm, the Committee had also agreed to a new Habitual/Vexatious Complaints Policy being introduced; and procedures to allow for complaints to be immediately referred to the Police. This work is still underway and will be presented to the next meeting of the Committee so it can be annexed to the Local Assessment Procedure.

## **2.0 PROPOSALS**

- 2.1 As requested by the Committee, the re-drafted Local Assessment Procedure is based on a two stage review process. Appendix A sets out the revised Procedure. This aims to explain simply to the reader what is required to make a complaint; how the investigation will be conducted; and what decision can be reached. It also includes at Appendix 1 a draft hearing procedure and at Appendix 2 what sanctions are available to the Assessment Panel. At Appendix 3, we have introduced a flowchart of the process and referred to anticipated timescales for each stage.
- 2.2 The documents highlight a number of areas where the Committee's specific views are sought, namely:
- (i) Paragraphs 5.5 and 5.6 – to ensure that all relevant information has been covered in the investigation, it is being suggested that the draft report from the Investigating Officer will be provided to the complainant and the Subject Member for comment within 14 days. *The first question for the Committee is whether they support this additional consultation stage?*
  - (ii) Paragraph 5.8 - the initial stage of the assessment will consider the validity of the complaint and gives authority to the Monitoring Officer to agree action in consultation with an Independent Person and the Chairman of the Standards Committee. Whilst the Committee was of the view at its last meeting that only the Independent Person should be involved at this stage, the review of alternative practices showed that some Councils also included the Chairman of the Committee at this stage. *The second question for the Committee is to consider whether they wish the initial stage to involve only an Independent Person or also include the Chairman of the Committee?*
  - (iii) Paragraph 8.0 – a number of the examples of best practice we reviewed confirmed that not all Councils adopted a review stage in their assessment process. Some directed any request for a review direct to the Local Government Ombudsman. Arun's current procedure includes a review stage considered by this Committee and so this has been allowed for in the draft. *The third question for the Committee to consider is whether they wish to retain a review stage as drafted?*
  - (iv) Appendix 1 – In considering arrangements for Assessment Panel hearings, *the fourth question for the Committee is whether these should be held in open or exempt business?* Examples of best practice reviewed showed that many Councils now have hearings in open business and move to exempt business only when sensitive information is being discussed. Whichever option is chosen, it is recommended that this is clearly stated in the procedure and terms of reference for the Panel so complainants and councillors are aware of this in advance.
  - (v) Appendix 1 – also highlights whether the complainant should be involved in the hearing process. From discussions with the Chairman of the Committee, we felt that there should be equal right for the complainant and the subject member and therefore the hearing procedure has been drafted on this basis. *The fifth question for the Committee is whether they support the involvement of the complainant throughout the hearing process?*

- 2.3 One of the main aims of the revised procedure is to create a transparent and simple to follow document that will guide complainants through the process at the outset; whilst also highlighting to any councillor who is the subject of a complaint what they should expect to see happen. We have deliberately included anticipated timescales in the flowchart at Appendix 3 as delays in the process have been a major criticism of the current procedure. We believe the timescales are realistic based on the two stage process, however, there is a recommendation for a review to take place after a year of operation so we can test this out in practice.
- 2.4 The Committee's views are welcomed on these five questions and the re-drafted procedure.

### **3.0 OPTIONS:**

1. To support the revised Local Assessment Procedure
2. To not support the Procedure and propose alternative arrangements

### **4.0 CONSULTATION:**

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council		✓
Relevant District Ward Councillors		✓
Other groups/persons (please specify)	✓	
• Chairman and Vice-Chairman of the Standards Committee		
• Chairman and Vice-Chairman of the Audit & Governance Committee		
• Group Leaders		

5.0 ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail below)	YES	NO
Financial		✓
Legal	✓	
Human Rights/Equality Impact Assessment		✓
Community Safety including Section 17 of Crime & Disorder Act		✓
Sustainability		✓
Asset Management/Property/Land		✓
Technology		✓
Other (please explain)		✓

### **6.0 IMPLICATIONS:**

The Council needs to ensure that it has a Local Assessment Procedure in place that meets the requirements of the Localism Act 2011.

### **7.0 REASON FOR THE DECISION:**

A review of the Local Assessment Procedure has been outstanding. Adopting a new two stage procedure will speed up the complaints process.

**8.0 BACKGROUND PAPERS:**

Council's Constitution <https://www.arun.gov.uk/constitution>

Section 28 of the Localism Act 2011  
<http://www.legislation.gov.uk/ukpga/2011/20/section/28/enacted>



# LOCAL ASSESSMENT PROCEDURE

DRAFT – Standards Committee 191017

Procedure adopted dd/mm/yy

Full Council Resolution

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## 1 BACKGROUND

- 1.1 Under Section 28 of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that an Elected or co-opted Councillor of the authority or of a Town or Parish Council within the authority’s area (herein after referred to as the ‘Subject Member’) has failed to comply with the authority’s Code of Conduct can be investigated and decisions made on such allegations.
- 1.2 These arrangements provide for the Council to appoint at least one Independent Person<sup>1</sup> whose views must be sought by the Council before it takes a decision on whether an allegation should be investigated, and whose views can be sought by the Council at any other stage, or by the Subject Member against whom an allegation has been made.
- 1.3 The Council has adopted a Code of Conduct for Councillors, which is published on the Council’s website and is available for inspection on request from the Council’s office (see below).
- 1.4 Each Town and Parish Council is also required to adopt a Code of Conduct. If you wish to inspect a Town or Parish Council’s Code of Conduct, it should be available on their website, or you can make enquiries of their Town or Parish Clerk.
- 1.5 All Parish councils within the Arun District, and Arundel Town Council, have signed up to Arun District Council’s Code of Conduct. Bognor Regis and Littlehampton Town Councils have developed their own Code of Conduct.

## 2 HOW TO MAKE A COMPLAINT

- 2.1 If you wish to make a complaint against a Councillor, please complete the online complaint form which can be found on our website (<http://www.arun.gov.uk/complaints-against-councillors>) or write to:

The Monitoring Officer  
 Arun District Council  
 Arun Civic Centre  
 Maltravers Road  
 Littlehampton  
 West Sussex  
 BN17 5LF

Or by email to [monitoring.officer@arun.gov.uk](mailto:monitoring.officer@arun.gov.uk)

- 2.2 The Monitoring Officer is a senior officer of the Council who has statutory responsibility for maintaining the register of Councillors’ interests and who is responsible for administering the system for complaints of Councillor misconduct.

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<sup>1</sup> The Independent Person is a person who has applied for the post and is appointed by Councillors of the Council. The definition of an Independent Person can be found in Section 28 of the Localism Act 2011.

- 2.3 Please provide your name and address and contact details so that we can acknowledge receipt of your complaint and keep you informed of progress. Anonymous complaints will not be accepted.
- 2.4 As a matter of fairness and natural justice, the Subject Member will usually be told who has complained about them and receive details of the complaint. However, the Monitoring Officer may withhold your identity if he/she can be satisfied that there are reasonable grounds for doing so, e.g. belief that the complainant or any witness to the complaint may be at risk of physical harm or intimidation, or that their employment may be jeopardised if their identity is disclosed.

### 3 WILL MY COMPLAINT BE INVESTIGATED?

- 3.1 The Code of Conduct applies to Councillors whilst they are acting in their official capacity as a Councillor, or give the impression that they are acting in this capacity. The Code does not apply when they are acting in their capacity as a private individual.
- 3.2 If the Monitoring Officer is of the view that your complaint does not fundamentally relate to a code of conduct matter, then he/she will decline to progress it further under this procedure. For example, it is generally considered that complaints relating to the consideration of planning applications will not be dealt with under this procedure if there is an alternative legal remedy. You will be advised if this is the case.
- 3.3 Complaints which identify criminal conduct or breach of other regulations by any person, will be referred by the Monitoring Officer to West Sussex Police for consideration, in accordance with an agreed protocol (still to be confirmed), or any other regulatory agency.
- 3.4 If the Subject Member is no longer a Councillor, or resigns/is removed from office at any point during the investigation, the Monitoring Officer has the power to withdraw the complaint and take no further action. A record of the complaint will be kept on file in the event that the Subject Member returns to office in the future and a subsequent complaint is lodged against them.
- 3.5 In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the Councillor accepting that his/her conduct was unacceptable and offering an apology, or other remedial action. Where a reasonable proposal for local resolution is proposed, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether your complaint merits formal investigation.
- 3.6 If your complaint relates to a Parish Councillor, the Monitoring Officer will seek the views of the Town/Parish Clerk about the complaint. Their view will be recorded in the investigation report and taken into account when a decision on whether to investigate is made.

#### 4 WHEN WILL A COMPLAINT NOT BE ACCEPTED?

- 4.1 The resources involved in carrying out a formal investigation can be considerable and must be balanced by the severity of the complaint and the sanctions available to the Assessment Panel (see Appendix 2), should a breach of the code be found.
- 4.2 The Monitoring Officer has the discretion not to proceed with complaints, including those:-
  - a) Containing no or insufficient evidence to demonstrate a breach of the Code;
  - b) Where there are alternative, more appropriate, remedies that should be explored first;
  - c) Where you and the Subject Member have agreed a local resolution e.g. a written or verbal apology, mediation;
  - d) Where the complaint is by one Councillor against another, a greater allowance for robust political debate (but not personal abuse or “unparliamentary” language) may be given;
  - e) That are malicious, politically motivated, or ‘tit for tat’
  - f) Where an investigation would not be in the public interest or the matter would not warrant any sanction (see Appendix 2);
  - g) Where a substantially similar complaint has previously been considered and no new material evidence has been submitted;
  - h) Relating to allegations concerning a Councillor’s private life;
  - i) Relating to conduct in the distant past (over six months before);
  - j) Relating to dissatisfaction with a Council (or Parish Council) decision; and
  - k) About someone who is no longer a member of the Council (or relevant Parish Council) or who is seriously ill (see 3.4 above)

#### 5 HOW IS THE INVESTIGATION CONDUCTED? – INITIAL ASSESSMENT - STAGE 1

- 5.1 On the basis that your complaint is accepted, the Monitoring Officer will acknowledge receipt of your complaint within 5 working days, confirm that it will be investigated and will keep you informed as the complaint investigation progresses.
- 5.2 The Monitoring Officer will appoint an Investigating Officer (IO), who may be another senior officer of the same authority, an Officer of another authority, or an external investigator.
- 5.3 The IO will decide whether or not they need to meet with you to further clarify the detail of your complaint, and/or for you to explain your understanding of events. There may also be a discussion about what supporting documents may need to be provided and who else the IO may need to interview.
- 5.4 The IO will write to the Councillor against whom the complaint has been made, providing them with a copy of the complaint (unless the right to anonymity has been agreed – see 2.4 & 2.5 above) and ask them to provide their explanation of the event(s), to suggest what other supporting documents may be required and who else the IO may wish to interview. If your complaint relates to a Town or Parish Councillor, the IO will also advise the Town/Parish Clerk.

- 5.5 At the end of the investigation, the IO will produce a draft report and provide copies for both you and the Subject Member to respond to within 14 days.
- 5.6 Both you and the Subject Member will be given the opportunity to comment on the draft report, and indicate agreement (or otherwise) with the content.
- 5.7 The IO will then send a copy of the report – having taken account of any comments from you and/or the Subject Member – to the Monitoring Officer for reviewing.
- 5.8 The Monitoring Officer will consult with the Independent Person and the Chairman of the Standards Committee to decide whether to:-
- a) Take no action if there is clear evidence that there has been no breach of the Code of Conduct
  - b) Resolve the matter informally by asking the Subject Member to:-
    - i. take part in mediation with you in order to settle the complaint, providing both parties are willing to do so, and/or
    - ii. send a written apology to you, which is acceptable to the Monitoring Officer and the Chairman of the Standards Committee; and/or
    - iii. attend training, and/or
    - iv. correct an entry in the Register of Interests or correct a declaration made; OR
  - c) Progress to Stage 2 where the complaint is considered by the Assessment Panel

## 6 ASSESSMENT PANEL HEARING – STAGE 2 (If the Monitoring Officer, Independent Person and Chairman of the Standards Committee support the complaint going forward)

- 6.1 The Assessment Panel will consist of 3 members of the Council's Standards Committee, plus an Independent Person.
- 6.2 The Monitoring Officer will also attend to present the report from the IO.
- 6.3 The Hearing will be called within a maximum period of 4 months from receipt of the complaint and the Panel will be selected from available Members of the Standards Committee. Councillors representing the ward where you live will not be permitted to sit on the Panel, nor will any Councillor who has any connection with the Subject Member.
- 6.4 Panel Members will be provided with copies of the original complaint, the IO report, any additional information or comments provided by you and/or the Subject Member, or statements from witnesses to the event.
- 6.5 Unless it is not practical, reasonable or is not likely to assist the Assessment Panel in its consideration of the Complaint, the Panel will follow the process outlined in Appendix 1.

- 6.6 Following the hearing and an agreed outcome being reached, the Panel shall prepare and sign a written decision for the Monitoring Officer to send to:
- the Subject Member
  - you
  - all Independent Persons (via a report to Standards Committee)
  - all District Councillors (via a report to Standards Committee)
  - all members of the Council's Senior Management Team (when the decision notice is published) where the complaint is about an Arun District Councillor
  - the Clerk and Chairman of the Town/Parish Council at the same time that the report is presented to the Standards Committee where the complaint is about a Town or Parish Councillor.
- 6.7 Separately, the Panel may provide the Monitoring Officer with any lessons to be learnt from the Complaint and any actions the Panel wish to suggest the Council to consider.
- 6.8 The Monitoring Officer shall publish the decision on the Council's website and that decision shall remain on the website for up to a period of 12 months unless the Standards Committee has requested a longer timeframe.
- 6.9 The Monitoring Officer shall place a report before the next meeting of the Standards Committee, for the Committee to ask questions about the decision of the Panel and discuss:

- any lessons learnt identified by the Panel
- any actions the Panel has suggested the Council consider

and make any recommendations it feels are appropriate for Full Council to consider.

In order to avoid unnecessary printing of paper, generally the report will only include a summary of the Panel's decision and Councillors are requested to bring the full copy of the decision they have been sent, with them to the meeting of the Standards Committee and Full Council.

## 7 DECISION

### 7.1 The Panel can reach a finding of:

- (i) no breach of the Code of Conduct
- (ii) the Complaint relates to an offence under Section 34 Localism Act 2011 [Offences] and the Panel will refer the Complaint and all evidence the Council is aware of to the Police. Such offences arise from failure, without reasonable excuse, to disclose a Pecuniary Interest or participation in the debate and/or votes on a matter in which the Subject Member has a Pecuniary Interest and has not been granted a dispensation.
- (iii) a breach of the Code of Conduct that Arun District Council, or the relevant Town or Parish Council, is responsible for dealing with

- (iv) to take no action on the Complaint because, even though a breach of the Code of Conduct has occurred, the Panel is of the view that it would not serve the public interest to pursue the consideration of the Complaint
  - (v) to take no action on the Complaint because, the Subject Member is no longer a Councillor or co-opted Councillor of the Local Authority and the Panel is of the view that it would not serve the public interest to pursue the consideration of the Complaint (if the Councillor has resigned during the course of the investigation, the complaint would have been rejected at the initial assessment stage)
- 7.2 The Panel shall specify the period that its decision shall remain on Arun District Council's website, which shall be no longer than 12 months, unless the Standards Committee has carried out a further review and requested a longer timeframe.
- 7.3 Where the Panel is dealing with a Complaint against a Parish or Town Councillor or co-opted Councillor, and reaches a finding that the Subject Member has breached the Code of Conduct adopted by the Parish or Town Council, the Panel shall write to the Chairman and Clerk of that Parish or Town Council and inform them of its finding and request that the Parish or Town Council considers what action to take in relation to the Subject Member.
- 7.4 In order to assist the Parish or Town Council, the Panel may identify what action it would have taken had the Subject Member been an Arun District Councillor in breach of Arun District Council's Code of Conduct.
- 7.5 It is noted that, although Arun District Council is the 'relevant authority' and it may have regard to the Subject Member's failure when deciding what action to take, in practical terms Arun District Council cannot enforce that such action is taken and therefore it is for the Parish or Town Council to make a decision about what action to take and how to achieve compliance.
- 7.6 Arun District Council suggests to the Parish or Town Councils within its district that those Councils seek individual undertakings from each of their Councillors; that the Councillor agrees to abide by their responsibilities under the Localism Act 2011, the Parish or Town Council Code of Conduct and to comply with any consequential request made to the Member by the Parish or Town Council.

## **8 RIGHT OF REVIEW**

- 8.1 If either you or the Subject Member considers the decision of the Panel was not fair, or proportionate, they can appeal by asking for a Review within 20 working days from the date of the covering letter sent to them with the Decision Notice, stating why they consider the Assessment Panel decision was not fair or proportionate.
- 8.2 The request must be in writing to the Monitoring Officer.

- 8.3 The Monitoring Officer will check the reasons given in the request for the Review and if those reasons are not clear the Monitoring Officer will contact the party requesting the Review and ask for clarification.
- 8.4 The Review will be referred to the Standards Committee for a decision via a report presented by the Monitoring Officer.
- 8.5 There are no further rights of appeal within the Council's Local Assessment Procedure.

## 9 PUBLICATION OF DECISION

- 9.1 As soon as reasonably practicable after the Panel have reached a decision, the Monitoring Officer will prepare a formal decision notice (in consultation with the Chairman of the Standards Committee) and send a copy to you, the Subject Member, and any Town or Parish Council concerned.
- 9.2 The Monitoring Officer will make the decision notice available for public inspection and report the decision to the next appropriate Standards Committee meeting.

## APPENDIX 1 – ASSESSMENT PANEL HEARING PROCEDURES

*Standards Committee to consider*

- (a) whether these Hearings are to be held in open or exempt business; and  
 (b) whether the complainant should also be invited to a hearing

1. Quorum of the Panel is three Elected Members, plus an Independent Person.
2. The Panel will elect a Chairman, who will be an Elected Member.
3. The Chairman will invite all attendees to introduce themselves.
4. The Chairman will explain the purpose of the Hearing and why it has been called.
5. The Chairman will summarise the complaint and the process followed thus far, and the procedure for the Panel Hearing.
6. The Monitoring Officer will outline the case and explain why they believe that the Subject Member has breached, or failed to follow, the Code of Conduct.
7. The Monitoring Officer will call any necessary witnesses (including the Subject Member, complainant and Investigating Officer).
8. The Panel Members may ask questions of the Monitoring Officer, Investigating Officer, Subject Member, complainant and any other witnesses.
9. The Subject Member will explain why they feel they have not breached/failed to follow the Code of Conduct.
10. The Monitoring Officer, Panel Members and complainant may ask questions of the Subject Member and their witnesses.
11. The Subject Member, complainant and Monitoring Officer will be asked to give closing remarks.
12. The Independent Person will be invited to make comments.
13. Any non-Panel attendees (the complainant, Subject Member, witnesses etc) will leave the room to allow the Panel to consider their decision as to whether the Subject Member has breached/failed to follow the Code of Conduct.
14. The Panel will strive to reach a decision at that time, but may need further time to deliberate or seek further information.
15. If the Panel are able to conclude their deliberations on the day, the Chairman will call any non-Panel attendees back into the room and announce the decision of the Panel.
16. If the Panel need further time to deliberate, they will agree a deadline and advise the complainant and the Subject Member of the decision in writing.

17. If the Panel decide that no breach has taken place, the hearing will close.
18. If the Panel decide that a breach has taken place, the Subject Member will be invited to comment on any mitigating circumstances.
19. The Monitoring Officer may comment on appropriate/suitable sanction.
20. The Independent Person will be invited to give further comment.
21. The Panel Members will consider an appropriate sanction.
22. The Chairman will advise the complainant and the Subject Member of the chosen sanction.
23. Panel Hearing closes.

**Notes:-**

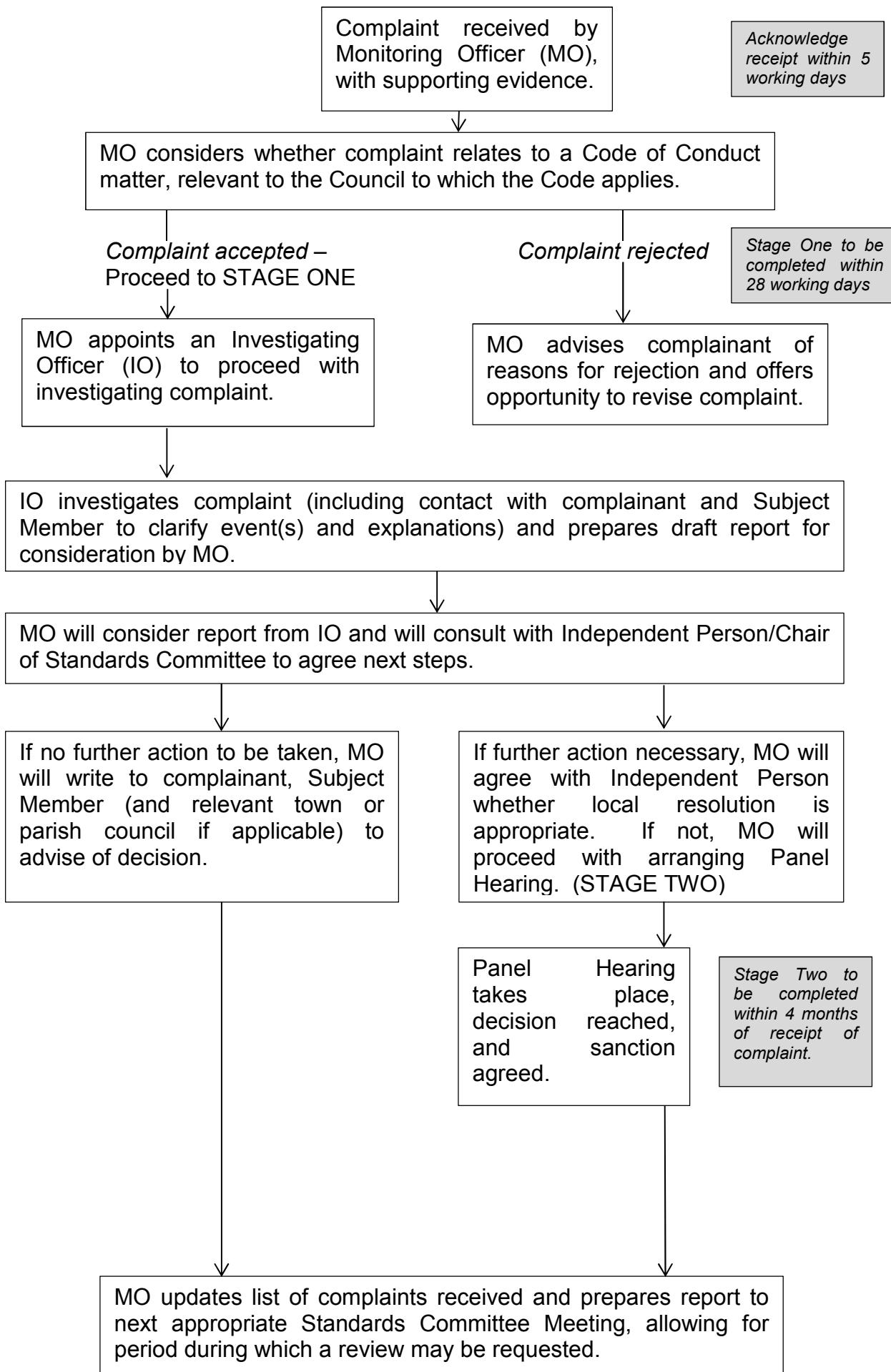
- The Panel may proceed with the Hearing in the absence of the Subject Member and the complainant where no satisfactory explanation for their absence has been provided
- The Panel may adjourn the Hearing at any time

## APPENDIX 2 – AVAILABLE SANCTIONS

The Panel may choose one or more of the following sanctions (or make recommendation of a sanction to the Town or Parish Council that the Subject Member represents):-

1. Censure or reprimand the Subject Member
2. Publish the findings in respect of the Subject Member's conduct
3. Report the findings to Council for information
4. Recommend to the Subject Member's Group Leader that he/she be removed from any or all Committees or Sub-Committees of the Council
5. Instruct the Monitoring Officer to arrange training for the Subject Member
6. Remove the Subject Member from all outside appointments to which he/she has been appointed or nominated by the Council
7. Withdraw facilities provided to the Subject Member, such as computer, website and/or email and internet access for an agreed period
8. Exclude the Subject Member from the Council's offices or other premises for an agreed period
9. Restrict the Subject Member's access to the Council's Officers for an agreed period
10. Recommend suitable training, mediation/conciliation be given
11. Accept written apology from Subject Member
12. Remind the Subject Member of the undertaking signed at the point of their election, in relation to the Members Code of Conduct (to comply with the Localism Act 2011)
13. Remind the Subject Member of the need to declare their pecuniary interests via the Register of Interests form – to be updated at regular intervals when requested or when circumstances alter – and at the beginning of any committee meeting where that interest relates to an Agenda item

The Panel has no power to suspend or disqualify the Subject Member.

APPENDIX 3 - PROCEDURE FLOWCHART

**AGENDA ITEM NO. 7****ARUN DISTRICT COUNCIL****REPORT TO STANDARDS COMMITTEE  
ON 19 OCTOBER 2017**

<b>SUBJECT:</b>	Review of the Terms of Reference for Standards Committee, Assessment Panel and Dispensation Panel
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<b>REPORT AUTHOR:</b>	Liz Futcher – Group Head of Council Advice & Monitoring Officer
<b>DATE:</b>	September 2017
<b>EXTN:</b>	01903 737610

**EXECUTIVE SUMMARY:**

The Council's Constitution is undergoing a major review led by the Constitution Working Party. The section currently under review is Part 3, Responsibility for Functions, which sets out the terms of reference for Committees, Sub-Committees and Panels. This report seeks Members' views on re-drafted terms of reference for this Committee and its two Panels – the Assessment Panel and the Dispensation Panel.

**RECOMMENDATIONS:**

The Committee is asked to recommend to Full Council that:

1. the revised terms of reference for the Standards Committee, Assessment Panel and Dispensation Panel, as set out in Appendix 1 to the report, be approved and updated in Part 3, Responsibility for Functions in the Constitution; and
2. the Group Head of Council Advice & Monitoring Officer be authorised to make any further consequential changes to the Constitution.

**1.0 BACKGROUND**

- 1.1 The Council has been receiving regular reports over the last eight months on the review of the Constitution being led by the Constitution Working Party. The current section under review is Part 3, Responsibility for Functions, which set outs the terms of reference of Committees, Sub-Committees and Panels. The aim has been for any revisions to create simplicity and ease of reading based on best practice used elsewhere.
- 1.2 The Chairman and Vice-Chairman of the Committee were consulted in the early stages of this review as requested by the Constitution Working Party.

## **2.0 PROPOSALS**

- 2.1 This review has provided the opportunity to reflect on the current practices of the Standards Committee and its Panels, together with the outcomes of the reviews already discussed on the agenda of the Members Code of Conduct and Local Assessment Procedure. The proposals being put forward are based on these revised practices.
- 2.2 Appendix 1 sets out a revised Terms of Reference for the Standards Committee, Assessment Panel and Dispensation Panel based on the template agreed by the Constitution Working Party. As requested by this Working Party, it aims to simplify the existing arrangements yet still highlight the full functions of the Committee and its Panels.
- 2.3 The remaining appendices are extracts of the existing wording in the Constitution:
- (i) Appendix 2 – the former Article since revised by Council on 13 September 2017
  - (ii) Appendix 3 – the current Standards Committee
  - (iii) Appendix 4 – the current Assessment Panel
  - (iv) Appendix 5 – the current Dispensation Panel
- 2.4 In proposing a revision to the Terms of Reference for the Standards Committee, reference is now made to the Local Assessment Procedure and how this Committee will be responsible for monitoring its operation and recommending any further revisions to the Council. The draft also highlights whether its remit should include reviews requested under the Local Assessment Procedure – to be considered earlier on the agenda. No reference is made to the former function listed in Appendix 3 at paragraph 4.5.1.7 (Dispensations) as this function has been delegated to the Dispensation Panel for some years.
- 2.5 The proposals for the Assessment Panel are deliberately shorter. They refer to the Local Assessment Procedure which confirms arrangements for hearings, what decisions the Panel can take and the sanctions they can determine.
- 2.6 The final proposals for the Dispensation Panel are broadly based on current arrangements. The aim has been to simplify the wording.
- 2.7 The Committee's views are welcomed on these proposals.

## **3.0 OPTIONS:**

1. To support the revised terms of reference.
2. To not support the revisions and propose alternative arrangements.

## **4.0 CONSULTATION:**

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council		✓
Relevant District Ward Councillors		✓
Other groups/persons (please specify)	✓	
• Chairman and Vice-Chairman of the Standards Committee		

<b>5.0 ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail below)</b>	YES	NO
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Financial		✓
Legal	✓	
Human Rights/Equality Impact Assessment		✓
Community Safety including Section 17 of Crime & Disorder Act		✓
Sustainability		✓
Asset Management/Property/Land		✓
Technology		✓
Other (please explain)		✓

#### **6.0 IMPLICATIONS:**

None

#### **7.0 REASON FOR THE DECISION:**

The Council needs to ensure it has adequate and transparent governance arrangements in place for its Committees, Sub-Committees and Panels.

#### **8.0 BACKGROUND PAPERS:**

Council's Constitution      <https://www.arun.gov.uk/constitution>

**Appendix 1****Proposed Changes to Part 3 – Responsibility for Functions**

Replace existing section 4.5 with the table below

Committee/Panel and Membership	Functions	Delegations of Functions
<b>Standards Committee</b>  9 Members of the Council (to include no more than one Cabinet member and shall not include the Leader or Deputy Leader)  3 Independent Persons  Quorum - 3 members  No Member can serve on this Committee in any capacity unless all of the required training determined to be necessary by the Group Head of Council Advice & Monitoring Officer in consultation with the Cabinet Member for Corporate Support has been undertaken.	<ol style="list-style-type: none"> <li>1. To promote and maintain high standards of conduct by District Councillors, Town and Parish Councillors and co-opted Members.</li> <li>2. To advise the Council and Town and Parish Councils on the adoption or revision of the Members Code of Conduct.</li> <li>3. To monitor the operation of the Local Assessment Procedure and recommend any revisions to the Council.</li> <li>4. Where not covered by the Local Assessment Procedure, to determine the action to be taken on any failure of a District Councillor, Town or Parish Councillor or co-opted Member to comply with the relevant authority's Code of Conduct following a report from the Group Head of Council Advice &amp; Monitoring Officer.</li> <li>5. To determine any review made under the Local Assessment Procedure following a report from the Group Head of Council Advice &amp; Monitoring Officer.</li> <li>6. To advise and support the Group Head of Council Advice &amp; Monitoring Officer in the delivery of training on the Members Code of Conduct to District Councillors, Town and Parish Councillors and co-opted Members.</li> <li>7. To consider membership and recruitment of Independent Persons to the Committee and make recommendations for appointments to Full Council.</li> <li>8. All other functions relating to standards of conduct of District Councillors, Town and Parish Councillors and co-opted Members under the Localism Act 2011 or Regulations made under it.</li> </ol> <p><b>Role of Independent Persons</b></p> <ul style="list-style-type: none"> <li>a) They will have a consultative role when the Standards Committee or Assessment Panel makes decisions on complaints made against councillors.</li> <li>b) They will be invited to meetings of the Standards Committee and may remain in meetings for all items to be considered unless they have a conflict of interest. Where they do, the Chairman and Vice-Chairman will have authority to decide if they may take part in the debate or request that they leave the meeting.</li> <li>c) They will not be entitled to vote at meetings or chair meetings.</li> </ul>	See Part 3 – Assessment Panel and Dispensation Panel

**Appendix 1****Proposed Changes to Part 3 – Responsibility for Functions**

Replace existing section 4.5 with the table below

<b>Committee/Panel and Membership</b>	<b>Functions</b>	<b>Delegations of Functions</b>
<b>Assessment Panel</b> 3 Members of the Standards Committee 1 Independent Person Quorum - 3 members	1. To meet as and when convened by the Group Head of Council Advice & Monitoring Officer to assess written complaints made against a Councillor or co-opted Member of Arun District Council or a Town and Parish Council within the Arun District in respect of an alleged breach of the relevant authority's Code of Conduct. 2. To conduct hearings, take decisions and determine sanctions in accordance with the Local Assessment Procedure.	None

<b>Committee/Panel and Membership</b>	<b>Functions</b>	<b>Delegations of Functions</b>
<b>Dispensation Panel</b> 3 Members of the Standards Committee Quorum - 3 members	1. To meet as and when convened by the Group Head of Council Advice & Monitoring Officer to consider applications from members of the Council for a dispensation to allow them to participate in the consideration, discussion or voting upon business before the Council where they have a pecuniary interest under the Members Code of Conduct. 2. To grant a dispensation on the following criteria: <ol style="list-style-type: none"> <li>without the dispensation, the proportion of the Council who would be prohibited from participating would impede the Council's transaction of that business; or</li> <li>without the dispensation, the representation of different political groups dealing with that business would be so upset as to alter the likely outcome of any vote; or</li> <li>the granting of the dispensation is in the interests of people living in the Arun District; or</li> <li>without the dispensation, each individual Cabinet Member would be prohibited from participating in the business; or</li> <li>it is otherwise appropriate to grant a dispensation.</li> </ol> 3. To determine the period for the dispensation to be granted.	None

**APPENDIX 2****EXTRACT FROM THE FORMER ARTICLES (pre 13 September 2017)****9.0 ARTICLE 9 - STANDARDS COMMITTEE AND ITS PANELS**

The Council appoints a Standards Committee, and Assessment and Dispensation Panels as set out in the paragraphs below.

**9.1 Quorum**

The Quorum for the Standards Committee and the Panels shall be three Members.

**9.2 Composition****9.2.1 Membership of the Standards Committee**

The Standards Committee will be composed of:

9.2.1.1 nine Members (to include no more than one Member of the Cabinet), and

9.2.1.2 five persons ("the Independent Persons") none of whom are:

- a Member or an officer of the Council, or
- a person who is a relative or close friend of a Member or officer of the Council

**9.2.2 The Independent Persons**

9.2.2.1 Independent Persons will have a consultative role, when the Standards Committee makes decisions to do with complaints made against councillors

9.2.2.2 Independent Persons will be invited to all Standards Committee meetings and may remain in those meetings for all items to be considered (provided they do not have a conflict of interest)

In the event of a conflict of interest, the Chairman and Vice-Chairman be given delegated powers to decide upon when it would be inappropriate for an Independent Person to take part in a debate and that they would have authority to request that the Independent Person leave the meeting for that item.

9.2.2.3 Independent Persons will not be entitled to:

- vote at meetings, or
- chair meetings.

**9.2.3 Chairing the Panels**

The Chairmen of the Panels shall be chosen in alphabetical order in rotation, from the Standards Committee Members, subject to availability.

**9.2.4 The Leader/Deputy Leader**

The Members of the Standards Committee or Panels shall not include the Leader or Deputy Leader.

**9.2.5 The Functions of the Standards Committee and its Panels**

The Functions of the Standards Committee and its Panels are set out in Part 3 of this Constitution

**APPENDIX 3**  
**EXTRACT FROM PART 3 – RESPONSIBILITY FOR FUNCTIONS**

**4.5 Standards Committee**

The Standards Committee has 9 District Council Members and 5 Independent Persons and exercises the functions set out in Part 2 - Article 9.

**4.5.1 Functions of the Standards Committee**

The Standards Committee will have the following functions:

- 4.5.1.1 promoting and maintaining high standards of conduct by District Councillors, Parish and Town Councillors and co-opted Members,
- 4.5.1.2 to consider any report and recommendations referred to it by the Monitoring Officer and take any action arising there from in respect of complaints against District Councillors and Parish and Town Councillors within the District including co-opted members for failure to comply with the relevant Code of Conduct for the District/Parish or Town Council that the Councillor is a member of,
- 4.5.1.3 assisting District Councillors, Parish Councillors, Town Councillors and co-opted Members to observe their Members' Code of Conduct,
- 4.5.1.4 advising the Council and Parish and Town Councils on the adoption or revision of the Members' Code of Conduct,
- 4.5.1.5 monitoring the operation of the Members' Code of Conduct,
- 4.5.1.6 advising, training or arranging to train District Councillors, Parish and Town Councillors and co-opted Members on matters relating to the Members' Code of Conduct,
- 4.5.1.7 granting dispensations to District Councillors from requirements relating to interests set out in the Members' Code of Conduct,
- 4.5.1.8 all other functions relating to standards of conduct of District Councillors, Parish and Town Councillors and Co-opted Members under the Localism Act 2011 or Regulations made under it,
- 4.5.1.9 to consider membership and appointment of Independent Persons of the Standards Committee and its sub-committees and make recommendations to Full Council.
- 4.5.1.10 No Member can serve on this Committee in any capacity unless all of the required training deemed necessary by Group Head of Council Advice & Monitoring Officer, in consultation with the Cabinet Member for Corporate Support, has been undertaken.

**APPENDIX 4**  
**EXTRACT FROM PART 3 – RESPONSIBILITY FOR FUNCTIONS**

8.1

**Assessment Panel**

**Membership of the Assessment Panel**

The Assessment Panel comprises three Standards Committee Members, and an Independent Person as a consultant.

**Functions of the Assessment Panel**

8.1.1 The Assessment Panel will meet as and when convened by the Group Head of Council Advice & Monitoring Officer in order to make an assessment of written complaints against a member or co-opted member of the District Council or Parish/Town Council with respect to alleged breaches of the relevant local authority's Members' Code of Conduct.

8.1.2 The Assessment Panel will make one of the following decisions:

- the evidence shows that the Complaint relates to a Member of a Local Authority for which Arun District Council is not responsible and the Panel will refer the Complaint to the Monitoring Officer of the Local Authority that is responsible for dealing with the Complaint.
- the Complaint does not relate to a matter covered by the Code of Conduct
- no breach of the Code of Conduct
- the Complaint relates to an offence under Section 34 Localism Act 2011 [Offences] and the Panel will refer the Complaint and all evidence the Council is aware of to the Police, such offences arise from failure, without reasonable excuse, to disclose a Pecuniary Interest or participation in the debate and/or votes on a matter in which the Subject Member has a Pecuniary Interest and has not been granted a dispensation.
- a breach of the Code of Conduct for which Arun District Council is responsible for dealing
- to take no action on the complaint because, even though a breach of the Code of Conduct has occurred, for which Arun District Council is responsible for dealing, the Panel is of the view that it would not serve the public interest to pursue the consideration of the Complaint to take no action on the complaint because, the Subject Member is no longer a member or co-opted member of the Local Authority and the Panel is of the view that it would not serve the public interest to pursue the consideration of the Complaint

**APPENDIX 5**  
**EXTRACT FROM PART 3 – RESPONSIBILITY FOR FUNCTIONS**

**8.1 Dispensation Panel**

**Membership of the Dispensation Panel**

The Dispensation Panel comprises three Standards Committee Members.

**Functions of the Dispensation Panel**

- 8.2.1 The Dispensation Panel will meet as and when convened by the Group Head of Council Advice & Monitoring Officer in order to consider applications from members of the Council for a dispensation relating to the consideration and discussion of, and voting upon, an item on the Agenda of a Council, Committee or Sub-Committee meeting, the taking part in which would, without the dispensation, result in the member breaching the Members' Code of Conduct arising from the member's pecuniary interest in that matter.
- 8.2.2 The Dispensation Panel may consider an application where it is made on the grounds that:
  - without the dispensation so great a proportion of the Council would be prohibited from participating in that business as to impede the Council's transaction of that business, or
  - without the dispensation the representation of different political parties dealing with that business would be so upset as to alter the likely outcome of any vote, or
  - the granting of the dispensation is in the interests of people living in the district of Arun, or
  - without the dispensation each individual Cabinet Member would be prohibited from participating in the business, or
  - it is otherwise appropriate to grant a dispensation.
- 8.2.3 A dispensation will be granted for a period determined by the Dispensation Panel but will not be granted in respect of participation in business of the Authority conducted more than four years after the date on which the dispensation is granted.

**AGENDA ITEM NO. 8****ARUN DISTRICT COUNCIL****REPORT TO THE STANDARDS COMMITTEE  
ON 19 OCTOBER 2017**

<b>SUBJECT:</b>	<b>Assessment Panel Decision – Allegation against an Arun District Councillor</b>
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<b>REPORT AUTHOR:</b>	Liz Futcher – Group Head of Council Advice & Monitoring Officer
<b>DATE:</b>	August 2017
<b>EXTN:</b>	01903 737610

**EXECUTIVE SUMMARY:**

This report advises the Committee of the outcome of the Assessment Panel's investigation into an allegation against Arun District Councillor Colin Oliver-Redgate.

**RECOMMENDATIONS:**

It is recommended that the decision of the Assessment Panel be noted.

**1.0 BACKGROUND**

- 1.1 The role of the Assessment Panel is to consider whether the Councillor has breached the Code of Conduct based on the complaint received. If this is found to be the case, then the Panel will decide on whether any action should be taken.
- 1.2 The Panel met on 29 June 2017 and the findings from its investigation are attached as Appendix A. No review of the decision was requested by either the Councillor or the complainant.

**2.0 REASON FOR THE DECISION**

- 2.1 To comply with the adopted Code of Conduct and Assessment Panel procedure.

**3.0 OPTIONS**

None

**4.0 BACKGROUND PAPERS**

Members Code of Conduct	<a href="https://www.arun.gov.uk/complaints-against-councillors">https://www.arun.gov.uk/complaints-against-councillors</a>
Local Assessment Procedure	<a href="https://www.arun.gov.uk/complaints-against-councillors">https://www.arun.gov.uk/complaints-against-councillors</a>



## Assessment Panel

# DECISION NOTICE:

**Reference:** 00005870/SD - Councillor Colin Oliver-Redgate

**Date:** 29 June 2017

References in this Decision Notice relate to paragraphs in the local Code of Conduct that apply to the Subject Member's conduct. The information relating to this complaint is processed according to Data Protection Act 1998 Schedule 2, Paragraph 5(d) - for the exercise of any other functions of a public nature exercised in the public interest by any person.

**The role of the Assessment Panel is to consider whether the subject matter of the alleged complaint has breached the Local Code of Conduct. If its finding is yes, then its role is to go on and decide if the matter is so serious to need further referral, or whether an alternative course of action should be taken.**

### **Complaint**

On Thursday 29th June 2017 Councillor Paul English (Chairman), Councillor Dr James Walsh and Councillor Pat Dillon sat as the Assessment Panel of Arun District Council's Standards Committee, with Mr Brian Green present as an Independent Person for the Assessment Panel to consult, to consider a complaint from Sally Henderson (the Complainant) concerning the alleged conduct of Councillor Colin Oliver-Redgate (the Subject Member), a member of Arun District Council.

### **SUMMARY OF ALLEGATIONS**

This Complaint was made by Mrs Sally-Anne Henderson, who is a resident in the Subject Member's Ward of Ferring. The Complaint was dated 9 November 2016 (the First Complaint) and was added to on 23 November 2016 (the Second Complaint). The Complainant states that the events of the First Complaint occurred on Wednesday 2 November 2016, whereas the Subject Member states that he called at the Complainants property on Tuesday 2 November 2016. The 2 November 2016 was a Wednesday. The date is not material to the First Complaint.

The First Complaint is about the conduct of the Subject Member when he sought to speak to the Complainant about the positioning of a skip located on the Complainant's private property and claimed by her neighbour to be making the exercise of vehicular access to their property difficult. The Subject Member proceeded to visit the Complainant's property to seek a solution to the issue raised with him. When the Subject Member arrived at the Complainant's property, the Subject Member pressed the bell on the intercom at the gate, and a conversation via the intercom ensued between the Subject Member and the Complainant. Although the Subject Member did say he was from Arun District Council, he failed to fully identify who he was and in what capacity he was attending at the Complainant's property. The whole verbal transaction was conducted via an intercom and lasted in the region of 5 to 10 minutes. The Complainant alleges that the Subject Member:

- strongly represented one resident's interests without enquiring into or considering the interests of the Complainant
- displayed an attitude from the outset that was aggressively against the Complainant
- failed to show the Complainant respect
- displayed an attitude towards the Complainant that was confrontational, self-important, and rude

In the Second Complaint it is alleged that the Subject Member telephoned a third party on 22 November 2016 in a deliberate attempt to be vindictive towards the Complainant and in that conversation was negative about the Complainant.

The Subject Member does not dispute that he had a conversation over an intercom with the Complainant and the Subject Member does not dispute that he contacted a third party and discussed concerns as he perceived them from the events as he recalled them.

The Subject Member found speaking over the intercom difficult and disjointed. The Subject Member's recollection of the conversation over the intercom is not fully the same as the recollection of the Complainant, but the Subject Member does regret and apologise for:

- not bringing the conversation to a polite and timely close as soon as it was apparent that he did not know all the necessary facts, particularly those that relate to the function of a district council in relation to a skip on private property and a claim by a neighbour that the position of the skip is causing the exercise of vehicular access to their property to be difficult, and
- certainly not later than the first point in the conversation when the Complainant asked him to write to her.

Regarding the Second Complaint, the Subject Member acted outside of his role as a councillor as he did not have a council business reason for contacting a third party and discussing his concerns about what he perceived as unneighbourly co-existence from the events as he recalled them.

What actual words were spoken, and the tone with which they were expressed, is an issue of fact. The Assessment Panel was not present for either conversation, so the Assessment Panel has to make a judgement on the balance of probability. Only the Complainant and the Subject Member were present for the conversation on 2 November 2016. Only the Subject Member and the third party were present for the telephone conversation on the 22 November 2016. The Assessment Panel does not consider it necessary or appropriate to contact the third party as the Subject Member wishes to apologise to the Complainant and has agreed to undertake training.

## **DECISION**

### **BREACH**

Councillor Colin Oliver-Redgate, a member of Arun District Council has breached the local Code of Conduct in relation to the allegations made by Sally Henderson.

The Assessment Panel considered each allegation in turn and the full reasons for this Decision are set out below.

The first question that the Panel considered was whether this complaint should be looked at as a complaint under the local Code of Conduct:

#### **1. Does the local Code of Conduct Apply?**

The Code of Conduct applies whenever a Councillor acts in their official capacity.

'Official capacity' includes; (1) the conduct of council business, including participating in meetings of the Council, Committees and Sub Committees and other Council meetings whether public or private and (2) where the Councillor is held out by himself or others as being and acting as a Councillor and representing the Council.

The attendance by the Subject Member at the property of the Complainant is not in dispute. Whilst the Subject Member did not give his name or say he is an Arun District Councillor, he did say he was from Arun District Council. The Subject Member is a current Arun District Councillor and he was responding to an issue raised by a constituent relating to a property within the ward that he represents, albeit that the issue raised, 'about the positioning of a skip located on the Complainant's private property and claimed by her neighbour to be making the exercise of vehicular access to their property difficult, is not a district council function to deal with. The District Council and other statutory bodies have statutory functions in relation to the permanent positioning of a skip and the use of a skip, but these issues were not raised by the ward resident who contacted the Subject Member or by the Subject Member.

As the Subject Member said he was from Arun District Council and agreed to the Complainant's request that he put the request in writing, the Subject Member has held himself out as conducting the business of the Council.

**Accordingly, the Assessment Panel decided that the Code of Conduct has effect for the purposes of this Complaint, and therefore went on to consider the Complainant's comments.**

**2. Paragraph 1 of the Local Code of Conduct:**

A councillor must champion the needs of residents – the whole community and in a special way their constituents, including those who did not vote for them – and putting the whole community's interests first

**Decision: Breach**

**Reason for the Decision:**

The Subject Member responded to the request from one constituent and did not research the facts available on public records regarding the location or the responsibilities relating to the placing and use of skips, before seeking to speak to the Complainant, and as a result the Subject Member did not have the information necessary to champion the needs of the whole community.

**3. Paragraph 2 of the Local Code of Conduct:**

A councillor must deal with representations or enquiries from residents, members of their community and visitors fairly, appropriately and impartially

**Decision: Breach**

**Reason for the Decision:**

Before the Subject Member sought to make contact with the Complainant, the Subject Member did not speak to officers at Arun District Council, regarding the location of the skip or a resident's statutory responsibilities relating to the placing and use of a skip.

The Subject Member did not research the facts regarding the statutory functions of a district council or other statutory bodies in relation to the positioning of a skip on private land, before seeking to speak to the Complainant.

On the basis of the above the Subject Member responded to the request that he received without due consideration about whether it was a district council function to do so and on the basis of the views of one resident, and that is not being appropriate or impartial.

The Subject Member did not bring the conversation to a polite and timely close as soon as it was apparent that he did not know all the necessary facts, particularly those that relate to the function of a district council in relation to a skip on private property and a claim by a neighbour that the position of the skip is causing the exercise of vehicular access to their property to be difficult.

The Subject Member did not bring the conversation to a polite and timely close at the first point in the conversation that the Complainant asked him to write to her.

On the basis of the above the Subject Member's actions were not fair or appropriate for the Complainant.

**4. Paragraph 5 of the Local Code of Conduct:** A councillor must listen 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

**Decision: Breach**

**Reason for the Decision:**

Before the Subject Member sought to make contact with the Complainant, the Subject Member did not research the facts available on public records regarding the location or the responsibilities relating to the placing and use of skips.

Before the Subject Member sought to make contact with the Complainant, the Subject Member did not speak to officers at Arun District Council, regarding the location of the skip or a resident's statutory responsibilities relating to the placing and use of a skip. Without the above information, the Subject Member could not take all relevant information into consideration, and did not sufficiently equip himself to understand what the Complainant was seeking to explain to the Subject Member. On the balance of probability the Assessment Panel are of the view that the Subject Member:

- did not listen to what the Complainant had to say,
- did not take what the Complainant had to say into consideration,
- did not remain objective, and
- without the information referred to above, the Subject Member's decision to seek to speak to the Complainant could not be made on merit.

**5. Paragraph 10 of the Local Code of Conduct:** A councillor must always treat people with respect, including the organisations and public they engage with and those they work alongside

**Decision: Breach**

**Reason for the Decision:**

Regarding the First Complaint

The Subject Member sought to act spontaneously to a request from one constituent.

The intercom was not an appropriate medium to facilitate a conversation of this nature.

The Subject Member did not adequately introduce who he was at the start of the conversation.

The Subject Member did not bring the conversation to a polite and timely close as soon as the Complainant first asked him to write to her.

On the balance of probability, the Assessment Panel are of the view that the Subject Member, unwisely through lack of knowledge of the full facts, sought to use his role as a councillor to resolve what amounts to a neighbour dispute, which is not the function of a district council.

The combined result of the above was that, it was not clear to the Complainant:

- who was speaking to her and why,
- what was the statutory authority under which the request was being made, and
- why her reasonable request to be contacted in writing, rather than the conversation being continued, was not acted upon immediately.

On the balance of probability, the Assessment Panel are of the view that what the Subject Member said, the tone with which he spoke to the Complainant and the circumstances of the conversation without adequate introduction or knowledge of the relevant facts, were sufficient for the Complainant to reasonably conclude that the Subject Member:

- was strongly representing one resident's interests without enquiring into or considering the interests of the Complainant
- was displaying an attitude that was against the Complainant
- failed to show the Complainant respect
- displayed an attitude towards the Complainant that was confrontational, self-important, and rude

Regarding the Second Complaint, the Subject Member failed to treat the Complainant with respect when he acted outside of his role as a councillor as he did not have a council business reason for contacting a third party and discussing his concerns about what he perceived as unneighbourly co-existence from the events as he recalled them.

**Outcome of Actions to be taken:**

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1. The Subject Member to send a letter of apology to the Complainant and forward a copy of the same to the Monitoring Officer.
  2. The Subject Member to undertake training provided by the Council.
  3. The Subject Member's Group Leader to be consulted by the Chairman of the Assessment Panel and a report prepared by the Monitoring Officer and put to Full Council, recommending that the Subject Member's position on Development Control be suspended for the longer of, 6 months or completion of the training in Action 2 above.
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**PUBLICATION OF THE DECISION**

The Assessment Panel requests the Monitoring Officer to publish this Decision on the Council's website for a period of 12 months from the date of this Decision Notice.

**Arun District Council's Standards Committee**

The Assessment Panel members for consideration of this complaint were:

Councillor Paul English	– Panel Chairman
Councillor Dr James Walsh	– Panel Member
Councillor Pat Dillon	– Panel Member

and Mr Brian Green acted as the Consultant to the Assessment Panel

Arun District Council – The Civic Centre, Maltravers Road, Littlehampton BN17 5LF

**The terms of reference for the Arun District Council Assessment Panel considering this matter are in the Arun District Council's Local Assessment Procedure, a copy of which is available from the Council's Legal Services Department.**

**Right of review**

If either the Complainant or the Subject Member considers the decision of the Assessment Panel is not fair, or proportionate, they can appeal within 20 working days from the date of the Decision Notice, giving the reasons why they consider the decision not to be fair or proportionate. The original decision may be reviewed by the Council's Standards Committee if those reasons given are valid.

If either the Complainant or Subject Member does not agree with the subsequent review decision that the Standards Committee makes, they have the right to pursue that decision through the courts, as a Judicial Review.