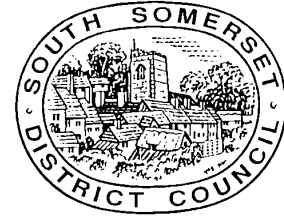


South Somerset District Council

Notice of Meeting



Standards Committee



Making a difference where it counts

Tuesday 9th February 2016

2.15 pm

**Main Committee Room
Council Offices
Brympton Way
Yeovil
BA20 2HT**

(disabled access and a hearing loop are available at this meeting venue)



Members listed over the page are requested to attend the meeting.

The public and press are welcome to attend.

If you would like any further information on the items to be discussed, please ring the Agenda Co-ordinator, **Becky Sanders, Democratic Services Officer 01935 462596**, website: www.southsomerset.gov.uk

This Agenda was issued on Monday 1 February 2016.

Ian Clarke, Assistant Director (Legal & Corporate Services)

This information is also available on our website
www.southsomerset.gov.uk



INVESTORS IN PEOPLE

Standards Committee Membership

SSDC Councillors

Neil Bloomfield
Gye Dibben

Anna Groskop
Val Keitch

Paul Maxwell
Angie Singleton

Co-opted Town/Parish Council Representatives (non-voting members of the Standards Committee)

Elizabeth Glasiher and Godfrey Townrow

The Independent Persons are also invited to attend meetings (not members of the Standards Committee):

Recording and photography at council meetings

Recording of council meetings is permitted, however anyone wishing to do so should let the Chairperson of the meeting know prior to the start of the meeting. The recording should be overt and clearly visible to anyone at the meeting, but non-disruptive. If someone is recording the meeting, the Chairman will make an announcement at the beginning of the meeting.

Any member of the public has the right not to be recorded. If anyone making public representation does not wish to be recorded they must let the Chairperson know.

The full 'Policy on Audio/Visual Recording and Photography at Council Meetings' can be viewed online at:

<http://modgov.southsomerset.gov.uk/documents/s3327/Policy%20on%20the%20recording%20of%20council%20meetings.pdf>

Terms of Reference

- promote and maintain high standards of conduct by Members and Co-opted Members;
- advise, train or arrange to train Members and Co-opted Members of the Council on matters relating to the Authority's Members' Code of Conduct and wider propriety issues, including issuing guidance where appropriate;
- recommend the adoption or revision of any Council Codes of Conduct for Members and Co-opted Members, and to monitor the operation of such code(s) of conduct;
- deal with the assessment and determination of complaints under the Members' Code of Conduct relating to Members and Co-opted Members (other than where the power to deal with such matters has been delegated to and exercised by the Monitoring Officer). Where the investigation finds evidence of a failure to comply with the Code of Conduct and a local resolution is not appropriate or not possible, then a Hearing Panel of the Committee (comprising 3 voting members of the Standards Committee agreed by the Monitoring Officer in consultation with the Committee Chairman) will consider and decide the complaint.
- to take decisions in respect of a Member and Co-opted Member who is found on hearing to have failed to comply with the Code of Conduct, including –
 - Reporting its findings to Council [or to the Parish Council] for information;
 - Recommending to the member's Group Leader that he/she be removed from any or all Committees or Sub-Committees of the Council (other than the relevant Area Committee);
 - Recommending to the Leader of the Council that the member be removed from the District Executive Committee, or removed from particular Portfolio responsibilities;
 - Instructing the Monitoring Officer to [or recommend that the Parish Council] arrange training for the member;
 - Removing [or recommend to the Parish Council that the member be removed] from all outside appointments to which he/she has been appointed or nominated by the authority [or by the Parish Council];
 - Withdrawing [or recommend to the Parish Council that it withdraws] facilities provided to the member by the Council, such as a computer, website and/or email and Internet access;
 - Restricting contact to named officers or requiring contact be through named officers; or
 - Excluding [or recommend that the Parish Council exclude] the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- advise on the management of statutory and other registers of interest and gifts / hospitality received;
- advise the Council on possible changes to the Constitution (except the Council and Cabinet Schemes of Delegation) in relation the key documents and protocols dealing with members conduct and ethical standards.

Standards Committee

Tuesday 9 February 2016

Agenda

1. Minutes (Pages 6 - 9)

To approve as a correct record the minutes of the previous meeting held on 14 October 2014.

2. Apologies for absence

3. Declarations of Interest

In accordance with the Council's current Code of Conduct (adopted July 2012), which includes all the provisions relating to Disclosable Pecuniary Interests (DPI), personal and prejudicial interests, Members are asked to declare any DPI and also any personal interests (and whether or not such personal interests are also "prejudicial") in relation to any matter on the Agenda for this meeting. A DPI is defined in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012 No. 1464) and Appendix 3 of the Council's Code of Conduct. A personal interest is defined in paragraph 2.8 of the Code and a prejudicial interest is defined in paragraph 2.9.

Members are reminded that they need to declare the fact that they are also a member of a County, Town or Parish Council as a Personal Interest. As a result of the change made to the Code of Conduct by this Council at its meeting on 15th May 2014, where you are also a member of Somerset County Council and/or a Town or Parish Council within South Somerset you must declare a prejudicial interest in any business on the agenda where there is a financial benefit or gain or advantage to Somerset County Council and/or a Town or Parish Council which would be at the cost or to the financial disadvantage of South Somerset District Council. If you have a prejudicial interest you must comply with paragraphs 2.9(b) and 2.9(c) of the Code.

In the interests of complete transparency, Members of the County Council, who are not also members of this committee, are encouraged to declare any interests they may have in any matters being discussed even though they may not be under any obligation to do so under any relevant code of conduct.

4. Public question time

Items for Discussion

5. Review of Complaints Process (Pages 10 - 27)

6. Disclosable Pecuniary Interests (DPI) - Protocol with Police (Pages 28 - 36)

7. Parish and Town Councils - Update on the Number of Register of Interests Forms Received (Pages 37 - 38)

8. Members Register of Interests (Pages 39 - 45)

9. Update on matters of interest (Page 46)

10. **Committee Work Programme and Future Meetings** (Pages 47 - 49)
11. **Exclusion of Press and Public** (Page 50)
12. **Complaints Received by the Monitoring Officer - Update (Confidential)** (Pages 51 - 54)

Agenda Item 1

South Somerset District Council

Draft Minutes of a meeting of the **Standards Committee** held at the **Main Committee Room, Brympton Way, Yeovil. on Tuesday 14 October 2014.**

(2.25 pm - 3.10 pm)

Present:

Members: Councillor Patrick Palmer (Chairman)

District Councillors: John Calvert and Jenny Kenton

Parish Representatives: Elizabeth Glasiher and Godfrey Townrow

Independent Persons: Christopher Borland

Officers

Ian Clarke
Angela Cox

Assistant Director (Legal and Corporate Services)
Democratic Services Manager

1. Minutes (Agenda Item 1)

Parish Representative, Godfrey Townrow, suggested an addition to the first bullet point of minute 6, Review of Members Code of Conduct, to reflect the low number of public requests for information regarding Town and Parish Councillors register of interest forms, which was disproportionate to the workload for officers to check and record. It was agreed to add:-

- Parish and town council register of interests were received slowly over a long period of time, and it was a large workload for officers to check and record the many forms from over 100 councils, **particularly when there were generally less than 5 public requests for the information in a 12 month period.**

Members were content that the minutes of the meeting held on 10 December 2013, copies of which had been circulated, be approved and signed as a correct record, subject to the above amendment to minute 6.

2. Apologies for absence (Agenda Item 2)

Apologies for absence were received from Peter Forrester (independent representative) and Councillor Nigel Mermagen.

3. Declarations of Interest (Agenda Item 3)

There were no declarations of interest.

4. Public question time (Agenda Item 4)

There were no members of the public present.

5. Review of Officer Member Protocol (Agenda Item 5)

The Monitoring Officer introduced the report which asked members to review the current Member / Officer Protocol and suggest any areas which required updating or strengthening, prior to wider consultation with officers and members.

During discussion, it was suggested that the Protocol should be circulated to Town and Parish Councils with a recommendation that they consider adopting a similar policy. It was noted that although this type of policy could not be imposed upon Town and Parish Councils, it could be helpful to them to have one.

It was further suggested that point 2 of the Protocol should be strengthened and the words 'must be avoided' be replaced with 'will not be tolerated'.

It was also noted that following enactment of the Local Audit and Accountability Act 2014, both the public and press could freely record any public council meeting. SSDC were in the process of adopting a policy on audio/visual recording and photography at Council meetings which would be circulated to all Town and Parish Councils with a recommendation that they consider adopting a similar policy. It was agreed to circulate the Member / Officer Protocol at the same time with the recommendation that a version of both policies be adopted for the protection of the Council and their officers.

RESOLVED: It was resolved that:-

1. The Member / Officer Protocol be amended at point 2 to read:-

In accordance with Council policy, harassment or bullying in the workplace **will not be tolerated** ensuring fair treatment and personal dignity for all employees;

2. Members and officers be consulted to seek wider views on the Protocol, and the views be reported to the next meeting of the Standards Committee;
3. The Member / Officer Protocol be circulated to all Town and Parish Councils with a recommendation that they consider adopting a similar policy.

(Voting: unanimous in favour)

6. Update on Registration of Gifts & Hospitality by Members and Officers (Agenda Item 6)

The Monitoring Officer advised that the Register of Gifts and Hospitality at SSDC was traditionally low, with only one registration from a Councillor and 18 from officers, which were mainly of a low value.

He noted that as there was no longer a statutory Code of Conduct for Town or Parish Councils, there was no requirement to record gifts or hospitality received by them, however, as most of them were small Parishes, the opportunity to receive gifts was limited and he was comfortable that the lack of registrations was genuine.

In response to a request, the Monitoring Officer agreed to raise the issue of adopting a voluntary Register of Gifts and Hospitality with Town and Parish Councils.

RESOLVED: It was resolved to note the contents of the report and to continue to receive the report on an annual basis.

7. Update on matters of interest (Agenda Item 7)

The Monitoring Officer provided the Committee with updates on:-

- The lack of reports of prosecutions by the Police for non-disclosure of Disclosable Pecuniary Interests by Councillors.
- The difficulty in arranging training for Town and Parish Councillors on the Code of Conduct, as the majority had adopted two different codes.
- The rules surrounding Disclosable Pecuniary Interests would be reinforced as there were potential criminal sanctions attached to any non-disclosure.
- There did not appear to be any mention of proposed changes to either the Code of Conduct or the Standards regime following the Local Elections in May 2015.
- He was currently acting as Monitoring Officer for East Devon DC whilst they were undergoing a structure review.

RESOLVED: It was resolved to note the verbal update provided by the Assistant Director (Legal and Corporate Services) in his role as Monitoring Officer.

8. Committee Work Programme and Future Meetings (Agenda Item 8)

In response to a question, the Monitoring Officer advised that the Constitution of the Council would be checked prior to the elections in May 2015 to ensure all the correct updates were in place, prior to a full review in the new council administration.

RESOLVED: It was resolved to:-

1. Agree the Work Programme attached at Appendix A
 2. Note the future meeting arrangements.
-

9. Exclusion of Press and Public (Agenda Item 9)

RESOLVED: That the following item be considered in Closed Session by virtue of the Local Government Act 1972, Schedule 12A under Paragraph 1: Information relating to any individual.

**10. Complaints Received by the Monitoring Officer in 2014 (Confidential)
(Agenda Item 10)**

The Monitoring Officer introduced the report, noting that he had received 10 complaints under the code of conduct during 2014, mainly relating to the behaviour of Town and Parish Councillors.

During Discussion, it was felt that members of the public often did not understand the difference between Councillors when acting as Councillors and Councillors acting in their private capacity. Also there was higher expectation of the sanctions expected than those which were available.

The Monitoring Officer confirmed that although some complaints appeared trivial, they must be dealt with in accordance with the agreed protocol to avoid any subsequent complaint to the Ombudsman. He agreed to review the guidance notes to ensure it was clearly defined that any complaint must relate to Councillors when they were acting as a Councillor and not acting in their private capacity.

RESOLVED: That the report be noted.

.....
Chairman

Agenda Item 5

Review of Complaints Process

Monitoring Officer: Ian Clarke
Assistant Director: Legal and Corporate Services (As above)
Lead Officer: As above
Contact Details: ian.clarke@southsomerset.gov.uk or (01935) 462184

Purpose of Report

To seek the view of members on the proposed complaints guidance/procedure notes.

Public Interest

In February 2014 SSDC adopted a revised complaints process proposed by the Standards Committee for dealing with complaints about district, town and parish councillors within South Somerset. This process reflected the changes introduced by the Localism Act 2011 and in particular the expectation that complaints would be dealt with quicker under leaner less process driven arrangement that focussed on local solutions to local problems. The current revision is intended to further refine the process and ensure that the treatment of complaints remains proportionate.

Recommendation

The Committee is invited consider the guidance notes, propose any additional improvements or refinements and recommend to Council that the revised arrangements be adopted as soon as possible to replace those currently in force.

Report

The current complaint form and the proposed new guidance notes are attached to this report. As over 2 years have elapsed since the process and accompanying paperwork was last reviewed it seems an appropriate opportunity to consider whether any changes could usefully be made to reflect the Monitoring Officer's experience to date and to help manage expectations about what the complaints procedure is designed for.

Reinforcing what can be done is important to avoid disappointment later on. The usual position seems to be that people's expectation of what should happen to a member is wholly unrealistic having regard to the alleged breach of the code complained about i.e. they should be forced to resign! There is also a confusion of the role which SSDC should play particularly in relation to town and parish councils and their administration. The expectation is that SSDC should be able to tell the town or parish council what they should do and how they should do it. The revised procedure helps to clarify that issue and at the same time looks to extend the options available to the Monitoring Officer to help provide an outcome which is more relevant, tailored and acceptable to the parties involved. Most complaints are about parish council members and the position in relation to sanctions is worse in that all the Standards Committee can do is recommend to the parish council that they impose a sanction; there is no ability to enforce it or indeed impose any sanction on the parish council should they fail to do so. Very few complaints will be serious enough to warrant a formal investigation. Any minor or technical breaches will not be investigated but the Monitoring Officer will be able to

provide guidance and use other options to reduce the possibility of further breaches in the future.

The new process introduces Levels which will ensure that minor breaches of the code are dealt with quickly and with a fairly “light touch”. More serious complaints will end up at Level 2 but even at this level there will be options available other than having to carry out a formal investigation. The flexibility is maintained throughout the process enabling various outcomes at all stages including after an investigation has been carried out. This will ensure that there will be on-going process of ensuring that the “what happens next” is proportionate to the code breach and that there isn’t a one size fits all approach.

The clarity around the process and the outcomes is important so that all are aware at the outset. The hope is that the revisions reflect the experience and lesson learnt so far. They will provide greater flexibility to enable local solutions to be found and encourage all sides to properly participate in that process but despite all that, still do not put people off from complaining when they have grounds to do so.

Financial Implications

There are none relating to the recommendations outlined in this report.

Council Plan Implications

There are none relevant to this report.

Other Implications

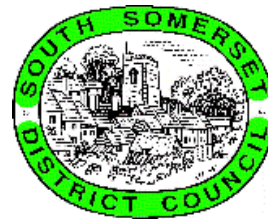
If the information on the forms and guidance does not strike the right balance then people who should not be complaining will do so or those who should be complaining do not. It is important that, despite the limitations, it is possible for members of the public to raise issues about conduct with the council and through this process with the members concerned.

Equality and Diversity Implications

There are none relevant to this report as the forms already contain information about how to obtain the same information in larger print, audio and translated into different languages.

Background Papers: None.

Note: For sight of individual background papers please contact the report author.



CODE OF CONDUCT FOR COUNCILLORS COMPLAINT FORM

(Before completing this form please read the attached Guidance & Process Notes)

A. Your details

1. Please provide us with your name and contact details. Anonymous complaints will only be considered if there is independent evidence to substantiate the complaint.

Title:	
First name:	
Last name:	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile telephone:	
Email address:	

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

The following people may see this form:

- Members of the Standards Committee
- Independent Persons
- Monitoring Officer of the South Somerset District Council
- the Town/Parish Clerk (if applicable)

Actual details of your complaint will also usually to be shared with the councillor(s) you are complaining against. If you have serious concerns about your name and details of your complaint being released, please complete **Section C** of this Form and also discuss your reasons or concerns with the Council's Monitoring Officer.

2. Please tell us which complainant type best describes you:

- Member of the public
- An elected or co-opted councillor of an authority
- An independent co-opted member of the Standards Committee
- Member of Parliament
- Local authority monitoring officer
- Other council officer or authority employee
- Other ()

B. Making your complaint

The sanctions available to a Standards Committee should it find a breach of the code of conduct has occurred are governed by law and details are attached. For other information about the process and time scales, please refer to the Guidance Notes.

3. Please provide us with the name of the councillor(s) you believe have breached the Code of Conduct and the name of their authority:

Title	First name	Last name	Council or authority name

4. Please explain in this section (or on separate sheets) what the councillor has done that you believe breaches the council's Code of Conduct. If you are complaining about more than one councillor you should clearly explain what each individual person has done (with dates / witnesses) that you believe breaches their Code of Conduct. Each council has adopted their own code and you should look at the relevant code to see whether it covers the behaviour you wish to complain about.

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

- You should be specific, wherever possible, about exactly what you are alleging the councillor said or did. For instance, instead of writing that the councillor insulted you, you should state what it was they said.

- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information or other relevant documentary evidence to support your allegation(s).

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

C. Confidentiality of complainant and the complaint details

Only complete this next section if you are requesting that your identity is kept confidential

5. In the interests of fairness and natural justice, we believe councillors who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with

details of your complaint. We are unlikely to withhold your identity or the details of your complaint unless you have a very good reason to believe that you have justifiable grounds, for example:-

- to believe you may be threatened, victimised or harassed by the councillor(s) against whom you are submitting a written complaint (or by a person associated with the same); or
- may receive materially less favourable treatment from the Council because of the seniority of the councillor against whom you are submitting a written complaint in terms of any existing Council service provision or any tender / contract that you may have or are about to submit to the Council.

Please note that requests for confidentiality or requests for suppression of complaint details will only be granted in exceptional circumstances. The Monitoring Officer will consider the request alongside the substance of your complaint. We will then contact you with the decision. If your request for confidentiality is not granted, we will allow you the option of withdrawing your complaint.

However, it is important to understand that in certain very exceptional circumstances where the matter complained about is very serious, we may proceed with an investigation or other action and disclose your name even if you have expressly asked us not to. We will contact you where this situation arises to discuss the matter first.

Please provide us with the specific details of why you believe we should withhold your name and/or the details of your complaint:

(Continue on separate sheet(s), as necessary)

D. Remedy sought

Please indicate the remedy or remedies you are looking for or hoping to achieve by submitting this complaint. **Please first see overleaf for details of the only sanctions available to the Standards Committee.**

(Continue on separate sheet(s), as necessary)

E. Additional information

6. Complaints must be submitted in writing. This includes fax and electronic submissions. Frivolous, trivial, vexatious and politically or personality motivated tit-for-tat complaints are likely to be rejected by the Monitoring Officer. Similarly any technical or minor breaches of the code will usually result in no further action being taken.
7. In line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing. We can also help if English is not your first language.

If you need any support in completing this form, please contact the Monitoring Officer as soon as possible.

Ian Clarke, Solicitor to the Council & Monitoring Officer
South Somerset District Council
The Council Offices
Yeovil
Somerset.
BA20 2HT

Tel: 01935 462462
Fax: 01935 462666
E-mail: ian.clarke@southsomerset.gov.uk

Signed

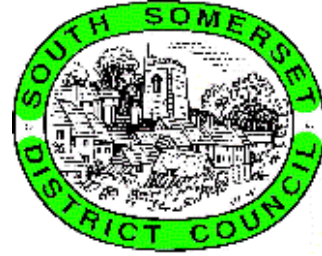
Date

Sanctions available to Standards Committees

As a consequence of changes introduced by the Localism Act 2011 the Standards Committee no longer has the power to suspend a member from acting as a councillor. **The only sanctions now available to the Standards Committee are as set out below.** In relation to the Town & Parish Councils in our area it is important to appreciate that we can only recommend a particular sanction to those councils; we do not have the power to enforce or require compliance.

- Report its findings to Council or Town/Parish Council for information;
 - Recommending to the member's Group Leader that he/she be removed from any or all Committees or Sub-Committees of the Council (other than the relevant Area Committee) ;
 - Recommending to the Leader of the Council that the member be removed from the District Executive Committee, or removed from particular Portfolio responsibilities;
 - Instructing the Monitoring Officer to arrange training for the member;
 - Removing from all outside appointments to which he/she has been appointed or nominated by the authority;
 - Withdrawing facilities provided to the member by the Council, such as a computer, website and/or email and Internet access;
 - Restricting contact to named officers or requiring contact be through named officers; or
 - Excluding the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
-

Version approved by SSSC February 2014



Guidance and Process Relating to

How to make a

Complaint

about the behaviour of a
local authority Councillor
in South Somerset

CODE OF CONDUCT FOR COUNCILLORS: INFORMATION AND GUIDANCE FOR POTENTIAL COMPLAINANTS

The complaints regime

The responsibility for considering written complaints against elected or co-opted councillors of South Somerset District Council and the town and parish councils within our area for breach of a Code of Conduct still sits with this Council's Standards Committee.

The complaints process are overseen by the Standards Committee who together with the Council's Monitoring Officer and appointed Independent Persons help maintain and promote high ethical standards and deal with complaints about members. The Monitoring Officer can refer any complaint to the Standards Committee where he considers it appropriate in all the circumstances.

Is this a complaint that can be dealt with?

The points listed below will help you decide whether this is something that can be dealt with by the Monitoring Officer and/or Standards Committee. You should speak to the Monitoring Officer if you are not clear if either can consider your complaint.

Please note that trivial, frivolous, vexatious and politically motivated tit-for-tat complaints are likely to be rejected.

The Monitoring Officer or the Standards Committee (as appropriate) will make the decision about what action, if any, to take on your complaint.

- Your complaint must be about conduct that occurred while the councillor(s) complained about were in office. Conduct of an individual before they were elected, co-opted or appointed to the authority, or after they have resigned or otherwise ceased to be a councillor, cannot be considered.
- Your complaint must be about one or more named councillors of the authorities listed on the attached Schedule A.
- Your complaint must be that the councillor(s) has, or may have, breached their Council's Code of Conduct.
- **The alleged breach must have occurred when the councillor was acting in their "official capacity"** – they must be clearly acting as a representative of the council when the alleged breach occurred. A Councillor is entitled to private life and what a councillor does in their private life is not a matter for the Code of Conduct and not something which can be dealt with under this process.
- Complaints about dissatisfaction with a decision or action of the council or one of its committees, a service provided by any council or its procedures or decision making do not fall within the jurisdiction of the Standards Committee. Complaints about the actions of people employed by the council e.g. the Clerk of a local council, also do not fall within the jurisdiction of the Standards Committee.

- **Your complaint must be in writing.** If a disability prevents you from making your complaint in writing then please let us know and we will provide you with appropriate assistance.

It is important to note that only a very small percentage of complaints that fall within the jurisdiction of the Standards Committee will be referred for investigation. The Monitoring Officer or the Standards Committee (as appropriate) must decide when this is appropriate. The Monitoring Officer will endeavour to resolve or deal with most complaints without the need for a formal investigation. The factors to be taken into account in reaching a decision about the appropriate action to be taken in relation to a complaint are:-

- Whether a substantially similar allegation has previously been made by you to the Standards Committee, or the complaint has been the subject of an investigation by another regulatory authority;
- Whether the complaint is about something that happened so long ago that those involved are unlikely to remember it clearly enough to provide credible evidence, or where the lapse of time means there would be little benefit or point in taking action now;
- Whether the allegation is anonymous;
- Whether the breach is technical and relatively minor in nature;
- Whether the allegation discloses a potential breach of the Code of Conduct, but the complaint is not serious enough to merit any action and:-
 - (i) the resources needed to investigate and determine the complaint are wholly disproportionate to the allegations;
 - (ii) whether, in all the circumstances, there is no overriding public benefit in carrying out an investigation;
- Whether the complaint appears to be malicious, vexatious, politically motivated or tit-for-tat;
- Whether the complaint suggests that there is a wider problem throughout the authority;
- Whether it is apparent that the councillor complained about is relatively inexperienced, or has admitted making an error and the matter would not warrant a more serious sanction;
- Whether a simple apology, training or conciliation would be the appropriate response;
- Whether a reasonable offer of local resolution is offered by the councillor the subject matter of the complaint but is rejected by you.

What happens once you submit your complaint?

Preliminary Stage - When you submit your complaint we will write to you to let you know we have received it, usually within 10 working days. The Monitoring Officer will then consider whether the complaint falls with the scope of this process, at what Level and that there is some evidence which would suggest there may have been a material breach of the code.

Level 1 Complaint - Complaints which are about procedural issues or unhappiness with decisions and are not code related or which do not contain any evidence of any breach of the code or are technical minor breaches will be determined at this stage by the Monitoring Officer without further inquiry and the complainant advised accordingly within 20 working days or as soon as possible thereafter. The decisions which could be reached by the Monitoring Officer are (i) Not Code (ii) No Further Action – Potential Technical or Minor Breach But Not Proven. For these complaints the Monitoring Officer will not automatically notify the councillor about the complaint although should the member become aware of the complaint and wish to know what has been alleged and the identity of the complainant, then this information will be provided to them. If the Monitoring Officer receives numerous complaints about a member all of which could be classed as minor or technical then the Monitoring Officer can decide to treat any complaint as a Level 2 Complaint.

Level 2 Complaint - If the complaint doesn't fall within Level 1 then we will notify the councillor to whom the complaint relates, provide details of the complaint and invite them to make representations. These should be received by the Monitoring Officer usually within 20 working days of receiving the notification but additional time can be allowed for this stage by the Monitoring Officer. If appropriate, the Monitoring Officer may also contact the clerk of the Town or Parish Council.

You and such other persons as the Monitoring Officer feels appropriate may be required to provide additional information in order that they can complete this assessment. On the completion of this initial assessment the Monitoring Officer will contact you to advise you whether your complaint relates to a breach of the code of conduct and what action is proposed, if any. Before making that decision, the Monitoring Officer will discuss your complaint with our "Independent Persons". These are individuals who are not councillors and who South Somerset District Council is required by law to appoint to assist it in dealing with complaints against councillors. The decisions which could be reached by the Monitoring Officer are (i) No Further Action – No Breach (ii) No Further Action – Potential Breach - Not Proven (iii) Other Action – Potential Breach - Not Proven but Action Recommended (e.g. advice and guidance to be given) and (iv) Potential Breach – Refer for Investigation

Investigation Stage - If the Monitoring Officer or Standards Committee considers that the complaint is both very serious in terms of the potential breach of the code and an investigation is warranted in the public interest to establish the facts and the extent of any alleged breach, then the Monitoring Officer or someone acting on their behalf will undertake this investigation.

Only very exceptionally will a complaint result in an investigation. The Monitoring Officer will let all those involved know that this is the case and the process that will be followed. If an allegation relates to disclosable pecuniary interests then these are matters for the Police and will be referred to them to deal with. Irrespective of the outcome of any Police investigation, these are not matters which will be investigated by this Council although the Council will

consider whether advice, guidance or training should be offered to the councillor. At the end of an investigation, the Monitoring Officer will issue a draft report and invite comments which must be received within 10 working days. The Monitoring Officer will send a copy of the final investigation report to you, the Standards Committee, the councillor complained about, the Independent Person and the Clerk to the Town/Parish Council (where relevant). If a hearing is required and reaches a finding that there has been a failure to comply with the Code then there is a very limited range of sanctions that can be imposed.

Outcome 1 - If an investigation reveals no failure to comply with the code or a minor/technical breach may have occurred or identifies a training requirement as opposed to any sanction as being the appropriate response then the Monitoring Officer, after consulting with the Independent Persons is authorised to issue guidance to either party, close the matter and issue his report to the complainant and the councillor complained about. The Monitoring Officer has the discretion to refer the matter to the Standards Committee before exercising that power if he considers it appropriate.

Outcome 2 - If the investigation reveals a more significant failure to comply with the code (which is not minor or technical in nature or where a need for training is not really the issue) then the Monitoring Officer in consultation with the Independent Person is authorised to seek a local resolution of the complaint providing all parties agree (acting reasonably). In the unlikely case that a local resolution is not appropriate or not agreed by the parties then the outcome of the investigation will either (i) be reported to a Hearings Panel for a local hearing or (ii) form the basis of an Investigation Outcome Report which will be both published and issued to all parties and set out the nature of the complaint, the outcome of any investigation, the local resolution suggested by the Monitoring Officer and the response from the parties to this. The decision whether to proceed with either option (i) or (ii) above rests with the Monitoring Officer who will consult with the Independent Persons before deciding and will have regard to the relative costs involved and which option best serves the public interest.

Hearing Stage - If a hearing is required it will be held in public and will be conducted on a relatively informal basis however both parties will be able to make representations and call witnesses. At the end of the Hearing, the Panel, after consulting with the Independent Person will decide whether, on the balance of probabilities there has been a failure to comply with the Code of Conduct and what “sanction” or “sanctions” should be imposed.

There is no right of appeal against the decisions of the Monitoring Officer, Standards Committee or Panel, however if you are unhappy with the outcome then you are still entitled to complain to the Local Government Ombudsman or challenge any decision through the Courts by way of Judicial Review.

The procedure the Council has adopted is designed to be proportionate, timely, cost effective and fair to both sides. Its overriding objectives are to seek to provide pragmatic local solutions to local problems unless that proves to be impossible and also to avoid costly and time consuming investigations except for the very most serious of cases where an investigation is very clearly in the public interest.

How should I set out my complaint?

It is very important that you set your complaint out fully and clearly, and provide all the information at the outset. You should also provide any documents or other material that you wish to be considered. If a complaint does not contain sufficient information then it will be dealt with accordingly.

We recommend that you use our complaint form or provide a covering note summarising what you are complaining about, especially if your complaint includes a lot of supporting documentation. In the summary you should tell us exactly what each person you are complaining about said or did that has caused you to complain. If you are sending supporting documentation please cross-reference it against the summary of your complaint.

You should be as detailed as possible and substantiate your complaint where you can. Although you are not required to prove your complaint at this stage of proceedings, you do have to demonstrate to the Monitoring Officer or Standards Committee that you have reasonable grounds for believing that the councillor(s) complained about has breached the Code of Conduct.

I am the complainant but I don't want my identity revealed

If you ask for your identity to be withheld, this request will be considered by the Monitoring Officer at the initial assessment stage.

As a matter of fairness and natural justice, the councillor you complained about should usually be told who has complained about them and receive details of the complaint. However, in very exceptional circumstances, the Monitoring Officer may withhold your identity if on request from you, or otherwise, they are satisfied that you have reasonable grounds for believing that you or any witness relevant to the complaint may be at risk of physical harm, or employment may be jeopardised if your or their identity is disclosed, or where there are medical risks (supported by medical evidence) associated with their or your identity being disclosed.

If the Monitoring Officer decides to refuse your request for confidentiality, they will offer you the option to withdraw the complaint, rather than proceed with your identity being disclosed. However the Monitoring Officer will balance whether the public interest in taking action on a complaint will outweigh your wish to have your identity withheld and in very exceptional cases further action may be taken in relation to your complaint even where you have asked that it be withdrawn. We will contact you to discuss the matter beforehand to explain our position.

What you should do if you wish to submit a written complaint

- Get a copy of the code of conduct for the relevant council to see whether the behaviour you wish to complain about is covered by their code. **If it is not covered by the relevant code then we will not be able to deal with it.** Copies of all codes are available on our website.
- Talk to / raise the matter with the Council's Monitoring Officer for general advice before submitting a formal complaint.

- Fully complete the attached complaints form (or ensure your letter of complaint addresses, in full, all of the issues covered in the complaint form).
- Submit the written complaint by post, e-mail or fax to the address set out below, as soon as possible after the date of the alleged breach.

Address for submission of a written complaint

Ian Clarke, Solicitor to the Council & Monitoring Officer
South Somerset District Council
PO Box 25
The Council Offices
Yeovil
Somerset.
BA20 2HT

Tel: 01935 462462
Fax: 01935 462666
E-mail: ian.clarke@southsomerset.gov.uk

If you would like this document translated into other languages or into Braille, large print, audio tape or CD, please contact:

 **01935 462462**

Dokument ten jest na życzenie udostępniany w językowych polskim.

Este documento encontra-se disponivel em Português, a pedido.

Schedule A

List of Authorities subject to South Somerset District Council's Standards Committee's Jurisdiction

South Somerset District Council	Ilton
Abbas & Templecombe	Isle Abbots
Aller	Keinton Mandeville
Ash	Kingsbury Episcopi
Ashill	Kingsdon
Ansford	Langport
Babcary	Long Sutton
Barrington	Long Load
Barton St. David	Lopen
Barwick	Marston Magna
Bayford & Stoke Trister	Martock
Beercrocombe	Merriott
Brewham	Milborne Port
Broadway	Misterton
Bruton	Montacute
Brympton	Mudford
Buckland St. Mary	North Cadbury (North Cadbury and Yarlington)
Cary Moor - (Alford, Lovington, North and South Barrow)	North Perrott
Castle Cary	North Vale (North Cheriton, Maperton and Holton)
Chaffcombe	Norton-Sub-Hamdon
Chard	Odcombe
Charlton Musgrove	Pen Selwood
Charlton Mackrell	Pitcombe
Charlton Horethorne	Pitney
Chilthorne Domer	Queen Camel
Chiselborough	Rimpton
Combe St. Nicholas	Seavington (Seavington St. Mary & Seavington St. Michael)
Compton Dundon	Shepton Beauchamp
Corton Denham	Shepton Montague
Crewkerne	Somerton
Cudworth	South Cadbury
Curry Rivel	South Petherton
Curry Mallett	Sparkford
Donyatt	Stocklinch
Dowlish Wake	Stoke-Sub-Hamdon
Drayton	Tatworth & Forton
East Chinnock	Tintinhull
East Coker	Wayford
Fivehead	West Camel
Hambridge and Westport	West Chinnock
Hardington Mandeville	West Coker
Haselbury Plucknett	West Crewkerne
Henstridge	Whitestaunton
High Ham	Wincanton
Hinton St George	Winsham
Horsington	Yeovil Town
Horton	Yeovil Without
Huish Episcopi	Yeovilton
Ilchester	
Ilminster	

Behaviour covered by the Code of Conduct

You can complain about a councillor breaking any part of their council's Code of Conduct. Each council is entitled to adopt their own code so there is no standard code of conduct that applies to all local authorities. This means you need to have seen the code of conduct that applies to the councillor about whom you wish to complain and that the behaviour you wish to complain about is covered by that code. The Monitoring Officer/Standards Committee cannot consider any complaints that fall outside of the relevant code of conduct. As mentioned previously, they cannot consider complaints about employees or any behaviour where the councillor is not acting in their official capacity as a councillor. What they do in their private lives are not matters for the code and this complaints process.

The code that relates to councillors of South Somerset District Council covers the following areas:-

- unlawfully discriminating against someone
- failing to treat people with respect
- bullying any person
- intimidating any person involved in any investigation or proceedings about someone's misconduct
- doing something to prevent those who work for the authority from being unbiased
- revealing information that was given to them in confidence, or stopping someone getting information they are entitled to by law
- damaging the reputation of their office or authority, where the conduct is linked to their public role and not in their private capacity
- using their position improperly, to their own or someone else's advantage or disadvantage
- misusing their authority's resources
- allowing their authority's resources to be misused for the activities of a registered political party
- failing to register financial or other interests
- failing to reveal a personal interest at a meeting
- taking part in the discussion or making a decision where they have a "disclosable pecuniary interest" or an interest that is so significant that it is likely to affect their judgement (known as a 'prejudicial interest')

- improperly influencing a decision about a matter in which they have a “disclosable pecuniary interest” or prejudicial interest
- Failing to register any gifts or hospitality (including its source) that they have received in their role as a member worth over £25.

Any breaches in relation to the requirements around “disclosable pecuniary interests” are matters for the Police as a criminal offence may have been committed. We suggest you speak to the Council’s Monitoring Officer first as he should be able to advise you whether or not it is a matter for the Police. In any event they are not matters where the Council will carry out an investigation.

Although we have encouraged the Town & Parish Councils to adopt similar provisions they are not required to do so. Accordingly their code may look quite different so you do need to see a copy. The Clerk to the relevant Town or Parish Council should be able to provide you with a copy of their code. The code of conduct adopted by South Somerset District Council is on our website www.southsomerset.gov.uk

Sanctions available to Standards Committees

The **only** sanctions available to the Standards Committee are as set out below. These sanctions can only be imposed after a formal investigation and hearing. In relation to the councillors of Town & Parish Councils in our area, it is important to appreciate that we can only recommend the imposition of a particular sanction to those councils; we **do not** have the power to enforce or require compliance.

- Report its findings to Council or Town/Parish Council for information;
- Recommending to the member’s Group Leader that he/she be removed from any or all Committees or Sub-Committees of the Council (other than the relevant Area Committee) ;
- Recommending to the Leader of the Council that the member be removed from the District Executive Committee, or removed from particular Portfolio responsibilities;
- Instructing the Monitoring Officer to arrange training for the member;
- Removing from all outside appointments to which he/she has been appointed or nominated by the authority;
- Withdrawing facilities provided to the member by the Council, such as a computer, website and/or email and Internet access;
- Restricting contact to named officers or requiring contact be through named officers; or
- Excluding the member from the Council’s offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

Agenda Item 6

Disclosable Pecuniary Interests (DPI) – Protocol with Police

Monitoring Officer: Ian Clarke
Assistant Director: Legal and Corporate Services (As above)
Lead Officer: As above
Contact Details: ian.clarke@southsomerset.gov.uk or (01935) 462184

Purpose of the Report

To seek the approval of members to a proposed Protocol with the Police setting out the process to be followed, role and responsibilities for dealing with complaints which suggests that a member may be in breach of the legislation relating to DPI.

Public Interest

The public expect a certain standard of behaviour from those it elects to represent them. That standard should be documented and members (councillors) judged against it. There should be the ability to make complaint about a member and that complaint be considered in accordance with a defined process. Some complaints may relate to DPI any breach of which is a matter for the Police. As the complaints would usually come to the Monitoring Officer in the first instance, it is important that they are handled in accordance with an agree process to ensure that any subsequent investigation is not prejudiced or compromised.

Recommendation

That the Committee agrees the Police Protocol attached to this report as Appendix 1 with immediate effect and notify the Avon & Somerset Constabulary accordingly.

Report

As some members may recall, this Council adopted a new Code of Conduct at its meeting held on 19th July 2012.

Whilst the Council had discretion as to what it included within its new Code of Conduct, Sections 30 and 31 Localism Act 2011 introduced the concept of Disclosable Pecuniary Interests and required both the registration and disclosure of DPI. Under the 2011 Act, disclosable pecuniary interests are such interests as may be specified in regulations made by the Secretary of State. The relevant regulations (The Relevant Authorities [Disclosable Pecuniary Interest] Regulations 2012) came into force in July 2012. The interests covered by these regulations are set out in detail in this Council's Code of Conduct and are included for information at Appendix 2.

The 2011 Act requires that members with a DPI notify the Monitoring Officer of that interest within 28 days of taking office and thereafter notify the Monitoring Officer of any relevant changes to the notification. The 2011 Act also prohibits members with a DPI from participating in authority business at any formal meeting. Although the 2011 Act does not define what is meant by "participation", it would appear to preclude making any representations and participate in any vote on the matter unless the member has obtained a dispensation allowing him/her to speak and/or vote. As members may be aware some

categories of dispensation can be granted by the Monitoring Officer and others require the approval of this committee. The 2011 Act extended the previously existing requirement for notification/registration to cover not just the member's own interests, but also those of the member's spouse or civil partner, or someone living with the member in a similar capacity i.e. as their spouse for civil partner.

Any failure to comply with the requirements in relation to DPI becomes a criminal offence, rather than a breach of the Code. This is a very important distinction as the consequences for any breach are far more significant.

Consequently the Monitoring Officer reviews all register of interest forms received from both SSDC members and members of town and parish councils to check for any obvious omissions or anomalies before they are made available for public inspection so as to hopefully lessen the risk of any inadvertent breaches occurring particularly in relation to the criminal law but also in relation to the code of conduct. Whilst this does have a resource implication it is important that this is done as there are potential criminal sanctions for any breaches in relation to DPI. Section 34 of the Localism Act 2011 provides that where a member fails, without reasonable excuse, to register or declare disclosable pecuniary interests or takes part in council business at meetings without having been granted a dispensation commits a criminal offence. If found guilty of such an offence the penalty can be a fine (under the current levels) of up to £5,000 and a disqualification from holding office for up to 5 years.

As mentioned above the responsibility for dealing with any complaints which relate to DPI rests with the Police. This Council is not responsible for either investigating or prosecuting any breach. However as most complaints about members usually end up on the Monitoring Officer's desk in the first instance and as it is important that they are handled consistently and in a way which meets with the approval of the investigating authority, it was felt appropriate to agree a protocol with the Police to cover these points. The attached protocol (Appendix 1) broadly follows the version which has already been agreed between and adopted by the county council and the Police (Appendix 3). It is believed that some of the other district councils have agreed something similar. Whilst the Monitoring Officer has provided advice on whether there has been a breach of DPI to members of the public, he has not been made aware that there are any investigations ongoing or being considered at this present time. Notwithstanding the current position it is still felt appropriate to get this protocol agreed at this time.

Financial Implications

There are no financial implications at this stage that cannot be met by existing budgets.

Other Implications

There are no other adverse implications from agreeing the recommendation to adopt this protocol.

Background Papers: *Localism Act 2011*

APPENDIX 1

PROTOCOL BETWEEN THE MONITORING OFFICER OF SOUTH SOMERSET DISTRICT COUNCIL AND THE AVON AND SOMERSET CONSTABULARY

Purpose

To agree a protocol for the reporting of potential criminal offences arising from the failure to register or declare disclosable pecuniary interests or from speaking and voting where a member has a disclosable pecuniary interest and has not first sought a dispensation.

References to the Monitoring Officer also include the Deputy Monitoring Officer where appropriate and references to the Independent Persons mean either or both as appropriate.

Introduction

Section 34 of The Localism Act 2011 created a criminal offence where a Member or co-opted Member fails, without reasonable excuse, to comply with the requirements of the Act to register or declare disclosable pecuniary interests (DPIs) or takes part in council business at meetings or when acting alone when prevented from doing so. If found guilty of such an offence the penalty can be a fine (under the current levels) of up to £5,000 and a disqualification from holding office for up to 5 years.

The Code of Conduct

South Somerset District Council adopted a new Code of Conduct at full council on 19th July 2012. The Code incorporates the legislation, contains details of what amounts to a DPI, the requirement to obtain a dispensation to participate and vote where a member has a DPI and provides, at Appendix 3, that it is a criminal offence to;

- Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election,
- Fail to disclose a pecuniary interest at a meeting if it is not on the Register,
- Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed at a meeting,
- Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest,
- As an Executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer of the disclosable pecuniary interest within 28 days of the interest,
- Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting.

The Process

If the Monitoring Officer becomes aware, either via a complaint made under the council's existing complaints procedure, or via any other means he/she will first gather together all relevant documentation for consideration. He/She will then ascertain whether any

dispensations have been granted and the extent of any which have. The Monitoring Officer will not carry out any investigation beyond information gathering and if he/she is of the opinion that there is prima facie evidence of such a breach of the Code relating to DPs he/she will then discuss the case with the Independent Persons (IP) confidentially and seek their views. At this stage no contact will be made with the subject member against whom the complaint is made as this may prejudice any investigation the Police may wish to undertake or subsequent prosecution. In addition the Monitoring Officer and the IP will be unable to assist or advise the subject member against whom the complaint is made should the Police become involved.

If the Monitoring Officer concludes that there is evidence of a breach he/she must report the matter to the police and send all relevant documentation to them. At this stage the Monitoring Officer does not have any discretion and it will be for the Police to conduct whatever investigation they consider appropriate. The Monitoring Officer may initially contact the Police Liaison Officer by telephone to inform him/her of the situation before sending the documentation. The nominated point of contact is the Somerset Areas Commander - TBC

Similarly if the police receive a complaint from a member of the public they will inform the Monitoring Officer of the receipt of that complaint. The Monitoring Officer, currently Ian Clarke, should be contacted on 01935 462184 or at ian.clarke@southsomerset.gov.uk.

The Monitoring Officer and/or the IP will make themselves available for interview as witnesses in any subsequent court processes should this be required by the Police or Crown Prosecution Service (CPS).

The Monitoring Officer will maintain regular contact with the Liaison Officer or his/her office to obtain updates on the progress of their investigation.

The Monitoring Officer will report the matter and any progress in the investigation confidentially to the Standards Committee, unless the matter concerns a member of that Committee when only the Chair will be informed. If the matter concerns the Chair of that Committee no report will be made until after the police have interviewed the Chair and the CPS have agreed for the matter to be disclosed.

Once the police have completed their investigation and a decision has been made by the CPS the process will be as follows;

- If a prosecution proceeds the Monitoring Officer will take no further action apart from updating the Standards Committee on its progress,
- If the CPS decides not to proceed with a prosecution then the Monitoring Officer will decide whether it is appropriate to process the complaint through the Council's internal arrangements for dealing with such complaints. It is accepted that the CPS require a higher standard of proof (beyond reasonable doubt) for a criminal prosecution whereas the Monitoring Officer/Standards Committee will need only to consider the balance of probabilities. Therefore whilst a criminal offence may not have been committed, there still may be sufficient evidence that a breach of the Code of Conduct has occurred. However the Monitoring Officer will take into consideration the fact that a Police investigation has taken place and the outcome from it in determining whether it is appropriate and proportionate to now consider a further investigation under the code of conduct or whether some other action would be more appropriate.
- In the event that the Council pursues the matter further in terms of a Code of Conduct breach, it will inform the Police of their decision.

DISCLOSABLE PECUNIARY INTERESTS

This note explains the requirements of the Localism Act 2011 (Ss 29-34) in relation to disclosable pecuniary interests.

These provisions are enforced by criminal sanction.

They come into force on 1 July 2012.

1 Notification of disclosable pecuniary interests

Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any ‘disclosable pecuniary interests’.

A ‘Disclosable Pecuniary Interest’ is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) within the following descriptions:

<i>Interest</i>	<i>Description</i>
Employment, office, trade, profession or vacation	An 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 Council) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contract	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the Council – (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.

Land	Any beneficial interest in land which is within the area of the Council.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge) – (a) the landlord is the Council; and (b) the tenant is body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where – (a) that body (to M/s knowledge) has a place of business or land in the area of the Council; and (b) either – (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

These descriptions on 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 the person M referred to in section 30 of the Act;

“member” includes a co-opted member;

“relevant authority” means the Council 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) of the Act;

“relevant person” in relation to disclosable pecuniary interests means M or M’s spouse or civil partner or a person with whom M is living as husband and wife or a person with whom M is living as if they were civil partners;

“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.

2 Dispensations

The Standards Committee or Monitoring Officer may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

3 Offences

It is a criminal offence to

- Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election
- Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register
- 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
- Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest
- As a Executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest.
- Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale (currently £5,000) and disqualification from being a councillor for up to 5 years.

APPENDIX 3

PROTOCOL BETWEEN THE MONITORING OFFICER OF SOMERSET COUNTY COUNCIL AND THE AVON AND SOMERSET CONSTABULARY

Purpose

To agree a protocol for the reporting of potential criminal offences arising from the failure to register or declare disclosable pecuniary interests or from speaking and voting where a member has a disclosable pecuniary interest and has not first sought a dispensation.

References to the Monitoring Officer also include the Deputy Monitoring Officer where the Monitoring Officer is absent or unable to act. In these circumstances the Deputy Monitoring Officer has full power to undertake the Monitoring Officer role. Similarly, references to Independent Person also include the Reserve Independent Person where the Independent Person is absent or unable to act. In these circumstances the Reserve Independent Person has full power to undertake the Independent Person's role.

Introduction

Section 34 of The Localism Act 2011 created a criminal offence where a Member or co-opted Member fails, without reasonable excuse, to comply with the requirements of the Act to register or declare disclosable pecuniary interests (DPIs) or takes part in council business at meetings or when acting alone when prevented from doing so. If found guilty of such an offence the penalty can be a fine (under the current levels) of up to £5,000 and a disqualification from holding office for up to 5 years.

The Code of Conduct

Somerset County Council adopted a new Code of Conduct at full council on 18th July 2012. The Code incorporates the legislation and provides, at Annex A, that it is a criminal offence to;

- Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election,
- Fail to disclose a pecuniary interest at a meeting if it is not on the Register,
- Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed at a meeting,
- Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest,
- As a Cabinet member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer of the disclosable pecuniary interest within 28 days of the interest,
- Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting.

The Process

If the Monitoring Officer becomes aware, either via a complaint made under the Council Arrangements, or via any other means he/she will first gather together all relevant documentation for consideration. Having ascertained that no dispensations have been granted, if he/she is of the opinion that there is evidence of such a breach of the Code he/she will then consult the Independent Person (IP) confidentially for his / her opinion. No contact will be made with the subject member against whom the complaint is made as this may prejudice any investigation the Police may wish to undertake or subsequent prosecution. In addition the Monitoring Officer and the IP will be unable to assist or advise the subject member against whom the complaint is made.

If the Monitoring Officer concludes that there is evidence of a breach he/she must report the matter to the police and send all relevant documentation to them. The Monitoring Officer does not have any discretion in this instance and it will be for the Police to conduct whatever investigation they consider appropriate. The Monitoring Officer may initially contact the Liaison Officer by telephone to inform him/her of the situation before sending the documentation. The nominated point of contact is the Somerset Areas Commander - Nikki.watson@avonandsomerset.police.uk.

Similarly if the police receive a complaint from a member of the public they will inform the Monitoring Officer of the receipt of that complaint. The Monitoring Officer, currently Julian Gale, should be contacted on 01823 355025 or at jjgale@somerset.gov.uk.

The Monitoring Officer and/or the IP will make themselves available for interview as witnesses in any subsequent court processes should this be required by the Police or Crown Prosecution Service (CPS).

The Monitoring Officer will maintain regular contact with the Liaison Officer or his/her office to obtain updates on the progress of their investigation.

The Monitoring Officer will report the matter and any progress in the investigation confidentially to the Standards Committee, unless the matter concerns a member of that Committee when only the Chair will be informed. If the matter concerns the Chair of that Committee no report will be made until after the police have interviewed the Chair and the CPS have agreed for the matter to be disclosed.

Once the police have completed their investigation and a decision has been made by the CPS the process will be as follows;

- If a prosecution proceeds the Monitoring Officer will take no further action apart from updating the Standards Committee on its progress,
- If the CPS decides not to proceed with a prosecution the Monitoring Officer will then process the complaint through the Council's Arrangements for dealing with such complaints. It is accepted that the CPS require a higher standard of proof (beyond reasonable doubt) for criminal prosecution whereas a local panel need only consider the balance of probabilities and therefore whilst there may not be a criminal offence there still may be a breach of the Code of Conduct. In the event that the Council pursues the matter further in terms of a Code of Conduct breach, it will inform the Police of their decision.

Agenda Item 7

Parish and Town Councils – Update on the Number of Register of Interests Forms Received

Assistant Director: Ian Clarke, Legal and Corporate Services
Lead Officer: As above
Contact Details: ian.clarke@southsomerset.gov.uk or (01935) 462184

Purpose of Report

To update Members about the number of Register of Interests forms returned from town and parish councils.

Public Interest

South Somerset District Council, through its Standards Committee, has responsibility for dealing with complaints that a councillor may have acted in breach of the relevant Code of Conduct. This responsibility relates to complaints about councillors of South Somerset District Council and all town & parish councils in our administrative area.

Each town and parish council is responsible for deciding what its own code should contain so its provisions may differ from our own. South Somerset District Council holds copies of all Codes for parish and town councils in order to see if the behaviour which is being complained about is specifically covered. If it is not covered then we cannot deal with the complaint.

All councillors are also required to complete a Register of Interests as required by the law and Codes of Conduct. Whilst the content may differ slightly between councils, in broad terms it contains details of the councillor's employment, land holdings, any contracts with the council and the identity of outside bodies of which they are also a member or in a position of control or management. These Registers are available for public inspection at our Brympton Way offices, and it is now also a requirement for them to be published on the internet. Responsibility for completing the register rests with the individual councillors.

Recommendation:

That members note the report.

Report

At the time of publishing this agenda, 92% of Register of Interests forms have also been received from a total of 828 town and parish councillors (there are 102 councils in South Somerset) but members will appreciate that some of the missing forms will be in relation to existing vacancies on parish/town councils. Democratic Services staff contact the town and parish clerks on an individual basis to encourage them to address any issue and omissions as soon as possible. Clearly it is not in anyone's interests for any failure to provide a completed Register of Interest form to end up as a formal complaint being made against the member under the town or parish council's code of conduct. Our own district councillors have been very good indeed and all have returned their completed forms.

As members will appreciate this is a significant piece of additional work for the Democratic Services team and some aspects have identified issues which we will try and address next time. The main issues seem to be that some councillors are not actually reading the supporting guidance or the form of the Register used by a particular council does not provide any additional guidance or clarification for its members. This means that queries present themselves on a significant percentage of forms which require further work to resolve. It is important that the information the Register contains is accurate and complete so that a member of the public can easily ascertain whether any member has an interest which should be declared.

All the Registers are then scanned by us (but excluding any signatures) and placed on our website for public view. The “new” process does it make it much easier for the public to access this information at any time which is a considerable improvement on the previous arrangements.

Background Papers: *None*

Agenda Item 8

Members Register of Interests

Assistant Director: *Ian Clarke, Legal and Corporate Services*
Lead Officer: *Ian Clarke, Legal and Corporate Services*
Contact Details: *ian.clarke@southsomerset.gov.uk or (01935) 462184*

Purpose of the Report

To seek approval to revise the form for prescribed Information on Members Financial and Other Interests (Members Register of Interests).

Public Interest

All councils are required by law to establish and maintain a register of interests of members and other than Disclosable Pecuniary Interests can determine what is to be entered in that register. All members of South Somerset District Council and Town/Parish Councils within its area are required under their respective codes of conduct, to declare designated information and other interests. The aim of the declarations is to promote openness and good governance, so that the public can view what influences and interests might inform members' views and those which may affect the way in which they perform their public duties.

Recommendation

For Members to approve, or suggest amendments to the proposed revised SSDC Members Register of Interests form, the format of which is also used by a large number of the Town and Parish Councils (and which will be promoted to all) – as attached at Appendix A.

Background

Members will be aware that under the provisions of the Localism Act 2011, members of every local authority are required to register Disclosable Pecuniary Interests and such other interests which are specified in the Code of Conduct.

Report

The current arrangements consist of a form which includes some explanation of the information required. The proposed revised form incorporates more specific explanatory notes into the form, and it is hoped this will make it easier to understand both by the member and any public who may subsequently view the register. It has been apparent from checking forms following the May 2015 elections that further explanation of the information required to be disclosed is needed particularly amongst our town and parish councils. The proposed revised form is attached as an Appendix to this report showing the changes which are being proposed to the current form.

Another provision of the Localism Act 2011, requires us to publish all the Town and Parish Councillor Register of Interest forms on our website, (as well as our District Councillors forms) which will open them to greater public scrutiny. The town and parish councils are also required to make a copy of the register relating to their council available for public inspection

in their parish and, should they have a website, are required to publish the registers on their website in addition.

Financial Implications

None that cannot be met from existing budget.

Corporate Priority Implications

None

Carbon Emissions and Climate Change Implications

Not applicable

Equality and Diversity Implications

Forms are available in large print or another language upon request.

Background Papers: *Members Registers of Interests Form*
The Localism Act 2011
The Relevant Authorities (Disclosable Pecuniary Interests)
Regulations 2012

Appendix A

REGISTER OF MEMBERS' INTERESTS

GENERAL NOTICE OF REGISTRABLE INTERESTS

South Somerset District Council's Code of Conduct adopted 19th July 2012,
revised 26th February 2015 (effective 7th May 2015)

proposed changes are shown as italics underlined

I, Councillor

a Member of South Somerset District Council (the Council') give notice that

Either

I have no registrable interests which are required to be declared under the Council's Code of Conduct, and I have put 'none' where I have no such interests under any heading.

Or

I have set out below under the appropriate headings my interests, which I am required to declare under the Council's Code of Conduct. These include any disclosable pecuniary interests under sections 29 to 31 of the Localism Act 2011 and The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, and I have put '**none**' where I have no such interests under any heading.

Note:

1. *Where you consider that information relating to any of your interests is a 'Sensitive Interest' you need not include that interest provided you have consulted with the Monitoring Officer and he agrees that it need not be included. A 'Sensitive Interest' is an interest which could create or is likely to create a serious risk that you or a person connected with you may be subjected to violence or intimidation.*
2. *Where the interest is no longer a 'Sensitive Interest' you must notify the Monitoring Officer within 28 days of that change.*
3. *This form gives general guidance, but is not comprehensive. The District Council's Code of Conduct gives precise requirements. The Localism Act and the Regulations named above should be referred to where necessary. Continuation sheets should be used where needed and clearly marked.*

1. Employment, Office, Trade, Profession or Vocation

- 1.1 You should disclose any employment, office, trade, profession or vocation carried on for profit or gain, including the name of any person or body who employs or has appointed you **and that of your spouse/civil partner** (or person with whom you are living as such) of which you are aware. *(If self-employed please state as what and the trading name eg. Self-employed decorator – Paint Drips R Us. If employed, please include job title/description and full name of employer)*

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2. Sponsorship

- 2.1. You should declare any payment or provision of any other financial benefit (**other than from the Council**) made or provided within the last 12 months in respect of expenses incurred by you in carrying out your duties as a member, or towards your election expenses **and that of your spouse/civil partner** (or person with whom you are living as such) of which you are aware. *Note - This includes any payment or financial benefit from a trade union, or political party.*

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3. Securities

3.1 You should detail any beneficial interest in securities of a body which has to your knowledge a place of business or land in the District of South Somerset and **either** the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital, **or** one hundredth of the total issued share capital of any class of shares issued **and that of your spouse/civil partner** (or person with whom you are living as such) of which you are aware. (You do not need to register the market value of the shares.)

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4. Contracts

4.1 You should detail any current undischarged contract made between you, or a body in which you have a beneficial interest, and the Council under which goods or services are to be provided or works are to be executed **and those of your spouse/civil partner** (or person with whom you are living as such) of which you are aware. (Details should enable identification of the contract but there is no need to state the value of the contract or its terms)

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5. Land, Licences and Corporate Tenancies

5.1 Land

You should detail any beneficial interest in land (**and this includes your house**) within the District of South Somerset (excluding any easement, or right in or over land which does not carry the right to occupy or receive income) **and that of your spouse/civil partner** (or person with whom you are living as such) of which you are aware. (This must include at least your home address – regardless of if you own, rent or live with a family member etc. Sufficient details should be given to identify the land e.g. postal address, field number or grid reference, supply a diagram or map if necessary for land – a description of 20 acres at Somewhere Farm does not provide enough detail.)

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5.2 Licences

You should detail any licence (alone or jointly with others) to occupy land in the District of South Somerset for a month or longer **and that of your spouse/civil partner** (or person with whom you are living as such) of which you are aware.

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5.3 Corporate Tenancies

You should detail any tenancy where to your knowledge, the Council is the landlord and the tenant is a body in which you have a beneficial interest **and that of your spouse/civil partner** (or person with whom you are living as such) of which you are aware.

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6. Membership of other bodies

6.1 Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council. (list all outside bodies (not SSDC sub committees or working groups) on which you are serving as an SSDC representative. This will include appointments made by both Council and your Area Committee).

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6.2 Any body exercising functions of a public nature (e.g. another local authority such as a parish council or county council, health authority, school governor etc) of which you are a councillor, member or in a position of general control or management.

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6.3 Any body directed to charitable purposes of which you are a member or in a position of general control or management. (Give details of any company of which you are a member (e.g. a board member etc). Give details of any membership of any industrial and provident society. Include any charity of which you are a trustee or member and any non-profit making body such as cultural, sporting, environmental or social association, club or organisation. Membership of the Freemasons and service clubs such as the Rotary and Round Table should also be declared in this section.)

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6.4 Any body one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management.

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7. Related Party Transactions (please see enclosed information sheet)

Please give notice of any Related Party Transaction which you are required to declare under the International Standard on Auditing (UK and Ireland) 550 Related Parties, as required for the statutory year end accounts:

7.1 A description of any contract for goods, services or works made between the authority and yourself (or a family member) or a firm in which you (or a family member) are a partner, a company of which you (or a family member) are a remunerated director, or a body of the description specified above.

.....
.....

7.2 The name of any corporate body which has place of business or land in the authority's area, and in which a close family member has a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one-hundredth of the total issued share capital of that body.

.....

8. Disclosure of Gifts and Hospitality

8.1 You must reveal the name of any person from whom you have received a gift or hospitality with an estimated value of at least £25 which you have received in your capacity as a member of the Council.

Date of receipt of Gift/Hospitality	Name of Donor	Reason and Nature of Gift/Hospitality

You are reminded that you must update the register within 28 days of receiving any further gift or hospitality with an estimated value of at least £25 by completing a continuation sheet which may be obtained from Democratic Services (contact Angela Cox ext: 2148).

9. Changes to Registered Interests

9.1. I understand that I must, within 28 days of becoming aware of any new or change in the above interests, including any change in relation to a sensitive interest, provide written notification thereof to the Council's Monitoring Officer.

9.2. I recognise that it is a breach of the Council's Code of Conduct to:

- (1) omit information that ought to be given in this notice;
- (2) provide information that is materially false or misleading;
- (3) fail to give further notices in order to
 - bring up to date information given in this notice;
 - declare an interest that I acquire after the date of this notice and have to declare

and that any breach of the Code of Conduct can be referred to the Standards Committee.

9.3 I understand that failure (without reasonable excuse) to register or disclose any disclosable pecuniary interest in accordance with section 30(1) or 31(2), (3) or (7) of the Localism Act 2011, or participating in any discussion or vote in contravention of section 31(4) of the Localism Act 2011, or taking any steps in contravention of section 31(8) of the Localism Act 2011 is a criminal offence and risks a fine not exceeding level 5 on the standard scale (currently £5,000) or disqualification as a member for a period not exceeding 5 years.

9.4 I hereby undertake to comply with South Somerset District Council's Code of Conduct

Signed:(Councillor) **Date:**

Received & Checked:

Signed:(Monitoring Officer, SSDC) **Date:**

Relevant Extracts from the Localism Act 2011

30 Disclosure of pecuniary interests on taking office

(1) A member or co-opted member of a relevant authority must, before the end of 28 days beginning with the day on which the person becomes a member or co-opted member of the authority, notify the authority's monitoring officer of any disclosable pecuniary interests which the person has at the time when the notification is given.

31 Pecuniary interests in matters considered at meetings or by a single member

(2) If the interest is not entered in the authority's register, the member or co-opted member must disclose the interest to the meeting, but this is subject to section 32(3).

(3) If the interest is not entered in the authority's register and is not the subject of a pending notification, the member or co-opted member must notify the authority's monitoring officer of the interest before the end of 28 days beginning with the date of the disclosure.

(4) The member or co-opted member may not—

(a) participate, or participate further, in any discussion of the matter at the meeting, or

(b) participate in any vote, or further vote, taken on the matter at the meeting,

but this is subject to section 33.

(6) Subsections (7) and (8) apply if—

(a) a function of a relevant authority may be discharged by a member of the authority acting alone,

(b) the member has a disclosable pecuniary interest in any matter to be dealt with, or being dealt with, by the member in the course of discharging that function, and

(c) the member is aware that the condition in paragraph (b) is met.

(7) If the interest is not entered in the authority's register and is not the subject of a pending notification, the member must notify the authority's monitoring officer of the interest before the end of 28 days beginning with the date when the member becomes aware that the condition in subsection (6)(b) is met in relation to the matter.

(8) The member must not take any steps, or any further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by the member).

Agenda Item 9

Update on Matters of Interest

Assistant Director: Ian Clarke, Legal and Corporate Services

Lead Officer: As above

Contact Details: ian.clarke@southsomerset.gov.uk or (01935) 462184

Purpose of Report

This report is submitted for information to update members on any recent information regarding matters of interest to the Standards Committee, and for the Monitoring Officer or Independent Persons to verbally update members on any ongoing matters.

Recommendation

That members note the verbal updates as presented by the Assistant Director (Legal and Corporate Services).

Background Papers: None

Agenda Item 10

Committee Work Programme and Future Meetings

Monitoring Officer:: Ian Clarke, Legal and Corporate Services
Lead Officer: As above
Contact Details: ian.clarke@southsomerset.gov.uk or (01935) 462184

Purpose of Report

To seek members' approval of the work programme and to advise members of the proposed future meeting arrangements.

Public Interest

In order that the work of the committees is planned effectively and to enable the public to see when items that may be of interest to them are to be discussed by the Standards Committee, it is important that a work programme is produced, agreed and updated.

Recommendation:

- 1) That Members agree the Work Programme as attached as Appendix A
- 2) That Members note the future meeting arrangements

Work Programme

The suggested Work Programme to be agreed by the Committee is attached as Appendix A. Members are invited to suggest other items for future consideration. The Terms of Reference of the Standards Committee are shown at the front of this agenda. so that members can see the scope of their responsibilities and how this may suggest matters for the Programme

Meeting Arrangements

The Committee is scheduled to meet on the following dates:

14 June 2016
11 October 2016
14 February 2017

The next meeting of the Standards Committee is scheduled for 2.15p.m. on Tuesday 14 June 2016 in the Main Committee Room, Brympton Way, Yeovil.

Background Papers: *None*

Appendix A

Standards Committee Work Programme 2016/17

Report	Timetable	Report Author	Comments
Receive regular update reports from Independent Person	Each meeting of Standards Committee	Chris Borland/Peter Forrester	May be a verbal update
Receive reports from the Monitoring Officer regarding complaints received	Each meeting of Standards Committee	Ian Clarke	Only report if complaints received
Progress reports from Monitoring Officer in relation to current complaints.	Each meeting of Standards Committee	Ian Clarke	Report will contain performance data and not personal details
Consider Dispensation Applications	As required	Ian Clarke	Agreed process in place
Review Guidance for Members on Gifts and Hospitality	February 2017	Ian Clarke	Review every 2 years thereafter
Annual Report to Council by Chairman of Committee and Independent Person	TBA	Chairman	
Review and streamline Hearing Procedures	June 2016	Ian Clarke	The intention will be to make the process more efficient, proportionate, cost effective and timely by dealing with the matter "on the papers".
Consider annual report on receipt of Gifts and Hospitality for Members and Officers	October 2016	Ian Clarke	
Assess and respond to training and support requirements of members of the District, Town and Parish Councils in relation to the Code of Conduct	October 2016	Ian Clarke Angie Cox Jo Gale	Clerks to be contacted as asked to identify the main training requirements from their perspective to help design the training programme.

Report	Timetable	Report Author	Comments
Review Guidance and Process for dealing with Complaints.	February 2016	Ian Clarke	Review every 2 years thereafter
Review Protocol on Member/Officer relations.	October 2016	Ian Clarke	Review every 2 years thereafter
Consider revisions to the Constitution	As required	Ian Clarke	
Consider complaints (where not delegated to the Monitoring Officer)	As required	Ian Clarke	No such complaints currently
Consider investigation reports (Hearings Panel) where required	As required	Ian Clarke	No investigations currently
Impose or recommend sanctions where there has been a breach of the Code of Conduct	As required	Ian Clarke/Hearings Panel	No hearings needed currently
Independent Persons to meet with Political Group Leaders and Chief Executive annually.	To be confirmed	Committee Admin to organise	
Consider the Ombudsman's Annual Report	To be determined	Ian Clarke	

Agenda Item 11

Exclusion of Press and Public

The Committee is asked to agree that the following item (agenda item 10) be considered in Closed Session by virtue of the Local Government Act 1972, Schedule 12A under paragraph 1:

“Information relating to any individual.”

It is considered that the public interest in maintaining the exemption from the Access to Information Rules outweighs the public interest in disclosing the information.

Agenda Item 12

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted