Arrangements for dealing with complaints of Councillor Misconduct

1 Context

These “Arrangements” set out how you may make a complaint that an elected or co-opted member of this authority [or of a parish council within its area] has failed to comply with the authority’s Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the authority’s Code of Conduct.

Under the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a member or co-opted member of the authority [or of a parish council within the authority’s area], or of a Committee or Sub-Committee of the authority, has failed to comply with that authority’s Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the authority to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a member [or a member or co-opted member of a parish council] against whom an allegation has been made.

2 The Code of Conduct

The Council has adopted a Code of Conduct for members, which is attached as Appendix One to these arrangements and available for inspection on the authority’s website and on request from Reception at the Council’s Offices.

[Each parish council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council’s Code of Conduct, you should inspect any website operated by the parish council or request the parish clerk to allow you to inspect the parish council’s Code of Conduct.]

3 Making a complaint

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

Assistant Director – Transformational Governance / Monitoring Officer
South Northamptonshire Council
The Forum
Towcester
Northants
NN12 6AD
The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of members’ interests and who is responsible for administering the system in respect of complaints of member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please clearly identify the Councillor or Councillors you are complaining about and the paragraphs of the Code which you allege have been breached.

Please do provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this, in which case we will not disclose your name and address to the member against whom you make the complaint, without your prior consent. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The Monitoring Officer will acknowledge receipt of your complaint, and will keep you informed of the progress of your complaint.

4 Will your complaint be investigated?

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person, will take a decision as to whether it merits formal investigation. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision.

Where he/she requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the member against whom your complaint is directed. [Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation.]

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the member or the authority make a reasonable offer of local resolution, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.
5 How is the investigation conducted?

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

6 What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer’s report and after consulting with the Independent Person, if he/she is satisfied that the Investigating Officer’s report is sufficient, the Monitoring Officer will write to you and to the member concerned [and to the Parish Council, where your complaint relates to a Parish Councillor], notifying you that he is satisfied that no further action is required, and give you both a copy of the Investigating Officer’s final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider his/her report.

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

The Monitoring Officer will review the Investigating Officer’s report and will then either send the matter for hearing before the Standards Committee or, after consulting the Independent Person, seek local resolution.
7.1 Local Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee [and the Parish Council] for information, but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate, the Monitoring Officer will refer the matter for a hearing.

7.2 Hearing

If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer’s report to the Standards Committee which will conduct a hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The Monitoring Officer may conduct a “pre-hearing process”, requiring the member to give his/her response to the Investigating Officer’s report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Committee Chairman may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Committee. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Committee, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Committee concludes that the member did fail to comply with the Code of Conduct, the Chairman will inform the member of this finding and the Committee will then consider what action, if any, the Committee should take as a result of the
member’s failure to comply with the Code of Conduct. In doing this, the Committee will give the member an opportunity to make representations to it and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

8 What action can the Committee take where a member has failed to Comply with the Code of Conduct?

The Council has delegated to the Committee such powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Committee may –

8.1 Censure or reprimand the member;
8.2 Publish its findings in respect of the member’s conduct;
8.3 Report its findings to the Council [or to the parish Council] for information;
8.4 Recommend to the member’s Group Leader (or in the case of un-grouped members, recommend to the Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
8.5 Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
8.6 Recommend to Council that the member be replaced as Leader;
8.7 Instruct the Monitoring Officer to [or recommend that the Parish Council] arrange training for the member;
8.8 Recommend to Council or the Council Leader [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];
8.9 Withdraw [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; or
8.10 Exclude [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, Cabinet, Committee and Sub-Committee meetings.
The Committee has no power to suspend or disqualify the member or to withdraw members’ or special responsibility allowances.

9 What happens at the end of the hearing?

At the end of the hearing, the Chairman will state the decision of the Committee as to whether the member failed to comply with the Code of Conduct and as to any actions which the Committee resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Committee Chairman, and send a copy to you, to the member [and to the Parish Council], make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

10 Who are the Committee?

The Standards Committee comprises five Councillors of the District Council including at least one from each of the three political groups on the Council. It may also co-op non-voting representatives from Town and Parish Councils.

The Independent Person is invited to attend all meetings of the Committee and his views are sought and taken into consideration before it takes any decision on whether the member’s conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

11 Who is the Independent Person?

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is then appointed by a positive vote from a majority of all the members of Council.

A person cannot be “independent” if he/she –

11.1 Is, or has been within the past 5 years, a member, co-opted member or officer of the authority;

11.2 [Is or has been within the past 5 years, a member, co-opted member or officer of a parish council within the authority’s area], or

11.3 Is a relative, or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, “relative” means-

11.3.1 Spouse or civil partner;
11.3.2 Living with the other person as husband and wife or as if they were civil partners;
11.3.3 Grandparent of the other person;
11.3.4 A lineal descendent of a grandparent of the other person;
11.3.5 A parent, sibling or child of a person within paragraphs 11.3.1 or 11.3.2;
11.3.6 A spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5; or
11.3.7 Living with a person within paragraphs 11.3.3, 11.3.4 or 11.3.5 as husband and wife or as if they were civil partners.

12 Appeals

There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Standards Committee.

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

1 July 2012
SOUTH NORTHAMPTONSHIRE COUNCIL
MEMBERS’ CODE OF CONDUCT

The Members’ Code of Conduct is intended to promote high standards of behaviour amongst the elected and co-opted members of the council.

The Code is underpinned by the following principles of public life which should be borne in mind when interpreting the meaning of the Code:-

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

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

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

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

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

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

vii. **Leadership** Holders of public office should promote and support these principles by leadership and example.
PART 1

GENERAL PROVISIONS

1. **Introduction and interpretation**

1.1. This Code applies to **you whenever you are acting in your capacity** as a member of South Northamptonshire Council:
   a) When acting as a representative of the authority;
   b) At briefing meetings with officers;
   c) When corresponding with the authority other than in a private capacity

1.2. The term “**the Authority**” used in this Code refers to South Northamptonshire Council.

1.3. "**Member**" means any person being an elected or co-opted member of the Authority.

1.4. It is **your** responsibility to comply with the provisions of this Code.

1.5. In this code –

   "**Meeting**" means any meeting of
   a) The Authority;
   b) The Cabinet of the Authority;
   c) Any of the Authority’s or its Cabinet’s committees, sub-committees, joint committees, joint sub-committees or area committees;
   d) Any of the Authority’s working parties and panels

1.6. In this Code “relevant authority” has the meaning given to it by section 27(6) of the Localism Act 2011.

2. **General obligations**

2.1. You must treat others with respect.

2.2. You must not:-

   a) do anything which may cause the Authority to breach UK equalities legislation;

   b) bully any person

   c) intimidate or attempt to intimidate any person who is or is likely to be:
      (i) a complainant;
      (ii) a witness; or
      (iii) involved in the administration of any investigation or proceedings,
in relation to an allegation that a Member (including yourself) has failed to comply with his or her authority's code of conduct.

d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.

e) conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

3. **You must not:-**

3.1. disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:-

   a) you have the consent of a person authorised to give it;

   b) you are required by law to do so;

   c) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

   d) the disclosure is:-

      (i) reasonable and in the public interest; and

      (ii) made in good faith and in compliance with the reasonable requirements of the authority; or

3.2. prevent another person from gaining access to information to which that person is entitled by law.

4. **You must not:-**

4.1. use or attempt to use your position as a member improperly to confer on, or secure for yourself or any other person, an advantage or disadvantage; and

5. **You must:-**

5.1. when using or authorising the use by others of the resources of your authority:-

   a) act in accordance with your authority's reasonable requirements;

   b) ensure that such resources are not used improperly for political purposes (including party political purposes); and

   c) have regard to any Local Authority Code of Publicity made under the Local Government Act 1986.
PART 2

INTERESTS

6. **Disclosable Pecuniary Interests**

6.1. Breaches of the rules relating to Disclosable Pecuniary Interests may lead to criminal sanctions being imposed.

6.2. You have a disclosable pecuniary interest if it is of a description specified in regulations made by the Secretary of State (attached at Appendix A) and either:

a) it is an interest of yours, or

b) it is an interest of:
   (i) your spouse or civil partner;
   (ii) a person with whom you are living as husband and wife, or
   (iii) a person with whom you are living as if you were civil partners

and you are aware that that other person has the interest.

7. **Registration of Disclosable Pecuniary Interests**

7.1. Subject to paragraph 9 below (sensitive interests), you must, within 28 days of:
   a) this Code being adopted or applied by the Authority; or
   b) your election or appointment (where that is later),
   notify the Authority’s Monitoring Officer in writing of any Disclosable Pecuniary Interests you have at that time.

7.2. Subject to paragraph 9 below (sensitive interests), you must, within 28 days of becoming aware of any new Disclosable Pecuniary Interest or any change to any such interest, notify the Authority’s Monitoring Officer in writing of that new pecuniary interest or change.

8. **Disclosable Pecuniary interests in matters considered at meetings or by a single member**

8.1. If you attend a meeting and have and are aware that you have a disclosable pecuniary interest in any matter to be considered, or being considered, at that meeting, –

   a) if the interest is not entered in the Authority’s register of members’ interests, you must, subject to sub-paragraph 9 below, disclose to the meeting the fact that you have a Disclosable Pecuniary Interest in that matter. If you have not already done so, you must notify the Authority’s Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure, and

   b) whether the interest is registered or not you must not – unless you have obtained a dispensation from the Authority’s Monitoring Officer
i. participate, or participate further, in any discussion of the matter at the meeting; or
ii. remain in the meeting room whilst the matter is being debated or participate in any vote taken on the matter at the meeting.

9. **Sensitive interests**

9.1. Where you consider (and the Authority’s Monitoring Officer agrees) that the nature of a Disclosable Pecuniary or Non-Statutory Disclosure Interest is such that disclosure of the details of the interest could lead to you or a person connected with you being subject to intimidation or violence, it is a “sensitive interest” for the purposes of the Code, and the details of the sensitive interest do not need to be disclosed to a meeting, although the fact that you have a sensitive interest must be disclosed.

10. **Non Statutory Disclosable Interests**

10.1. You have a “non-statutory disclosable interest” in an item of business of your authority where –

a. a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or a person with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority’s administrative area, or

b. it relates to or is likely to affect any of the interests listed in the Table in the Appendix A to this Code, but in respect of a member of your family (other than a “relevant person”) or a person with whom you have a close association and that interest is not a disclosable pecuniary interest.

10.2. If you attend a meeting and are aware that you have a ‘Non Statutory Disclosable Interest in any matter to be considered, or being considered, at that meeting:-

(a) If the interest is not entered in the Authority’s register of members’ interests, you must, subject to sub-paragraph 9 above, disclose to the meeting the fact that you have a Non-Statutory Disclosable Interest in that matter, and

(b) If the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest, you must not:-

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

11. **Gifts and Hospitality**

11.1. You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £50 which you have accepted as a member from any person or body other than the authority.

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

### Disclosable Pecuniary Interests

The duties to register, disclose and not to participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011. Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows –

<table>
<thead>
<tr>
<th>Interest</th>
<th>Prescribed description</th>
</tr>
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<tbody>
<tr>
<td>Employment, office, trade, profession or vocation</td>
<td>Any employment, office, trade, profession or vocation carried on for profit or gain.</td>
</tr>
<tr>
<td>Sponsorship</td>
<td>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</td>
</tr>
<tr>
<td>Contracts</td>
<td>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.</td>
</tr>
<tr>
<td>Land</td>
<td>Any beneficial interest in land which is within the area of the relevant authority.</td>
</tr>
<tr>
<td>Licences</td>
<td>Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.</td>
</tr>
<tr>
<td>Corporate tenancies</td>
<td>Any tenancy where (to M’s knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.</td>
</tr>
<tr>
<td>Securities</td>
<td>Any beneficial interest in securities of a body where— (a) that body (to M’s knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</td>
</tr>
</tbody>
</table>
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.

For this purpose –

“the Act” means the Localism Act 2011;

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

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

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

“M” means a member of a relevant authority;

“member” includes a co-opted member;

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

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

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

i) M’s spouse or civil partner,
ii) A person with whom M is living as husband and wife, or
iii) 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.