

FAREHAM

BOROUGH COUNCIL

Audit and Governance – Standards Sub-Committee

Date **26 March 2015**

Report of: **Monitoring Officer**

Subject: **Allegation of a Breach of the Members' Code of Conduct**

NOT FOR PUBLICATION by virtue of Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

SUMMARY

This report contains details of an allegation of a breach of the Members' Code of Conduct against Councillor Christopher Wood at a meeting of the Planning Committee on Wednesday 25th February 2015.

RECOMMENDATION

That the Standards Sub Committee considers the evidence in the report and after hearing from members involved as appropriate:

- (a) determines whether or not a breach of the Members' Code of Conduct has taken place; and
- (b) subject to the decision at recommendation (a), determines what action(s) should be taken, in accordance with Standards Arrangements, as approved by Council on 21 June 2012.

INTRODUCTION

1. On 25th February 2015, the Council's Planning Committee received and considered a detailed planning application relating to the proposed road junction at the western end of the Daedalus development site (application reference P/15/0014/FP).
2. As per standard procedures, the Planning Committee meeting was held in public session. In accordance with the Council's Deputation Scheme, the Committee heard three deputations, one from a member of the public, one from Councillor Wood opposing the application and one from Councillor Knight in support of the application.
3. The Committee then considered the item and approved the application.

THE COMPLAINT

4. On 26th February 2015, the Council's Monitoring Officer received an e-mail from Councillor Trevor Cartwright, a member of the Planning Committee present at the meeting, stating that during the committee's discussion of the item he heard Councillor Wood, who remained in the committee room after making his deputation, say "That's fu**ing b****cks"
5. Councillor Cartwright considered this to be unacceptable language, particularly as it was a public meeting at which a representative of the local press and several members of the public were present. He asked the Monitoring Officer to investigate the allegation.
6. On 27th February 2015, a Council Officer present at the Planning Committee meeting e-mailed the Monitoring Officer in confidence. The e-mail stated that the Officer had heard Councillor Wood say "That's fu**ing b****cks" during discussion of the planning application referred to in paragraph 1 of this report.

THE INVESTIGATION

7. Based on the information received, the Monitoring Officer started to investigate the allegation in accordance with procedure relating to such matters which was approved by Council on 21st June 2012 (attached at Appendix A).
8. Meetings were held and statements taken from Councillor Wood, Councillor Cartwright and the Council officer. A record of these statements can be found at Appendices B, C and D.
9. At the meeting with Councillor Wood, he stated that he did not recall using the alleged words, but if he had done, he would apologise unreservedly.
10. The Monitoring Officer took legal advice from the Solicitor to the Council and from Hoey Ainscough (a company which provides professional advice to local authorities on Governance and Code of Conduct issues). One of the Council's Designated Independent Persons (DIP) was also consulted in accordance with the adopted process. The DIP advised that given the circumstances of the alleged incident, he agreed that it would be appropriate to refer the matter to the Audit and Governance Standards Sub Committee.

11. After taking advice as above, a decision was taken by the Monitoring Officer not to reveal the identity of the officer who corroborated the allegation. This is considered to be appropriate in the circumstances and is consistent with the council policy for employees on whistleblowing.
12. Whilst unusual, the Council has a duty of care towards its employees and as the statement made is simply corroboration it is felt that in the circumstances a redacted statement is the appropriate submission to this sub committee.
13. Council officers have to work closely with all members and it is considered that if the identity of the individual were to be public this could reasonably be expected to impact on that relationship. The redaction of the officer's details does not impinge on the principles of natural justice.
14. The Monitoring Officer is of the opinion that the officer is competent, professional and that the statement made is credible.

CONCLUSION

15. Having considered the allegation carefully, the Monitoring Officer has concluded that it is serious enough to be taken before the Council's Audit and Governance Sub - committee to determine.
16. This conclusion has been reached after consulting with the Council's Designated Independent Person and taking legal advice. If substantiated, the allegation would constitute a breach of the Council's Member Code of Conduct in respect of part 3. of the code: General obligations of Members and Co-opted Members
 - 1 When acting in your role as a Member or Co-opted Member:-
 - 1.1 Do treat others with respect;
 - 1.2 Do not conduct yourself in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct of Members.

A full copy of the code is attached at Appendix E.

17. If it is determined that the Code of Conduct has been breached, the actions available to the Standards Sub Committee are as set out in the Member Misconduct Complaints Procedure, Section 8, as set out within Appendix A.

Background Papers:

File of correspondence - NOT FOR PUBLICATION by virtue of Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

Reference Papers:

Code for Conduct for Members – Fareham Borough Council Constitution

Member Misconduct Complaints Procedure

Context

- 1.1 These “Arrangements” set out how you may make a complaint that an elected or co-opted member of this Council has failed to comply with the Code of Conduct for Members, and sets out how the Council will deal with allegations of a failure to comply with the Code of Conduct.
- 1.2 Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a member or co-opted member of the Council has failed to comply with Code of Conduct can be investigated and decisions made on such allegations.
- 1.3 Such arrangements must provide for the Council to appoint at least 1 Independent Person, whose views must be sought by the Council before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Council at any other stage, or by a member against whom an allegation has been made.

2. The Code of Conduct

- 2.1 The Council has adopted a Code of Conduct for Members, which is available for inspection on the Council’s website and on request from Reception at the Council Offices.

3. Making a complaint

- 3.1 If you wish to make a complaint, please write to:
The Monitoring Officer
Fareham Borough Council
Civic Offices, Civic Way
Fareham
PO16 7AZ

or by email to:

pdoran@fareham.gov.uk

- 3.2 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.
- 3.3 In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the complaint form, which can be downloaded from the authority’s website, and is available on request from the Reception at the Civic Offices.

- 3.4 Please 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 the space provided on the complaint form. The Monitoring Officer will consider your request for confidentiality and if granted we will not disclose your name and address to the member against whom you make the complaint, without your prior consent.
- 3.5 The Council does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.
- 3.6 The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.
- 3.7 The Complaints Procedure Flowchart is annexed at Appendix 1 for your assistance

4. Will your complaint be investigated?

- 4.1 The Monitoring Officer will review every complaint received and, may consult with the Independent Person before taking a decision as to whether it:
 - 4.1.1 Merits no further investigation
 - 4.1.2 Merits further investigation
 - 4.1.3 Should be referred to the Standards Sub Committee
- 4.2 This decision will normally be taken within 28 working days of receipt of your complaint. Your complaint will be considered in accordance with the Assessment Criteria annexed at Appendix 2. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision. Where the Monitoring Officer 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.
- 4.3 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 Council. Where the member or the Council make a reasonable offer of informal resolution, but you are not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint merits further investigation.
- 4.4 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 or other regulatory agencies.

5. How is the investigation conducted?

- 5.1 The Council has adopted a procedure for the investigation of misconduct complaints, which is attached as Appendix 3 to these arrangements.
- 5.2 If the Monitoring Officer decides that a complaint merits further investigation, he/she may 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 or Monitoring 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 need to be seen, and who needs to be interviewed.
- 5.3 The Investigating Officer or Monitoring Officer will 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.
- 5.4 At the end of his/her investigation, the Investigating Officer or Monitoring Officer will produce a draft report ("the Investigation 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.
- 5.5 Having received and taken account of any comments which you may make on the draft Investigation Report, a final Investigation Report will be prepared by the Investigating Officer or Monitoring Officer as appropriate.

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

- 6.1 If an Investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer's report and, if he is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned notifying you that he is satisfied that no further action is required, and give you both a copy of the Investigation Final Report.
- 6.2 If an Investigating Officer has been appointed and 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 or Monitoring Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

7.1 If an Investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer's report and will then either send the matter for a hearing before the Audit and Governance Standards Sub Committee, or in consultation with the Independent Person seek an informal resolution.

7.1.1 Informal 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 may 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 Audit and Governance Committee for information, but will take no further action.

7.1.2 Hearing by the Standards Sub-Committee

If the Monitoring Officer considers that informal resolution is not appropriate, or the councillor concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will refer the Investigation Report to Standards Sub-Committee which may 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.

At the hearing, the Investigating Officer or the Monitoring Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer or Monitoring Officer may ask you as the complainant to attend and give evidence to the Sub-Committee. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Sub-Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Sub-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 dismiss the complaint. If the Sub-Committee concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the member of this finding and the Sub-Committee will then consider what action, if any, the Sub-Committee should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Sub-Committee will give the member an opportunity to make representations to the Panel 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 Standards Sub-Committee take where a member has failed to comply with the Code of Conduct?

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

8.1.1 No action needs to be taken;

8.1.2 Censure or reprimand the Member.

8.1.3 Report its findings to Council for information;

8.1.4 Recommend to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees, Sub-Committees or Panels of the Council;

8.1.5 Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;

8.1.6 Instruct the Monitoring Officer to arrange training for the member;

8.1.7 Remove from all outside appointments to which he/she has been appointed or nominated by the authority;

8.1.8 Restrict or remove the use of Council resources or facilities for a specified period of time provided this does not prevent the Member from carrying out their duties as an elected Councillor.

8.2 The Sub-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?

9.1 At the end of the hearing, the Chair will present the decision of the Governance Sub-Committee as to whether the member failed to comply with the Code of Conduct and as to any actions which the Sub-Committee resolves to take.

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

10. Who are the Standards Sub-Committee?

10.1 The Standards Sub-Committee comprises a maximum of 3 elected or co-opted Members of the Council, including not more than 1 member of the authority's Executive, and with any elected members drawn from all political groups. Subject

to those requirements, it is appointed on the nomination of party group leaders in proportion to the strengths of each party group on the Council.

- 10.2 The Independent Person is invited to attend all meetings of the Committee involving the consideration of misconduct allegations and their views are sought and taken into consideration before the Committee 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.
- 10.3 The Independent Person does not have voting rights on the Committee. Their role is an advisory one and they are appointed in accordance with the provisions of the Localism Act.

11. Who is the Independent Person?

- 11.1 The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.
- 11.2 A person cannot be "independent" if he/she:

- a) Is, or has been within the past 5 years, a member, co-opted member or officer of the authority, save where any transitional provisions permit ; or
- b) Is a relative or close friend, of a person within paragraph a) above.

For this purpose, a "relative" means:

- i. Spouse or civil partner;
- ii. Living with the other person as husband and wife or as if they were civil partners;
- iii. Grandparent of the other person;
- iv. A lineal descendent of a grandparent of the other person;
- v. A parent, sibling or child of a person within paragraphs i) or ii); or
- vi. A spouse or civil partner of a person within paragraphs iii), iv) or v); or
- vii. Living with a person within paragraphs iii), iv) or v) as husband and wife or as if they were civil partners.

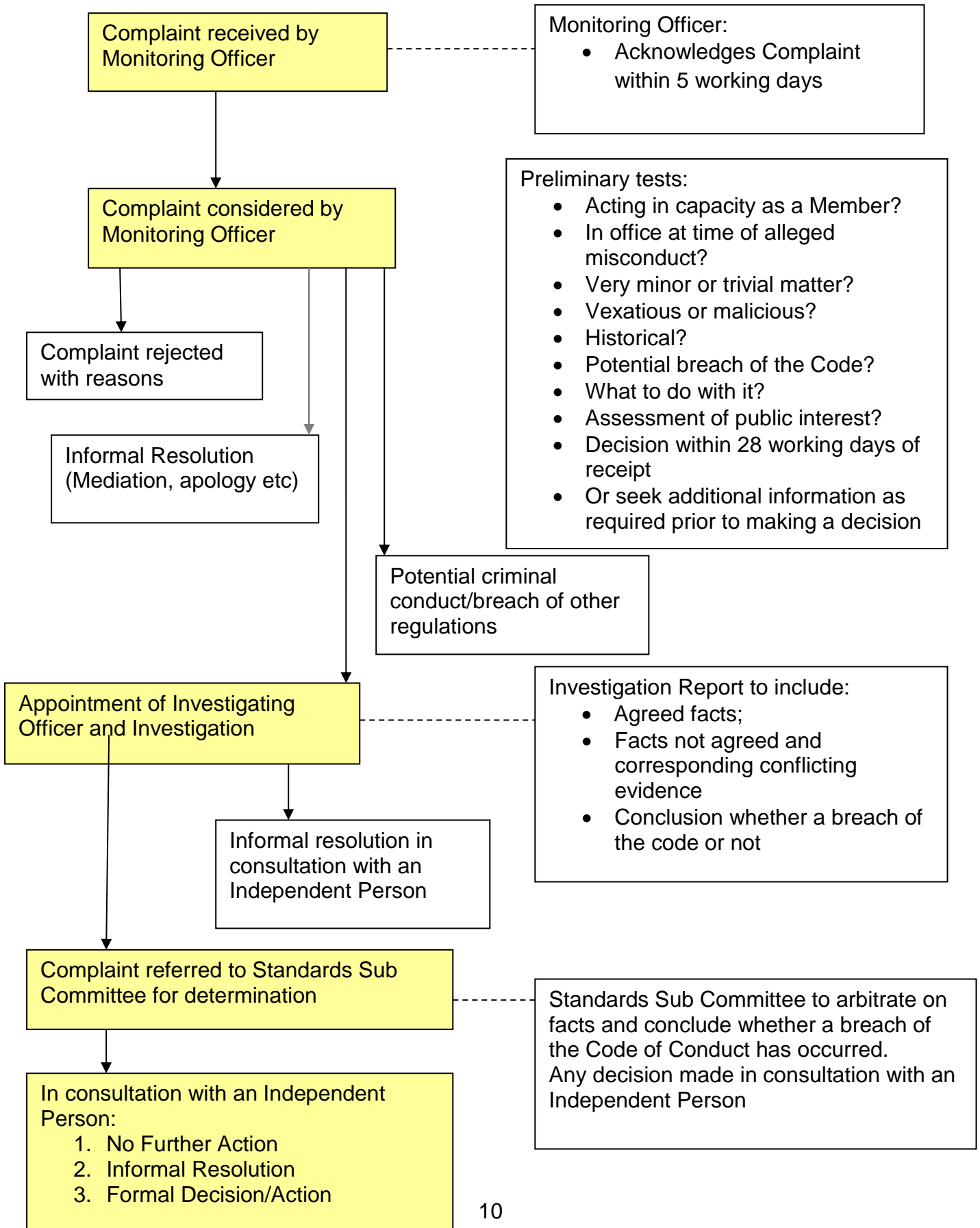
12. Revision of these arrangements

The Council may by resolution agree to amend these arrangements, and has delegated to the Chair of the Committee the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

13. Appeals

- 13.1 There is no right of appeal for the complainant or for the Member against a decision of the Monitoring Officer or the Standards Sub Committee.

Annexe 1 Complaints Procedure Flowchart



Annexe 2

STANDARDS COMPLAINTS ASSESSMENT CRITERIA

Complaints which would not normally be referred for investigation

1. The complaint is not considered sufficiently serious to warrant investigation; or
2. The complaint appears to be simply motivated by malice or is “tit-for-tat”; or
3. The complaint appears to be politically motivated, vexatious or trivial; or
4. It appears that there can be no breach of the Code of Conduct; for example, that it relates to the Councillor’s private life or is about dissatisfaction with a Council decision; or
5. it is about someone who is no longer a Councillor; or
6. There is insufficient information available for a referral; or
7. The complaint has not been received within 3 months of the alleged misconduct unless there are exceptional circumstances e.g. allegation of bullying, harassment etc; or
8. The matter occurred so long ago that it would be difficult for a fair investigation to be carried out; or
9. The same, or similar, complaint has already been investigated and there is nothing further to be gained by seeking the sanctions available to the Standards Sub Committee; or
10. It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct; or
11. Where the member complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction.

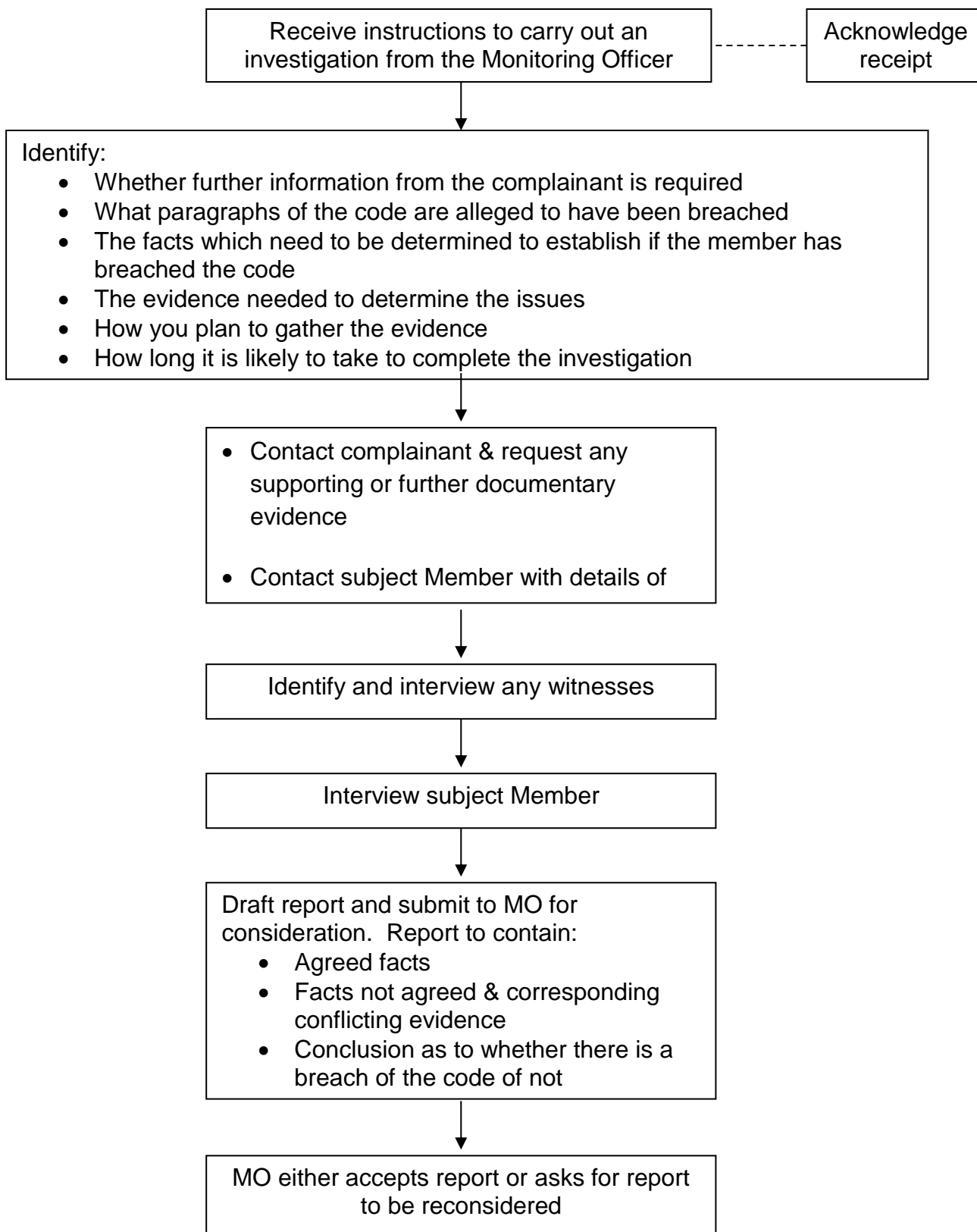
Complaints which may be referred to the Standards Sub Committee

1. It is serious enough, if proven, to justify the range of actions available to the Standards Sub Committee; or
2. There are individual acts of minor misconduct which appear to be a part of a continuing pattern of behaviour that is unreasonably disrupting the business of the Council and there is no other avenue left to deal with it other than by way of an investigation.
3. When the complaint comes from a senior officer of the Council, such as the Chief Executive or the Monitoring Officer and it would be difficult for the Monitoring Officer to investigate; or

4. The complaint is about a high profile Member such as the Leader of the Council and it would be difficult for the Monitoring Officer to investigate
5. Such other complaints as the Monitoring Officer considers it would not be appropriate for him to investigate

Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, deciding to investigate a complaint or to take further action will cost both public money and officers' and members' time. This is an important consideration where the complaint is relatively minor.

Annexe 3 INVESTIGATION PROCEDURE



Record of a Meeting With Councillor Cartwright - 09/03/15

I met with Councillor Cartwright on the above date to follow up a complaint he submitted by e-mail on 26th February. The complaint concerns an allegation that Councillor Wood used offensive language at a meeting of the Council's Planning Committee on 25th February 2015

Councillor Cartwright was concerned at Councillor Wood's conduct as the Committee considered an application pertaining to a proposed junction at the western end of the Daedalus spine road. He felt that Councillor Wood was muttering and displaying negative body language throughout the debate.

Councillor Cartwright stated that at one point he heard Councillor Wood say "That's fu**ing b****cks" in response to something that was said in the discussion. Councillor Cartwright was concerned that given the presence of a representative of the press and several members of the public, this was unacceptable behaviour that could bring the council into disrepute

He believes this is a breach of the members' Code of Conduct

Paul Doran

Monitoring Officer

9 March 2015

Record of meeting with Councillor Wood – 05/03/15

I met with Councillor Wood on the above date to discuss a complaint I had received on 26th February related to his alleged conduct at a meeting of the Planning Committee on Wednesday, 25th February. The allegation is that having made a deputation on the detailed planning application for the Junction of the spine road on the Daedalus, he used offensive language as the committee was discussing the application.

The complainant alleges that in response to something that was said by a member of the Committee, he had said “That’s fu**ing b****cks”

Councillor Wood stated that he did not recall saying this, but if he did, he apologises unreservedly.

I then explained that I would take advice from the Solicitor to the Council and the Designated Independent Person before a decision was made on the next steps. I pointed out that the allegation had been corroborated by a council officer present at the meeting and it was a potentially serious issue as it was in a meeting at which both public and press were present. I also made him aware that given the nature of the complaint, there was a possibility that the matter may be referred to the Council’s Standards Sub Committee.

It was made clear that no decision had been made at this stage and that I would inform him of the progress of my investigation within the next few days.

Paul Doran
Monitoring Officer
5 March 2015

Witness Statement

The following is a witness statement received by the Council's Monitoring Officer from a Council Officer present at the meeting of the Planning Committee on 25th February 2015

“Councillor Wood’s conduct throughout the meeting was unprofessional and not appropriate for a member. He made a number of audible comments while sitting in the public area. Specifically, I heard him use the phrase “that’s fu**ing b****cks” during the debate on the Daedalus road junction. I am concerned that if I heard this, that members of the public and press who were seated near him would also have heard this”

05/03/15



FAREHAM BOROUGH
COUNCIL

www.fareham.gov.uk

CODE OF CONDUCT FOR MEMBERS

1st July 2012

CODE OF CONDUCT FOR MEMBERS

Part 1: General Provisions and Interpretation

1. Introduction

This Code of Conduct is adopted by the Council pursuant to its statutory duty to promote and maintain high standards of conduct by Members and Co-opted Members of the Council. This Code applies to all Members and Co-opted Members of the Council.

The Code is based on and is consistent with the following principles:

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

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

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

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

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

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

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

Part 1: Scope and General Obligations

2. Scope

This Code applies to all Members and Co-opted Members of the Council when acting in their official capacity, or when giving the impression that they are acting as a representative of the Council.

Where a Member or Co-opted member is a member of more than one local authority, but acting on behalf of the Council, such as Member or Co-opted Member is, for the avoidance of doubt, bound by this Code of Conduct.

3. General obligations of Members and Co-opted Members

1 When acting in your role as a Member or Co-opted Member:-

- 1.1 Do treat others with respect;
- 1.2 Do not conduct yourself in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct of Members
- 1.3 Do ensure you are aware of and comply with the requirements which the Bribery Act 2010 places on you in your role as a Councillor and on the Council as a whole;
- 1.4 Do not do anything which may cause your authority to breach equalities legislation;
- 1.5 Do not bully any person;
- 1.6 Do not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority;
- 1.7 Do not 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 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.
- 1.8 Do not prevent another person from gaining access to information to which that person is entitled by law.

2 When making decisions as a Member or Co-opted Member of the Council:-

- 2.1 Do have regard to any relevant advice provided to you by the Council's Chief Finance Officer and Monitoring Officer where such advice is offered pursuant to their statutory duties;
- 2.2 Do give reasons for the decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council.

- 3 When using or authorising the use by others of the resources of the Council:-
 - 3.1 Do act in accordance with the Council's reasonable requirements including the requirements of the Council's (policies and procedures);
 - 3.2 Do make sure that such resources are not used improperly for political purposes (including party political purposes);
 - 3.3 Do have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

Part 3: Registration and Disclosure of Pecuniary and Personal Interests

1. Obligations

- 1.1 You must, within 28 days of taking office as a Member or Co-opted Member of the Council, notify the Council's Monitoring Officer of any 'disclosable pecuniary interests' as defined by regulations made by the Secretary of State (as set out at Part 3 of this Code), where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners within the description at Part 3 of this Code.
- 1.2 In addition, you must, within 28 days of taking office as a Member or Co-opted Member of the Council, notify the Council's Monitoring Officer of any personal interest which the Council has decided should be included in the Council's Register of Members' Interests (as set out at Part 4 of this Code).
- 1.3 You must also, within 28 days of becoming aware of any new disclosable pecuniary interest or any personal interest the Council has required to be registered, or change thereto, notify the Council's Monitoring Officer of such new or changed interest.
- 1.4 If you have an interest included on the Register of Members' Interests (disclosable pecuniary interest or personal interest), you must disclose this interest at any meeting of the Council, its Committees or Panels or the Executive at which you are present and participating in the business. Where an interest is a 'sensitive interest'¹ you need only disclose the fact that you have a disclosable pecuniary or personal interest in the matter being considered and do not need to disclose details of the interest itself.
- 1.5 If an interest (disclosable pecuniary interest or personal interest) required to be registered has not been entered onto the council's Register of Interests, then you must also disclose the interest to any meeting of the Council, its Committees or Panels or the Executive at which you are present where you have such an interest in any matter being considered. Where an interest is a 'sensitive' interest, you need only disclose the fact that you have a disclosable interest in the matter concerned and do not need to disclose details of the interest itself. Following disclosure of an interest not on the council's Register or the subject of pending notification, you must notify the Monitoring Officer of such interest within 28 days, beginning with the date of disclosure.
- 1.6 Unless a dispensation has been granted, you may not participate in any discussion of, vote on, or discharge of any function related to any matter in which you have a disclosable pecuniary interest and must (save for in circumstances set out at 1.7 below) withdraw from the chamber or room where the meeting considering the

business is being held, unless a dispensation has been granted by the Council's Monitoring Officer or Standards Sub Committee. If acting as a single Executive member you may not take any further steps in relation to the matter other than for the purpose of arranging for the matter to be dealt with otherwise than by yourself.

- 1.7 Without prejudice to paragraph 1.6 above, where you have a disclosable pecuniary interest in any business of the Council you may, notwithstanding such disclosable pecuniary interest attend such meeting for the purpose of making representations, answering questions or giving evidence relating to such business provided members of the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.
- 1.8 For the avoidance of doubt the restrictions contained at paragraph 1.6 above only apply in cases where a Member has a disclosable pecuniary interest, and do not apply in cases where a Member has a personal interest in a matter only.

Part 3: Disclosable Pecuniary Interests

1. Introduction

A disclosable pecuniary interest is an interest falling within the Schedule set out at Paragraph 3 below of:

- 1.1 Yourself, or
- 1.2 Your spouse or civil partner, or someone you are living with as if you were husband and wife or civil partners, where you are aware that the other person has an interest.

2. Interpretation

In the Schedule set out at Paragraph 3 below, the following words or expressions mean as follows:

- 2.1 'the Act' means the Localism Act 2011;
- 2.2 '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;
- 2.3 'director' includes a member of a committee of management of an industrial and provident society;
- 2.4 '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;
- 2.5 'M' means a member of a relevant authority;
- 2.6 'member' includes a co-opted member;
- 2.7 'relevant authority' means Fareham Borough Council of which M is a member;

- 2.8 'relevant period' means the period of 12 months ending with the day on which M gives a notification for the purposes of Section 30(1) or Section 31(7), as the case may be, of the Act.
- 2.9 '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 within a building society.

3. Schedule of disclosable pecuniary interests

Subject	Prescribed description
Employment, office, trade profession or vocation	Any employment, office, trade profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Regulation (Consolidation) Act 1992 ³
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority: (a) under which goods and services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Corporate tenancies	Any tenancy where (to M's knowledge); (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where: (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either: (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the

Subject	Prescribed description
	relevant person has a beneficial interest exceeds one hundredth of that class.

Part 4: Other Interests (Personal and Pecuniary)

1. Notification of other interests

1.1 In addition to the disclosable pecuniary interests notifyable under the Localism Act 2011, you must, within 28 days of—

- (a) this Code being adopted by or applied to your authority; or
- (b) your election or appointment to office (where that is later),

notify the Monitoring Officer in writing of the details of your other personal interests, where they fall within the following descriptions, for inclusion in the register of interests.

1.2 You have a personal interest in any business of your authority where either—

- (a) it relates to or is likely to affect—
 - (i) 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 your authority;
 - (ii) any body—
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) 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;

1.3 You must, within 28 days of becoming aware of any new interest or change to any interest registered under paragraph 1.1, or as a disclosable pecuniary interest notify the Monitoring Officer of the details of that new interest or change

2. Disclosure of other interests

2.1 Subject to sub-paragraphs 2.2 to 2.5 below, where you have a personal interest described in paragraph 1 above or in paragraph 2.2 below in any business of your authority, and where you are aware or ought reasonably to be aware of the existence of the personal interest, and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

2.2 You have a personal interest in any business of your authority where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;

a relevant person is -

- (a) a member of your family or any person with whom you have a close association; or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in paragraph part 1.2

2.3 Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 1.2(a)(i) or 1.2(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

2.4 Where you have a personal interest but, by virtue of paragraph 4, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

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

3. Register of interests

3.1 Any interests notified to the Monitoring Officer will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the authority's website.

4. Sensitive interests

4.1 Where you consider that disclosure of the details an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.

5. Non participation in case of pecuniary interest

5.1 Where you have a personal interest in any business of your authority you also have a pecuniary interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and where that business—

- (a) affects your financial position or the financial position of a person or body described in paragraph 2 ;or

- (b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 2.
- 5.2 Subject to paragraph 5.4 and 5.5 below, where you have a pecuniary interest in any business of your authority—
- (a) You may not participate in any discussion of the matter at the meeting.
 - (b) You may not participate in any vote taken on the matter at the meeting.
 - (c) If the interest is not registered, you must disclose the interest to the meeting.
 - (d) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.
- 5.3 In addition Council Standing Order 17 requires you to leave the room where the meeting is held while any discussion or voting takes place.
- 5.4 Where you have a pecuniary interest in any business of your authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.
- 5.5 Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a pecuniary interest that relates to the functions of your authority in respect of—
- i. housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
 - ii. school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - iii. statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - iv. an allowance, payment or indemnity given to members;
 - v. any ceremonial honour given to members; and
 - vi. setting council tax or a precept under the Local Government Finance Act 1992.
- 5.6 Where, as an executive member, you may discharge a function alone, and you become aware of a pecuniary interest in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

6. Interests arising in relation to overview and scrutiny committees

- 6.1 In any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—
- (a) that business relates to a decision made (whether implemented or not) or action taken by the executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
 - (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken,
- 6.2 You may only attend a meeting of the overview and scrutiny committee for the purpose of answering questions or giving evidence relating to the business, and you must leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

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