

To: **Members of the Standards Committee**

**Councillors S Bland, C Fitzsimmons, B Maher,
T McCarthy and J Walker
Parish Councillors M Banner, S Barlow and T Gartland**

**(Invitations extended to Mr D Clarke, Mr K Horseman
and Mrs S Mason as Independent Persons)**

Professor Steven
Broomhead
Chief Executive

Town Hall
Sankey Street
Warrington
WA1 1UH

9 April 2014

Standards Committee

Thursday, 17 April 2014 at 6.30pm

Council Chamber, Town Hall, Warrington

Agenda prepared by Louise Murtagh, Democratic Services Officer – Telephone
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AGENDA

Part 1

Items open to members of the public (including the press) subject to any statutory right of exclusion.

- | | Page
Number |
|---|------------------------|
| 1. <u>Apologies for Absence</u> | |
| To record any apologies for absence received | |
| 2. <u>Code of Conduct – Declaration of Interests</u> | |
| Members are reminded of their responsibility to declare any personal or prejudicial interest they have in any item of business on the agenda no later than when the item is reached. | |
| 3. <u>Minutes</u> | 1 |
| The scheduled meeting of 12 February 2014 had been cancelled. Therefore, Members were asked to confirm the Minutes of the meeting of the Committee held on 25 September 2013 as a correct record. | |
| 4. <u>The Localism Act 2011 – The Amended Standards Regime</u> | 3 |
| Report of the Solicitor to the Council and Assistant Director Corporate Governance | |

Part 2

Items of a “confidential or other special nature” during which it is likely that the meeting will not be open to the public and press as there would be a disclosure of exempt information as defined in Section 100I of the Local Government Act 1972.

Nil

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STANDARDS COMMITTEE

25 September 2013

Present: Councillors C Fitzsimmons, B Maher, T McCarthy and J Walker
Parish Councillors M Banner and S Barlow

Independent Persons – Mr D Clarke, Mr K Horseman and Mrs S Mason

ST6 Apologies for Absence

Apologies for absence were received from Councillor S Bland and Parish Councillor T Gartland.

ST7 Code of Conduct

There were no declarations of interest made.

ST8 Minutes

The Minutes of the meeting held on 5 June 2013 were agreed as a correct record and signed by the Chair.

ST9 Standards Regime Update

The Committee received the report of the Solicitor to the Council which provided an update of the Standards Regime since Council adoption of a new Code of Conduct on 10 September 2013. A copy of the adopted Code of Conduct was tabled.

Section 27 of the Localism Act 2011 ('the Act') required local authorities to promote and maintain high standards of conduct by members and co-opted members of the authority. In pursuit of that duty, a local authority must adopt a Code of Conduct dealing with the conduct that is expected of its members when they are acting in that capacity.

Section 28 of the Act provided that a local authority must secure that its Code of Conduct includes provision for the registration of pecuniary interests and non pecuniary interests.

Members were advised that all borough Councillors' registration forms had been published on the internet as was required and most Parish Councils had their information published on their own website or used the borough Council's website to do so. Additionally, Parish Councils in the borough had chosen to adopt the Code of Conduct used by the Council.

The Committee were asked to give consideration to the content of the Code of Conduct; non-pecuniary interests; gifts and hospitality. Was there a need to revise the contents of the registers?

Members were advised that there was no legal requirement to declare membership of organisations that had no pecuniary interest in and those

disconnected from Council activity. Some Councillors had chosen to record these associations as good practice on a voluntary basis, with some choosing not to, therefore there was no consistency across the register.

Compliance with the Register of Hospitality (with a value of £25 or more) was very good and there was no further discussion as to amendments to this.

Decision, That the Standards Committee

1. commented on and noted the content of the report
2. requested that the Solicitor to the Council write to all Parish Councils to remind them of their duty under the Localism Act 2011 to publish Register of Interest forms
3. considered and noted the remedies available under the new arrangements

Dated.....

Signed.....

WARRINGTON BOROUGH COUNCIL

STANDARDS COMMITTEE – 17 APRIL 2014

Report of Executive Board Member: Not applicable

Senior Responsible Officer: Timothy Date, Solicitor to the Council and Monitoring Officer

Contact Details: **Email Address:** **Telephone: 442150**
tdate1@warrington.gov.uk

Key Decision No. n/a

Ward Members: All

TITLE OF REPORT: LOCALISM ACT 2011 THE NEW STANDARDS REGIME

1. PURPOSE

- 1.1 To provide Standards Committee with an overview of the operation of the new Standards Regime following implementation of the relevant provisions of the Localism Act 2011 (“the 2011 Act”).

2. CONFIDENTIAL OR EXEMPT

- 2.1 The report is neither confidential nor exempt.

3. INTRODUCTION AND BACKGROUND

- 3.1 The 2011 Act made substantial changes to the pre existing standards regime for local authority members in England and Wales. Section 27 of the Act states that :-

- a relevant authority must promote and maintain high standards of conduct by members and co-opted members of the authority
- In discharging that duty a relevant authority must adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.

- 3.2 The Council has complied with the second of those requirements having adopted a Code of Conduct at its 10th September 2012 meeting. A copy of the report made to that meeting is attached as Appendix 1.
- 3.3 The Code of Conduct then adopted represents a 'slimmed down' code from that previously in force but when viewed as a whole, is clearly consistent with the Nolan principles of Standards in Public Life.
- 3.4 Consistent with the 2011 Act members are currently required to make a declaration in the statutory register relating to pecuniary interests.
- 3.5 The Committee is invited to consider whether to establish a requirement to declare non pecuniary interests, such as membership of school governing bodies, unremunerated directorships and membership of Parish Councils.

4. COMPLAINTS

- 4.1 Section 28(4) of the Act states that a failure to comply with a relevant authority's Code of Conduct is not to be dealt with otherwise than in accordance with arrangements made by the authority. In this connection an authority must have in place
 - arrangements under which allegations can be investigated
 - arrangements under which decisions on allegations can be made
- 4.2 The 2011 Act does not prescribe the detail of the arrangements for investigating allegations and does not prescribe the detail of the arrangements under which decisions or allegations can be made save for the requirement that the arrangements must include the involvement of "Independent Person".
- 4.3 At its 10th September 2012 meeting the Council adopted procedures complying with those provisions.
- 4.4 In terms of dealing with misconduct complaints the Monitoring Officer was appointed to receive complaints of failure to comply with Code of Conduct and was given delegated power, after consultation with the Independent Persons, to determine whether a complaint merited formal investigation and to arrange for such an investigation when so merited.
- 4.5 At the same time, the Monitoring Officer was instructed to seek resolution of complaints without formal investigation where practicable. The Monitoring Officer is granted discretion to refer decisions on investigations to the Standards Committee where he feels it inappropriate for him to take the decision on whether to investigate.

4.6 An anonymised schedule of complaints is attached at Appendix 2 to this report.

5.0 **SANCTIONS**

5.1 One of the major issues arising from the 2011 Act is the range of actions that a local authority can take when there has been a breach of the Code of Conduct.

5.2 Section 28(11) of the 2011 Act provides that where a relevant authority finds that a member or co-opted member of the authority has failed to comply with the code it may have regard to that failure deciding whether to take action in relation to the member or co-opted member and what action to take.

5.3 It will be noted that Section 28(11) does not prescribe the range of actions that a local authority can take but simply envisages that some action can be taken against a member or co-opted member who fails to comply with that authority's code of conduct.

5.4 The position under Section 28(11) can be contrasted with the previous regime which provided for a range of sanctions including:-

- Censure of the member
- Restriction for a period not exceeding 6 months of that member's access to the premises of the authority or that member's use of the resources of the authority
- Suspension for a period not exceeding six months
- The requirement to submit a written apology in a form specified by the Standards Committee
- An obligation to undertake training
- A requirement to participate in statutory reconciliation

5.5 The regime established by the 2011 Act is, as already indicated, silent as to the range of available sanctions and local authorities must look to the previous common law position that pre-dated the statutory standards regime in relation to the question of sanctions.

5.6 Case law indicated that local authorities did not have the ability to issue sanctions that interfered with local democracy and in particular a local authority was not able to disqualify one of its own members for misconduct. By the same reasoning the same approach would be taken in relation to suspending a member from performing the role of member. Similarly, the sanction of exclusion from meetings of the authority is likely to fall in the same category.

5.7 In terms of what is specifically available the observations of the court in the case of R – v – Broadland District Council, ex parte Lashley indicate the following sanctions would be available.

- Censure of a member – ‘name and shame’
- Giving advice or making observations either generally or specifically about misconduct
- Reporting a matter to the Police where a criminal offence is disclosed
- Making a recommendation to the full authority to remove a Councillor from a Committee
- Sending a formal letter to a Councillor who has been found to have breached the code.

6. FINANCIAL CONSIDERATIONS

6.1 Financial considerations would include the cost of dealing with potential complaints but current costs are absorbed with existing budgets.

7. RISK ASSESSMENT

7.1 Inadequate Strategic Governance arrangements could lead to a failure in delivery of the Council’s objectives. Ensuring there are robust standards arrangements in place will assist in the mitigation of risk.

8. EQUALITY AND DIVERSITY / EQUALITY IMPACT ASSESSMENT

8.1 Democratic and Member Services have an Equality Impact Assessment in place.

9. CONSULTATION

9.1 Previous consultation with the Standards Committee and Council.

10. REASONS FOR RECOMMENDATION

10.1 To allow consideration and development, as appropriate, of the Standards regime in Warrington.

11. RECOMMENDATION

11.1 That the Standards committee comments upon and notes the report and the schedule of anonymised complaints at Appendix 2.

11.2 That the Standards Committee seek a further report to consider any changes to the standards regime for municipal year 2014/2015.

12. BACKGROUND PAPERS

Contacts for Background Papers:

Name	E-mail	Telephone
Timothy Date	tdate1@warrington.gov.uk	442150

WARRINGTON BOROUGH COUNCIL

Council -10 September 2012

Report of: Councillor C Fitzsimmons, Chair, Standards Committee

Report Author: Timothy Date, Solicitor to the Council and Assistant Director, Corporate Governance

Contact Details: **Email Address:** **Telephone:**
tdate1@warrington.gov.uk 01925 442150

Ward Members: All

TITLE OF REPORT: THE LOCALISM ACT 2011 – THE AMENDED STANDARDS REGIME

1. PURPOSE

At its meeting on 25 July 2012 the Standards Committee considered the steps required to implement the requirements of the Localism Act 2011 in relation to member conduct. This report sets out those issues considered by the Standards Committee at that meeting and seeks the Council's final approval of the proposed new arrangements.

2. CONFIDENTIAL OR EXEMPT

This report is not confidential or exempt.

3. INTRODUCTION AND BACKGROUND

At its meeting on 25 June 2012 the Council took significant initial steps to respond to the emerging statutory settlement in relation to member conduct. Amongst other things the Council:

- adopted a basic Code of Conduct with a request to the Standards Committee to consider the merits of any alternative Code;
- adopted the requirements of the Relevant Authorities (Disclosable Pecuniary Interest) Regulations 2012;
- requested the Standards Committee to consider any outstanding matters relating to the new standards regime; and
- requested a further report on these matters be brought to the Council meeting of September 2012.

This report describes the changes that have been made to the pre existing framework and recommends the actions now required to implement the new regime. As indicated in paragraph 1 above the specific issues identified were fully addressed by the Standards Committee at its 25 July 2012 meeting.

4. DUTY TO PROMOTE AND MAINTAIN HIGH STANDARDS OF CONDUCT

The authority will remain under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members.

5. STANDARDS COMMITTEE

5.1 The Localism Act repeals Section 55 of the Local Government Act 2000, which provided for the former statutory Standards Committee. There is no mandatory requirement for a Standards Committee. However, there will still be a need to deal with standards issues and case-work, so that there is a strong case to have a new Standards Committee. Such Committee will be an ordinary Committee of Council, without the unique features which were conferred by the previous legislation.

5.2 The composition of the Committee will be governed by proportionality, unless Council votes otherwise with no member voting against. The present restriction to only one member of the Executive on the Standards Committee will cease to apply.

5.3 The former co-opted Independent Members will cease to hold office. The Act establishes for a new category of 'Independent Persons' (see below) who must be consulted at various stages in relation to standards matters. The new Independent Persons may be invited to attend meetings of the Standards Committee, but are unlikely to be co-opted onto the Committee.

5.4 The Council will continue to have responsibility for dealing with standards complaints against elected and appointed members of Parish Councils, but the current Parish Council representatives cease to hold office. The Council can choose whether it wants to continue to involve Parish Council representatives and, if so, how many Parish Council representatives it wants. The choice is between establishing a Standards Committee as a Committee of the Council, with co-opted but non-voting Parish Council representatives (which could then only make recommendations in respect of Parish Council members), or establishing a Standards Committee as a Joint Committee with the Parish Councils within the District (or as many of them as wish to participate) and having a set number of Parish Council representatives as voting members of the Committee (which could then take operative decisions in respect of members of Parish Councils, where the Parish

Council had delegated such powers to such a Joint Standards Committee).

Recommendation 1 –

- a. **That the Council establish a Standards Committee comprising five elected members of the Council, appointed proportionally in confirmation of its decision of 21 May 2012;**
- b. **That the Council invite a maximum of three Parish Councillors to be co-opted as non-voting members of the Committee.**

6. THE CODE OF CONDUCT

6.1 The former ten General Principles and Model Code of Conduct have now been repealed, and members will no longer have to give an undertaking to comply with the Code of Conduct. However, the Council is required to adopt a new Code of Conduct governing elected and co-opted member's conduct when acting in that capacity. The Council's new Code of Conduct must, viewed as a whole, be consistent with the following seven principles –

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

The Council has discretion as to what it includes within its new Code of Conduct, provided that it is consistent with the seven principles. At its meeting on 25 June 2012 the Council adopted a basic Code of Conduct complying with the formal requirements. A copy of the Code then adopted is attached as appendix 1.

6.2 Officers have monitored the approach being taken by other Councils in respect of Codes of Conduct since the 25 June 2012 meeting and can confirm that the Code then adopted is consistent with best practice elsewhere.

Recommendation 2 –

- a. **That the Council re-adopts the Code of Conduct approved at its 25 June 2012.**

7. DEALING WITH MISCONDUCT COMPLAINTS

7.1 Arrangements

The Act requires that the Council adopt arrangements for dealing with complaints of breach of Code of Conduct both by Warrington Borough Council members and by Parish Council members, and that such complaints can only be dealt with in accordance with those arrangements. Consequently, the arrangements must set out in some detail the process for dealing with complaints of misconduct and the actions which may be taken against a member who is found to have failed to comply with the relevant Code of Conduct.

The revised position is that the Act repeals the requirements for separate Referrals, Review and Hearings Sub-Committees, and enables the Council to establish its own procedures, which can include delegation of decisions on complaints. Indeed, as the statutory provisions no longer give the Standards Committee or Monitoring Officer special powers to deal with complaints, it is necessary for Council to delegate appropriate powers to a Standards Committee and to the Monitoring Officer.

7.2 Decision whether to investigate a complaint

In practice, the former Standards for England guidance on initial assessment of complaints provided a reasonably robust basis for filtering out trivial and tit-for-tat complaints. It is sensible to take advantage of the new flexibility to delegate to the Monitoring Officer the initial decision on whether a complaint requires investigation, subject to consultation with the Independent Person and the ability to refer particular complaints to the Standards Committee where he feels that it would not be appropriate for him to take a decision on it, for example where he has previously advised the member on the matter or the complaint is particularly sensitive. These arrangements would also offer the opportunity for the Monitoring Officer to seek to resolve a complaint informally, before taking a decision on whether the complaint merits formal investigation. If this function is delegated to the Monitoring Officer, it is most important that he should be accountable for its discharge. For this purpose, it would be appropriate that he make a quarterly report to Standards Committee, which would enable him to report on the number and nature of complaints received and draw to the Committee's attention areas where training or other action might avoid further complaints, and keep the Committee advised of progress on investigations and costs. Such a requirement would establish a mechanism to challenge any Monitoring Officer decisions and contribute to greater transparency and public confidence.

7.3 “No Breach of Code” finding on investigation

Where a formal investigation finds no evidence of failure to comply with the Code of Conduct, the former requirement was that this was to be reported to a Referrals Sub-Committee and the Sub-Committee take the decision to take no further action. In practice, it would be reasonable to delegate this decision to the Monitoring Officer, but with the power to refer a matter to Standards Committee if he feels appropriate. It would be sensible if copies of all investigation reports were provided to the Independent Person and Chair of the Committee to enable them to get an overview of current issues and pressures, and that the Monitoring Officer provides a summary report of each such investigation to Standards Committee for information.

7.4 “Breach of Code” finding on investigation

Where a formal investigation finds evidence of failure to comply with the Code of Conduct, there may yet be an opportunity for local resolution, avoiding the necessity of a local hearing. It may be that an investigation report could cause a member to recognise that his/her conduct was at least capable of giving offence, or identify other appropriate remedial action, and the complainant may be satisfied by recognition of fault and an apology or other remedial action. However, it is suggested that at this stage it would only be appropriate for the Monitoring Officer to agree a local resolution after consultation with the Independent Person and where the complainant is satisfied with the outcome, and subject to a summary report for information being submitted to the Standards Committee.

In all other cases, where the formal investigation finds evidence of a failure to comply with the Code of Conduct, it would be necessary for the Standards Committee (in practice a Hearings Panel constituted as a Sub Committee of Standards Committee) to hold a hearing at which the member against whom the complaint has been made can respond to the investigation report, and the Hearing Panel can determine whether the member did fail to comply with the Code of Conduct and what action, if any, is appropriate as a result.

7.5 Action in response to a Hearing finding of failure to comply with Code

The Act does not give the Council or its Standards Committee any powers to impose sanctions such as suspension or requirements for training or an apology on members. This represents a significant departure from the former position. Where a failure to comply with the Code of Conduct is found, the range of actions which the Council can take in respect of the member is limited and must be directed to securing the continuing ability of the Council to continue to discharge its functions effectively, rather than punishing the member concerned. In practice, this might include the following –

- 7.5.1 Reporting its findings to Council (*or to the Parish Council*) for information;
- 7.5.2 Recommending 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 or Sub-Committees of the Council;
- 7.5.3. Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 7.5.4 Instructing the Monitoring Officer to (*or recommend that the Parish Council*) arrange training for the member;
- 7.5.5 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*);
- 7.5.6 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; or
- 7.5.7 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.

In respect of Parish Councils, the Localism Act gives the Standards Committee no power to do any more in respect of a member of a Parish Council than make a recommendation to the Parish Council on action to be taken in respect of the member. Parish Councils will be under no obligation to accept any such recommendation. The Standards Committee may wish to monitor the efficiency of the powers available to it in this respect as part of an initial work programme.

7.6 Appeals

There is no requirement to put in place any appeals mechanism against such decisions. Any decision would be open to judicial review by the High Court if it was patently unreasonable, or if it were taken improperly, or if it sought to impose a sanction which the authority had no power to impose.

Recommendation 3 – That Council agree:

- a. **That the Monitoring Officer be appointed as the Proper Officer to receive complaints of failure to comply with the Code of Conduct;**
- b. **That the Monitoring Officer be given delegated power, after consultation with the Independent Person or Persons, to determine whether a complaint merits formal investigation and to arrange such investigation. That he be instructed to seek resolution of complaints without formal investigation wherever practicable, and that he be given discretion to refer decisions on investigation to the Standards Committee where he feels that it is inappropriate for him to take the decision, and to report quarterly to Standards Committee on the discharge of all functions delegated to him;**
- c. **Where an investigation finds no evidence of failure to comply with the Code of Conduct, the Monitoring Officer be instructed to close the matter, providing a copy of the report and findings of the investigation to the complainant and to the member concerned, and to the Independent Person, and reporting the findings to the Standards Committee for information.**
- d. **Where an investigation finds evidence of a failure to comply with the Code of Conduct, the Monitoring Officer in consultation with the Independent Person be authorised to seek local resolution to the satisfaction of the complainant in appropriate cases, with a summary report for information to Standards Committee. Where such local resolution is not appropriate or not possible, he is to report the investigation findings to a three member sub committee of the Standards Committee for determination;**
- e. **That Council delegate to a three member sub committee such of its powers as can be delegated to take decisions in respect of a member who is found on hearing to have failed to comply with the Code of Conduct, such actions to include –**
 - **Reporting its findings to Council (*or to the Parish Council*) for information;**
 - **Recommending to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub Committees of the Council;**

- **Recommending to the Leader of the Council that the member be removed from the Cabinet, 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 for 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; 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.**

8. INDEPENDENT PERSON(S)

- 8.1 The Localism Act 2012 requires Councils to appoint one or more Independent Persons as part of the new Standards Framework.
- 8.2 The views of an Independent Person must be sought and taken into account by the Council before it makes a finding that any member has failed to comply with the Code of Conduct or imposed any sanction. The views of an Independent Person may be sought on whether to investigate a complaint and how to deal with a particular allegation.
- 8.3 The Localism Act itself prevented any member who had been a member or co-opted member of the Council in the last five years from being appointed as an Independent Person. This meant that current or past Independent Members of the Council's Standards Committee were prevented undertaking this new role. That approach provoked significant concerns nationally that those individuals with experience of the former standards regime were automatically excluded from participating in the new regime notwithstanding the skills and experience that they will have developed.
- 8.4 To address that concern transitional regulations have provided that persons who have previously been Independent Members may stand in recognition of the loss of skill and expertise which would otherwise arise. If any appointments are made after 24 July 2012 then such appointments may only be for 12 months.

Recommendation 4

That following Standards Committee consideration of the matter on 25 July 2012 Council approves the appointment of three Independent Persons, namely the independent members of the former Standards Committee.

9. THE REGISTER OF MEMBERS' INTERESTS

- 9.1 The Localism Act abolishes the concepts of personal and prejudicial interests. Regulations have now defines "Disclosable Pecuniary Interests" (DPIs). The Monitoring Officer is required to maintain a register of interests, which must be available for inspection and available on the Council's website. The Monitoring Officer is also responsible for maintaining the registers for Parish Councils, which also have to be open for inspection at Council offices and on relevant website.

At its 25 June 2012 meeting the Council adopted the requirements of the Relevant Authorities (Disclosable Pecuniary Interest) Regulations 2012. Members were asked to make the required declarations on a form provided by 29 July 2012.

Unfortunately there is some national debate concerning whether the Regulations have been properly drafted. In that context the Council's decisions on 25 June 2012 appear to be the safest in the circumstances.

Recommendation 5

That the Monitoring Officer prepare and maintain a new register of members interests to comply with the requirements of the Localism Act and ensure that it is available for inspection as required by the Act.

10. FINANCIAL CONSIDERATIONS

- 10.1 The requirements of the new arrangements will be met within existing budgets.

11. RISK ASSESSMENT

- 11.1 Failure to adopt appropriate arrangements could lead to reputational damage.

12. EQUALITY AND DIVERSITY / EQUALITY IMPACT ASSESSMENT

- 12.1 Democratic and Members Services has an up to date Equalities Impact Assessment in place for its functions and policies and has introduced an Action Plan to deal with key matters arising.

13. CONSULTATION

13.1 Group Leaders were consulted on the requirements of the registration prior to the 25 June 2012 Council meeting and the relevant issues were fully addressed by the Standards Committee at its 25 July 2012 meeting.

14. REASONS FOR RECOMMENDATION

14.1 To comply with statutory requirements and best practice.

15. RECOMMENDATION

15.1 To consider the recommendations set out in paragraphs 5.4, 6.2, 7.6, 8.4 and 9.1 of this report.

16. BACKGROUND PAPERS

Contacts for Background Papers:

Name	E-mail	Telephone
Timothy Date	tdate1@warrington.gov.uk	01925 442150

17.	Clearance Details	Name	Consulted		Date Approved
			Yes	No	
	Relevant Chair	Cllr C Fitzsimmons	√		31/08/2012
	SMT		√		30/08/20112
	Relevant Executive Director	Katherine Fairclough	√		30/08/2012
	Solicitor to the Council and Relevant Assistant Director	Timothy Date	√		30/08/2012
	S151 Officer	Shaer Halewood	√		30/08/2012

CODE OF CONDUCT FOR MEMBERS 2012

The Code has been adopted under section 27 of the Localism Act 2011 and is based on the following core principles of public life - selflessness, integrity, objectivity, accountability, openness, honesty and leadership. It sets out general obligations about the standards of conduct expected of members and co-opted members of the authority, together with provisions about registering and declaring interests.

A General obligations

Whenever you are acting as a member or co-opted member of this authority you must act in accordance with the following obligations:

Selflessness

- 1 You must act solely in the public interest and must never use or attempt to use your position improperly to confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, friends or close associates.

Integrity

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

You should exercise independent judgement. Although you may take account of the views of others (including a political group), you should reach your own conclusions on the issues before you and act in accordance with those conclusions.

Objectivity

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

You should remain objective, listen to the interests of all parties appropriately and impartially and take all relevant information, including advice from the authority's officers, into consideration.

Accountability

- 4 You are accountable to the public for your decisions and you must co-operate fully with whatever scrutiny is appropriate to your office, including by local residents.

Openness

- 5 (a) You must be as open and transparent as possible about your decisions and actions and the decisions and actions of your authority. You should be prepared to give reasons for those decisions and actions. You must not prevent anyone getting information that they are entitled to by law.

(b) Where the law or the wider public interest requires it, you must not disclose confidential information or information to which public access is restricted.

Honesty

- 6 (a) You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests as set out in Section B below.
- (b) You must only use or authorise the use of the authority's resources in accordance with the authority's requirements. You must, when using or authorising the use by others of such resources, ensure that they are used for proper purposes only. Resources must not be used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986

Respect for others

- 7 (a) You must treat others with respect. You should engage with colleagues and staff in a manner that underpins mutual respect, essential to good local government.
- (b) You must not do anything which may cause your authority to breach any equality laws.
- (c) You must not compromise or attempt to compromise the impartiality of anyone who works for, or on behalf of, the authority.
- (d) You must not bully any person, including other councillors, officers of the authority or members of the public.

Leadership

- 8 You must promote and support high standards of conduct when serving as member or co-opted member of the authority, by leadership and example, championing the interests of the community.

You should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in you.

B Registering and declaring pecuniary and non-pecuniary interests

- 1 Registration and declaration of interests shall be made in accordance with the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

Excerpt from CLG text:

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

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

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

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

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

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

STANDARDS COMMITTEE – 12 JANUARY 2014
SCHEDULE OF ALL COMPLAINTS RECEIVED AS AT 4 JANUARY 2014

Agenda Item 4
Appendix 2

Number	Councillor	Nature of Complaint	Comments
1.	Parish	Parish Council's failure to answer or address a formal complaint. Councillor's interaction with tenderers and contractors	Officers met complainant. Complaint withdrawn
2.	Parish	The substance of the complaint is that Councillor had used her influence to gain personal advantage and that this is in breach of the Code of Conduct	All parties informed that the complaint is on hold pending the resolution of other proceedings
3.	Borough	Councillor was aggressive and confrontational	Two emails sent to complainant requesting contact. No response received from complainant. Independent persons agreed not to investigate further in light of lack of response from complainant.
4.	Borough	That a councillor had revealed the complainant's address via an online forum website.	Monitoring Officer determined that there was no misconduct under the Code as the subject of the complaint was acting in his own right not as a Councillor.
5.	Borough	Comments made to the press by the Councillor in which Council officers were accused of acting on behalf of a developer	Informal resolution successful. Written apology from the Councillor. Apology accepted by the officers concerned.

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Agenda Item 4
Appendix 2

Number	Councillor	Nature of Complaint	Comments
6.	Parish	Publication in the press of parish council budget proposals that had been discussed at a private meeting of parish councillors	Informal resolution suggested and supported by the Independent Persons. The parish council be asked to arrange training for the member concerned and to be clear about the status of future meetings.
7.	Borough	Reference at full Council meeting of two councillors being disrespectful to residents living in the south of Warrington.	Complaint rejected as being part of political debate and does not reveal a prima facie breach of the Code. Independent Persons view is that the complaint is not worthy of investigation and part of the cut and thrust of political debate.
8.	Parish	<ol style="list-style-type: none"> 1. Releasing confidential information 2. Circulating prejudicial information with no right of reply for members. 3. Failure by a councillor to declare an interest 4. Involvement in decision making despite a pecuniary interest. 	Linked to complaint number 2. Parish provided with support on governance issues by Monitoring Officer and other external support.
9.	Borough	Conduct of meeting Traffic Cttee and a speed limit order relating to Chapelford	Complainant advised that there would be no investigation.
10.	Borough	Councillor's failure to treat another Councillor with respect by use of language alleged.	Matter resolved by apology

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Number	Councillor	Nature of Complaint	Comments
11.	Borough	Alleged harassment and failure to treat another Councillor with respect	Matter resolved by apology
12.	Parish	Use of confidential information gained from a Council meeting held in private on a website/blog	Investigation continuing
13.	Parish	Content of local party leaflet breaches the code	No prima facie breach of code
14.	Borough	During a meeting of the Council on 2 December 2013 an accusation of one councillor shouting abuse at another	Complainant being advised by solicitor. No action by Monitoring Officer pending further information from complainant's solicitor.
15.	Borough	Conduct of another in relation to council meetings of 21 October and 2 December 2013.	Complainant being advised by solicitor. No action by Monitoring Officer pending further information from complainant's solicitor.
16.	Borough	Conduct of another in relation to council meetings of 21 st October 2013 and 2 nd December 2013.	Complainant being advised by solicitor. No action by Monitoring Officer pending further information from complainants solicitor.
17.	Borough	Complaint by member of public in relation to Councillor's conduct at 2 nd December 2013 meeting.	Independent members endorsed Monitoring Officers recommendation not to investigate. Complainant advised.

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Number	Councillor	Nature of Complaint	Comments
18.	Borough	Complaint by member of public regarding alleged failure to reply to correspondence	Member has disputed jurisdiction. Input of Independent Members advised.
19.	Borough	Complaint by member of public of disrespect/rudeness in e-mail.	Complainant asked for clarification. Response awaited.
20.	Borough	Complaint by member of public of disrespect/rudeness in e-mail.	Complainant asked for clarification. Response awaited.
21.	Borough	Disrespectful comment made on a facebook page	Views of Independent Members to be sought.
22.	Borough	The complainant refers to a press release in which the councillor is accused of bullying.	Views of Independent Members to be sought