



WOKINGHAM BOROUGH COUNCIL

A Meeting of the **STANDARDS COMMITTEE** will be held at the Civic Offices, Shute End, Wokingham Civic Offices, Shute End, Wokingham RG40 1BN on **THURSDAY 2 APRIL 2015 AT 7.00 PM**

A handwritten signature in black ink, appearing to read 'Andy Couldrick', written in a cursive style.

Andy Couldrick
Chief Executive
Published on 25 March 2015

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Our Vision

A great place to live, an even better place to do business

Our Priorities

Improve educational attainment and focus on every child achieving their potential

Invest in regenerating towns and villages, support social and economic prosperity, whilst encouraging business growth

Ensure strong sustainable communities that are vibrant and supported by well designed development

Tackle traffic congestion in specific areas of the Borough

Improve the customer experience when accessing Council services

The Underpinning Principles

Offer excellent value for your Council Tax

Provide affordable homes

Look after the vulnerable

Improve health, wellbeing and quality of life

Maintain and improve the waste collection, recycling and fuel efficiency

Deliver quality in all that we do

MEMBERSHIP OF THE STANDARDS COMMITTEE

Councillors

Rob Stanton (Chairman)	Pauline Helliar-Symons (Vice-Chairman)	Chris Bowring
Ken Miall	Malcolm Richards	Beth Rowland

Parish/Town Council Representatives

Ray Duncan	Roger Loader	Roy Mantel
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ITEM NO.	WARD	SUBJECT	PAGE NO.
28.		<p>MINUTES OF PREVIOUS MEETING To confirm the minutes of the Meeting of the Committee held on 21 January 2015.</p>	5 - 8
29.		<p>APOLOGIES To receive any apologies for absence</p>	
30.		<p>DECLARATION OF INTEREST To receive any declarations of interest</p>	
31.		<p>PUBLIC QUESTION TIME To answer any public questions</p> <p>A period of 30 minutes will be allowed for members of the public to ask questions submitted under notice.</p> <p>The Council welcomes questions from members of the public about the work of this committee.</p> <p>Subject to meeting certain timescales, questions can relate to general issues concerned with the work of the Committee or an item which is on the Agenda for this meeting. For full details of the procedure for submitting questions please contact the Democratic Services Section on the numbers given below or go to www.wokingham.gov.uk/publicquestions</p>	
32.		<p>MEMBER QUESTION TIME To answer any member questions</p>	
33.		<p>PARISH / TOWN COUNCIL QUESTION TIME To answer any questions from Parish / Town Councillors</p>	
34.	None Specific	<p>REVISED COUNCILLOR CODE OF CONDUCT To consider a proposed revised Code of Conduct.</p>	9 - 34

35. None Specific **REVISED PROCESS FOR DEALING WITH MISCONDUCT COMPLAINTS** 35 - 50
To consider a revised process for considering Code of Conduct complaints.
36. None Specific **UPDATE ON COMPLAINTS AND FEEDBACK** 51 - 54
To consider a report setting out a summary of complaints received and activity since 21 January 2015.
37. **ANY OTHER ITEMS WHICH THE CHAIRMAN DECIDES ARE URGENT**
A Supplementary Agenda will be issued by the Chief Executive if there are any other items to consider under this heading

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**MINUTES OF A MEETING OF THE
STANDARDS COMMITTEE
HELD ON WEDNESDAY 21 JANUARY 2015 FROM 7.00 PM TO 7.50 PM**

Present:-

Wokingham Borough Members:- *Councillors Rob Stanton (Chairman), Chris Bowring, Ken Miall and Beth Rowland*

Parish/Town Council representatives:- *Councillors Ray Duncan, Roger Loader and Roy Mantel*

Also present:-

Kevin Jacob, Principal Democratic Services Officer

Andrew Moulton, Monitoring Officer and Head of Governance and Improvement Services

Mary Severin, Deputy Monitoring Officer and Borough Solicitor

PART I

17. MINUTES

The Minutes of the meeting of the Committee held on 14 October 2014 were confirmed as a correct record and signed by the Chairman.

18. APOLOGIES

Apologies for absence were submitted from Councillors Pauline Helliard-Symons and Malcolm Richards

19. DECLARATIONS OF INTEREST

There were no declarations of interest.

20. PUBLIC QUESTION TIME

There were no public questions.

21. MEMBER QUESTION TIME

There were no Member questions.

22. PARISH/TOWN COUNCIL QUESTION TIME

There were no Parish/Town Councillor questions.

23. UPDATE ON COMPLAINTS AND FEEDBACK

The Committee considered a report on Agenda pages 5 to 7 which set out a summary of the Code of Conduct complaints received and the actions taken between 14 October 2014 and 21 January 2015.

Andrew Moulton, Monitoring Officer and Head of Governance and Improvement Services commented that since the report to the last previous meeting, no new Code of Conduct complaints had been received.

Members were referred to page 7 of the Agenda which set out progress in respect of the three complaints that had been reported in October and it was confirmed that all three complaints had been closed.

In the case of two of the complaints, a decision had been taken by him as the Monitoring Officer to take no further action in accordance with the agreed procedure for the consideration of complaints against Councillors. With regard to the complaint received on the 22 September further guidance had been issued to Councillors who were Non-Executive Directors of companies owned by the Council which clarified the circumstances in which interests should be declared. Members were also informed that it was intended that training on the declaration and registration of interests and other matters including the proposed revised Member/Officer protocol was planned to take place prior to the meeting of the March full Council meeting. Training would also be provided to new Councillors as part of the induction process following the local elections in May 2015.

The Committee was informed that a meeting of the Standards Committee Hearings Sub-Committee had taken place on the 18 December 2014 and a decision made in respect of the third complaint lodged on 9 July. As set out within the process for the consideration of complaints the decision notice setting out the outcome of the complaint had been published on 22 December 2014 and would be reported to Council in February.

Beth Rowland expressed dissatisfaction that in respect of the complaint relating to the non-disclosure of interests an outcome of 'no further action' had been recorded. She felt that given the reputation of Councillors amongst the general public was poor it was very important that Councillors lead by example and that where they made mistakes that they learned from them in an open and transparent way. The complaint had been of a serious nature and she felt that the Councillors involved should have had to make some kind of formal apology.

Andrew Moulton reminded the Committee of the initial process that was followed after the receipt of a Code of Conduct complaint. As Monitoring Officer he had delegated authority to make an initial assessment of the complaint and to make a decision at that point on what action to take in consultation the Council's Independent Person and Chairman of the Standards Committee as was set out within the Council's Code of Conduct complaints process. No further action had been recorded as the outcome of the complaint because he had taken the decision in the circumstances of that particular complaint that a further investigation was not required and that the other options available to him as set out in the procedure were not appropriate. However, it was stressed that even if a decision was formally recorded as no further action with regard to an investigation it did not imply that no action at all would be taken. For instance, a complaint might highlight a need for training or further guidance to all Members in a particular area. However, the wording of the outcome recorded was something that could be looked at.

The Chairman commented that looking at the majority of recent complaints it was clear that there was a training and awareness issue around the declaration of interests and that this was why this training on this issue for Councillors was regarded as a priority and had been arranged for March.

Roy Mantel expressed concern that the report presented to the Committee did not give sufficient detail for Members to have a sufficient understanding of the complaints and the actions taken. He commented that he accepted that it was a sensitive issue and that some information should not be put into the public domain and therefore suggested that the relevant information could be supplied to the Committee, but be exempt from publication. Andrew Moulton agreed to look at this.

Ken Miall suggested that a disadvantage of the Council's Code of Conduct was that it attempted to cover all eventualities and as a result was not clear or fit for purpose. A common sense approach to Councillor behaviour was needed. Andrew Moulton commented that the Code of Conduct could be looked again to see if any improvements could be made and outlined that any changes would need to be recommended for approval by the Constitution Review Working Group prior to a full Council decision. If possible any suggested amendments would be brought to the next meeting of the Committee.

Kevin Jacob reminded the Committee that it was important for them to bear in mind that when a complaint was initially considered by the Monitoring Officer a decision was only taken on whether there were sufficient grounds to take it further or not. No finding of fact was made.

RESOLVED:

- 1) That the update report be noted;
- 2) That the Monitoring Officer review the Wokingham Borough Council Code of Conduct for consideration at the next meeting;
- 3) That the Monitoring Officer review the format of the update report in order that more detailed information be presented to the Committee in future.

24. UPDATE ON THE MEMBER/OFFICER PROTOCOL

Andrew Moulton, Monitoring officer and Head of Governance and Improvement Services updated the Committee on the development of a revised Member/Officer protocol following the endorsement of a draft revised protocol at the previous meeting.

He commented that following the meeting the Council's officer Corporate Leadership Team, (CLT) had been invited to comment on the draft protocol. The Corporate Leadership Team had been supportive of the value of the Member/Officer protocol and the broad direction of travel towards a more principles based and succinct protocol, but had asked that references to practical scenarios be included as to where the protocol would apply and that reference to the Council's values as set out in the Council Plan of Trust and Respect, Pride, Working as a Team and Being Valued be included.

It was suggested that when the work on the protocol was completed, the Chairman would be initially consulted prior to the circulation of the document to the Committee and submission to the Constitution Review Working Group. This was supported.

RESOLVED:

- 1) That the Chairman of the Committee be consulted on the revised draft of the Member/Officer Protocol;
- 2) That following consultation with the Chairman the Member/Officer Protocol be submitted to the Constitution Review Working Group.

These are the Minutes of a meeting of the Standards Committee

If you need help in understanding this document or if you would like a copy of it in large print please contact one of our Team Support Officers.

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Agenda Item 34.

TITLE	Revised Councillor Code of Conduct
FOR CONSIDERATION BY	Standards Committee on 2 April 2015
WARD	None Specific
DIRECTOR	Andrew Moulton, Head of Governance and Improvement Services

OUTCOME / BENEFITS TO THE COMMUNITY

A more effective, clear and robust process for the consideration of Misconduct Complaints against Councillors which will help support high standards of ethical governance.

RECOMMENDATION

That the Standards Committee request that the Constitution Review Working Group recommend the revised Councillor Code of Conduct to Council.

SUMMARY OF REPORT

Appendix B sets out a proposed revised Code of Conduct for members of Wokingham Borough Council.

Background

Under the Localism Act 2011, the Council was required to adopt a Code of Conduct for Councillors.

Analysis of Issues

Appendix A is a copy of the **existing** Code of Conduct.

Appendix B is a copy of the **proposed** Code of Conduct.

1. The new Code of conduct was based on a model code of conduct designed by Paul Hoey, who is an acknowledged expert on Councillor Code of Conduct matters. However, some of the old parts of para. 9.2 have been retained.
2. With regard to the 'seven principles of public life' it was always the government's intention that all Codes of Conduct should be based on these seven principles. Some local authorities' Codes of conduct contain only these seven principles. However, in the past, including them into the body of our Code of conduct provided a wide field for complainants, which were often spurious and difficult to assess. These have now been moved to the introductory part of the code, and not kept as part of the operative part of the Code of conduct. (see 9.2.4 et seq of the old code, and 9.2.1 of the new code)
3. The introduction part of the code gives definitions, as before. However, it also describes the three areas of the Code, to help Members make easier reference to it, when needed. It describes therefore, registration of interests, declaration of interests in meetings, and rules about general behaviour.
4. The old code was not very clear about what kind of interests should be declared in their interest forms. The new code attempts to clarify the two different kinds of interests to be registered, see Appendix A (statutory Disclosable Pecuniary Interests), and Appendix B (non-statutory 'Registered Personal Interests'). Guidance is currently being drafted to give Members more detail about when interests should be registered. This will be shown to the next Standards Committee.
5. There has also been a great deal of confusion about when to declare interests in meetings. The rules are the same, but the new code attempts to make this as clear as possible.
6. Declarations of personal interests are described in the same detail as the old code. (see 9.2.14.2 of old code, and 9.2.5 of new code). However, the criteria of the 'relevant person' has been removed, (see 9.2.14.2a) of the old code) and has been replaced in more simple terms in 9.2.5.1 of the new code. The rule about simply declaring it at a meeting but remaining in the room to participate in the discussion and vote are the same.
7. The type of interest which requires a Member to declare it and leave the room whilst the item is discussed and voted upon has been changed. This is now referred to as 'Prejudicial Interests'. (These used to be referred to as 'Pecuniary

Interests’, but this caused confusion with ‘Disclosable Pecuniary Interests’). Again, guidance is currently being drafted to help members understand what personal interests and prejudicial interests need to be declared in meetings. This is a difficult area, even for professional officers.

8. The term ‘General Obligations’ has now been changed to ‘Behaviour’ (see 9.2.5 of old code, and 9.2.8 of new code). Each ‘behaviour’ is given its own paragraph number to make for easier reference. In addition the word ‘bullying’ is linked with ‘intimidation’. It was felt that no person should be subject to intimidation, so there is no need to differentiate between a complainant, witness of anyone involved in the investigation of a complaint. The rule in 9.2.5.2d) in the old code is now gone, since this is dealt with in the Member/Officer protocol. There has never been a complaint about this rule, so it was felt to be unnecessary. The rule about disclosing confidential information has been trimmed down too. Professional advice will always be subject to confidentiality, and this is covered by their professional bodies. Also, putting a caveat on disclosure being ‘reasonable and in the public interest’ and ‘made in good faith’ was felt to cause confusion. This has therefore been removed. Finally, the rule about bringing the authority into disrepute has also been removed. This is another common area of complaint, but in reality behaviour conducted by a single member is unlikely to bring the authority into disrepute.

9. The new guidance about Behaviours will also help the Standards Committee and Members of Hearings Panels when making decisions. It should also help complainants clarify their complaint. For example, what constitutes ‘bullying’. This is a difficult area, and a common area of complaint.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	£0	Yes	Revenue
Next Financial Year (Year 2)	£0	Yes	Revenue
Following Financial Year (Year 3)	£0	Yes	Revenue

Other financial information relevant to the Recommendation/Decision

None

Reasons for considering the report in Part 2

None

List of Background Papers

Attached

Contact Mary Severin	Service Governance and Improvement Services
Telephone No 0118 974 6539	Email mary.severin@wokingham.gov.uk
Date 25 March 2015	Version No. 1.00

PRESENT CODE OF CONDUCT

CHAPTER 9.2 - CODE OF CONDUCT FOR COUNCILLORS

9.2.1 Preamble

This Code was prepared and adopted by Wokingham Borough Council in accordance with Sections 27 to 37 of the Localism Act 2011.

9.2.1.1

Every Councillor, as well as any co-opted member, must act in accordance with this Code and supporting protocol with the Council's Constitution when acting in an official capacity. Any person may then make a written complaint to the Council's Monitoring Officer that a Member has acted in breach of the Authority's code.

9.2.1.2

This Code was adopted by the Council on 19 July 2012 under Section 27 of the Localism Act 2011 and defines the standards of conduct which will be required of all Members of the Authority in the carrying out of their duties, and in their relationships with the Authority, the public and the Authority's employees.

9.2.1.3

The Code represents the standard against which the public, their fellow Councillors, Officers and the Authority's Standards Committee will judge their conduct. The Local Government Ombudsmen may also regard a breach of the Code as incompatible with good administration, and may make a finding of maladministration by the Authority in these circumstances.

9.2.1.4

References to 'you' or 'your' within this document should be interpreted as applying to Members or co-opted Members of the Authority.

9.2.1.5

References to 'co-opted members' should be interpreted as applying to a person who is not a member of the Council but who is either a member of any committee, sub-committee, panel etc, or a member of, and represents the Council on any joint committee or joint sub-committee of the Council.

9.2.2 Introduction and Interpretation

9.2.2.1

This Code applies to you as a Member of an authority when acting in that capacity.

9.2.2.2

You should read this Code together with the Member/Officer Protocol and other sections of the Council's Constitution relating to ethical and financial probity.

9.2.2.3

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

9.2.2.4

In this Code – “meeting” means any meeting of:

- a) the Authority;
- b) the Executive of the Authority;
- c) any of the Authority’s or its Executive committees, sub-committees, joint-committees, joint sub-committees, or area committees;

9.2.2.5

“Member” includes a co-opted Member and an appointed Member.

9.2.3 Scope

9.2.3.1

Subject to Rules 9.2.3.2 to 9.2.3.3 you must comply with this Code whenever you:

- a) conduct the business of your Authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
- b) act, claim to act or give the impression you are acting as a representative of your Authority, and references to your official capacity are construed accordingly.

9.2.3.2

Subject to 9.2.3.3, this Code does not have effect in relation to your conduct other than where it is in your official capacity.

9.2.3.3

Where you act as a representative of your Authority:

- a) on another relevant authority, you must, when acting for that other authority, comply with that other authority’s code of conduct; or
- b) on any other body, you must, when acting for that other body, comply with this Authority’s code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

9.2.4 Guiding Principles

In undertaking your duties, you should be mindful and act in accordance with the following overarching guiding principles of good governance:

9.2.4.1 Selflessness

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

9.2.4.2 Integrity

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

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

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

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

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

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

9.2.5 General Obligations

9.2.5.1

You must treat others with respect.

9.2.5.2

You must not—

- a) do anything which may cause your authority to breach any of the equality enactments (as defined in the Equality Act 2010);
- 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; or
- d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your Authority.

9.2.5.3

You must not:

- a) 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:

- i) you have the consent of a person authorised to give it;
 - ii) you are required by law to do so;
 - iii) 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
 - iv) the disclosure is:
 - reasonable and in the public interest; and
 - made in good faith and in compliance with the reasonable requirements of the Authority; or
- b) prevent another person from gaining access to information to which that person is entitled by law.

9.2.5.4

You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

9.2.5.5

You:

- a) must not 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
- b) must, when using or authorising the use by others of the resources of your Authority;
 - i) act in accordance with your Authority's reasonable requirements;
 - ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

9.2.5.6

When reaching decisions on any matter you must have regard to any relevant advice provided to you by:

- a) your Authority's Chief Finance Officer; or
- b) your Authority's Monitoring Officer, where that Officer is acting pursuant to his or her statutory duties.

9.2.6 Notification of Interests (Disclosable Pecuniary Interests and Interests and other Personal Interests)

9.2.6.1

In accordance with the Localism Act 2011 (sections 29-34) and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 subject to Rule 9.2.8 below, you must, within 28 days of:

- a) this Code being adopted by or applied to your Authority; or
- b) you becoming a Member or co-opted Member (where that is later),

provide written notification to the Monitoring Officer of any Disclosable Pecuniary Interests (where they fall within the categories set out in Rule 9.2.9) or any Personal Interests (where they fall within the categories set out in Rule 9.2.14).

9.2.6.2

Subject to Rule 9.2.8, you must, within 28 days of becoming aware of any new Disclosable Pecuniary Interest or other Personal Interests or change to any Disclosable Pecuniary Interest or other Personal Interests registered 9.2.14, register details of that new Personal Interest or change by providing written notification to the Monitoring Officer.

9.2.7 Register of Interests

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 under the Localism Act must be published on the Council's website.

9.2.8 Sensitive Information

9.2.8.1

Where you consider that disclosure of the details of an interest (either a Disclosable Pecuniary Interest or any other interest which the Member is required to disclose), at a meeting or on the Register of Members' interests, is likely to lead to you, or a person connected with you, being subject to violence or intimidation, you may request that the Monitoring Officer agree that such interest is a sensitive interest.

9.2.8.2

If the Monitoring Officer agrees that the interest is a sensitive interest the Member must disclose that the interest exists at the relevant meeting but is not required to provide the exact details of the sensitive interest during the meeting. The Monitoring Officer shall also exclude the details of the sensitive interest from the published version of the Register of Members' interest.

9.2.8.3

You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under Rule 9.2.8.1 is no longer sensitive information, notify the Monitoring Officer asking that the information be included on the register of Members' interests.

9.2.9 Disclosable Pecuniary Interest

9.2.9.1

A pecuniary interest is a Disclosable Pecuniary Interest if it is an interest of yours or your partner (which means spouse or civil partner; a person with whom you are living as

husband and wife; or a person with whom you are living as if you were civil partners) and you are aware that the other person has the interest.

9.2.9.2

The Disclosable Pecuniary Interests which are specified for the purposes of Section 30(3) of the Localism Act 2011 are as specified below:

(In the extracts from the Regulations below, 'M' means you and 'relevant person' means you and your partner, as above)

Subject	Prescribed description
Employment, office, trade, profession or vacation	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 Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— a) under which goods or services are to be provided or works are to be executed; and b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to 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 relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.
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These descriptions on interests are subject to the following definitions;

The Act	means the Localism Act 2011
Body in which the relevant person has a beneficial interest	means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;
Director	includes a member of the committee of management of an industrial and provident society;
Land	excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;
M	means 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 section 31(7), as the case may be, of the Act;
Relevant person	means M or any other person referred to in section 30(3)(b) of the Act;
Securities	means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

9.2.10 Effect of Disclosable Pecuniary Interests on Participation at Meetings including Individual Executive Member Decisions

9.2.10.1

If you are a Member or co-opted member of a relevant Authority and you are at a meeting of that Authority, or any committee, sub-committee, joint committee, joint sub-committee, panel or working group of that Authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at that meeting:

- a) you must disclose the interest even if you have registered it at the beginning of the meeting or immediately prior to the item being discussed;
- b) you may not participate in any discussion or any vote taken on the matter and should withdraw from the room or chamber where a meeting considering the business is being held prior to any discussion on the matter taking place;

- c) 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;
- d) you must not seek improperly to influence a decision about that business.

Where you have a Disclosable Pecuniary Interest in any business of your Authority, you may attend a meeting, (including a meeting of the Overview and Scrutiny Committee of your Authority or a panel or sub-committee of such a committee) but only for the purposes 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 purposes, whether under a statutory right or otherwise.

9.2.10.2 Individual Executive Member Decisions

Where an Executive Member is undertaking an Individual Executive Member Decision and becomes aware of a Disclosable Pecuniary Interest in the matter being dealt with or due to be dealt with by him/her, the Executive Member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

9.2.11 Dispensations

9.2.11.1

Under Section 33 of the Localism Act 2011 a Member or co-opted member of the Authority who has a Disclosable Pecuniary Interest may apply for a dispensation to be granted to allow them to participate in any discussion or vote on a particular matter. The application for dispensation must take the form of a written request to the Proper Officer of the Council.

9.2.11.2

The criteria for granting a dispensation are as follows:

- a) that so many Members of the relevant decision making body have Disclosable Pecuniary Interests in a matter that it would “impede” the transaction of the business of that body i.e. the decision making body would not be quorate;
- b) that without the dispensation the representation of different political groups on the body transacting the business would be such as to alter the likely outcome of the vote on that particular matter;
- c) that the Council considers that the dispensation is in the interests of persons living in the Authority’s area;
- d) that without a dispensation no member of the Executive would be able to participate in a particular matter;
- e) that the Council considers that it is “otherwise appropriate” to grant a dispensation.

9.2.11.3

In each case when a dispensation is granted it must specify how long the dispensation is for. A dispensation must not exceed a period of four years.

9.2.12 Process for Granting and Recording a Dispensation

The process for granting a dispensation is as follows:

- a) a Member must apply in writing to the Monitoring Officer for a dispensation as soon as possible, setting out why it is required;
- b) the Monitoring Officer will make a decision in accordance with the rules set out in Section 33 of the Localism Act 2011 and will advise the Member accordingly.

9.2.13 Offences

9.2.13.1

Under the Localism Act 2011 it is a criminal offence if a Member or co-opted Member:

- a) fails to notify the Monitoring Officer of any Disclosable Pecuniary Interest within 28 days of election;
- b) fails to disclose a Disclosable Pecuniary Interest at a meeting of the Authority whether or not it is included on the register;
- c) participates in any discussion or vote on a matter in which they have a Disclosable Pecuniary Interest;
- d) fails to notify the Monitoring Officer within 28 days of a Disclosable Pecuniary Interest that is not included on the register that they have disclosed to a meeting;
- e) as an Executive Member discharges a function acting alone i.e. an Individual Executive Member Decision, and having a Disclosable Pecuniary Interest in such a matter, fails to notify the Monitoring Officer within 28 days of the interest;
- f) knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a Disclosable Pecuniary Interest or in disclosing such an interest to a meeting.

9.2.13.2

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a Councillor for up to 5 years.

9.2.14 Other Personal Interests

The Localism Act further provides that Members must notify the Monitoring Officer in writing of the details of other personal interests, where they fall within the following descriptions, for inclusion in the register of interests.

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 of which you are a member;

- exercising functions of a public nature; or
 - directed to charitable purposes; or
 - 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;
 - iii) any easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income.
- b) You must, within 28 days of becoming aware of any new interest or change to any interest registered under Rule 9.2.14 or as a Disclosable Pecuniary Interest notify the Monitoring Officer of the details of that new interest or change.

9.2.14.1 Disclosure of interests

Subject to Rules 9.2.14.2 to 5, where you have a personal interest described in Rule 9.2.14 above or in Rule 9.2.14.2 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.

9.2.14.2

You have a personal interest in any business of your Authority:

- a) 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; or
- b) it relates to or is likely to affect any of the interests you have registered as a Disclosable Pecuniary Interest.

9.2.14.3

In Rule 9.2.14a) 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 Rule 9.2.14a)i) or ii).

9.2.14.4

Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in Rule 9.2.14a)i) or a)ii)(a) you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

9.2.14.5

Where you have a personal interest but, by virtue of Rule 9.2.8, 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.

9.2.14.6

Where you have a personal interest in any business of your Authority and you have made an Individual Executive Member Decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

9.2.15 Effect of Pecuniary Interests on Participation at Meetings including Individual Executive Member Decisions

9.2.15.1

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 paragraphs 9.2.14 or 9.2.14.2; 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 paragraphs 9.2.14 and 9.2.14.2.

9.2.15.2

Subject to Rules 9.2.15.3 and 9.2.15.4 where you have a pecuniary interest in any business of your Authority:

- a) you must disclose the interest even if you have registered it at the beginning of the meeting or immediately prior to the item being discussed;
- b) you may not participate in any discussion or any vote taken on the matter and should withdraw from the room or chamber where a meeting considering the business is being held prior to any discussion on the matter taking place;
- c) 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;
- d) you must not seek improperly to influence a decision about that business.

9.2.15.3

Where you have a Pecuniary Interest in any business of your Authority, you may attend a meeting (including a meeting of the Overview and Scrutiny Committees of your Authority or of a panel or sub-committee of such a committee) 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.

9.2.15.4

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:

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

9.2.15.5 Individual Executive Member Decisions

Where an Executive Member is undertaking an Individual Executive Member Decision and becomes aware of a Pecuniary Interest in the matter being dealt with or due to be dealt with by him/her, the Executive Member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

9.2.15.6 Interests Arising in Relation to Overview and Scrutiny Committees

In any business before an Overview and Scrutiny Committee of your Authority (or of a Panel or 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.

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.

9.2.16 Gifts and Hospitality

You must disclose and record any gift or hospitality with an estimated value of at least £25 that you have received in your capacity as a Member of the Council, as well as those that were offered and not accepted. Such disclosure should be made in writing or by e-mail to the Monitoring Officer where it will be included in the Register of Gifts and Hospitality.

A copy of the Register will be made available for public inspection and made available on the Council's website.

Wokingham Borough Council's Monitoring Officer is:

Mr Andrew Moulton
Head of Governance and Improvement Services
Civic Offices
Shute End
Wokingham
Berks RG40 1BN

Wokingham Borough Council's Deputy Monitoring Officer is:

Mrs Mary Severin
Corporate Counsel
Civic Offices
Shute End
Wokingham
Berks RG40 1BN

PROPOSED REVISED CODE OF CONDUCT

CHAPTER 9.2 - CODE OF CONDUCT FOR COUNCILLORS

9.2.1 Introduction

This Code of Conduct applies to Councillors and Co-opted Members whenever they are acting as a Member or as a representative of the Council or when they claim to act or give the impression of acting as a representative of the Council.

It does not apply to when the Councillor or Co-opted Member is acting in a private capacity.

When carrying out their public role, Councillors and Co-opted Members should always have regard to the seven principles of public life. These are: selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Councillors and Co-opted Members should also read the Code of Conduct together with the Member/Officer Protocol and other sections of the Council's Constitution relating to ethical and financial probity.

Any person may make a complaint if a Councillor or Co-opted Member does not act in accordance with this Code. The Local Government Ombudsmen may also regard a breach of the Code as incompatible with good administration, and may make a finding of maladministration by the Council in some circumstances. It is the Councillor and Co-opted Member's sole responsibility to comply with the Code.

A Members' Interest form is provided by the Monitoring Officer to register interests. It should be noted that the form will be published on the Council's website. When a Councillor or Co-opted Member declares an interest at a meeting of the Council, they should be aware that this will be noted in the Minutes of the Meeting, which is a public document, and also on the Member's page on the website.

If any Councillor or Co-opted Member is unsure about any part of the Code of Conduct, they are urged to seek advice from the Monitoring Officer or Deputy Monitoring Officer.

There are three areas to the Code of Conduct:

- 1 Rules about registration of Disclosable Pecuniary Interests and Personal Interests with the Monitoring Officer, using the Members Interest Form (rule 9.2.3)
- 2 Rules about declaring interests in meetings where items on the agenda conflict with those interests (rules 9.2.4, 9.2.5 and 9.2.6)
- 3 Rules about general behaviour (rule 9.2.8)

9.2.2 Interpretation

- “Co-opted Member” means a person who is a member of any committee or sub-committee of the Council or is a member of and represents the authority on any joint committee of the Council and who is entitled to vote on any question which falls to be decided at any committee or sub-committee.
- “Councillor” means a Member or Co-opted Member of this Council.
- “Meeting” means any meeting of:
 - a) the Council;
 - b) the Executive of the Council, including when making an Individual Executive Decision;
 - c) any of the Council’s or the Executive’s committees, sub-committees, joint-committees, joint sub-committees, or area committees;
- “Member” includes a co-opted Member and an appointed Member of this Council

9.2.3 Registration of Disclosable Pecuniary Interests and Personal Interests

9.2.3.1

Within 28 days of this Code being adopted by the Council, OR the Councillor’s election, OR the Co-opted Member’s appointment (whichever is later) Councillors must register with the Monitoring Officer the interests which fall within the categories set out in Appendices A and B.

9.2.3.2

Upon the re-election of the Councillor or the re-appointment of the Co-opted Member, Councillors must within 28 days re-register with the Monitoring Officer any interests in Appendices A and B.

9.2.3.3

Councillors must register with the Monitoring Officer any change to interests or new interests in Appendices A and B within 28 days of becoming aware of the change.

9.2.3.4

Councillors need not register any interest which the Monitoring Officer agrees is a ‘sensitive interest’ A sensitive interest is one which, if made public, could lead to the Councillor or a person connected to a Councillor being subject to violence or intimidation.

9.2.4 Declaration of Disclosable Pecuniary Interests at meetings

9.2.4.1 Where a matter arises at a meeting which relates to an interest in Appendix A, Councillors must do the following:

9.2.4.2 They should declare their interest at the beginning of the meeting when asked to do so by the Chairman or Mayor, or if not then, they must do so before the matter is discussed. They must do so regardless of whether or not the interest is registered in their Members Interest form.

9.2.4.3 Where a matter arises at a meeting which is a sensitive interest as defined under rule 9.2.3.4 Councillors do not have to declare the exact nature of their interest but must follow the rules regarding non-participation, in rules in 9.2.4.4 and 9.2.4.5 below

9.2.4.4 When the item is introduced at the meeting, Councillors may continue to attend the meeting but only for the purpose of making representations, answering questions or giving evidence provided that the public are also allowed to attend the meeting for the same purpose.

9.2.4.5 They must then leave the room before the matter is discussed and voted upon.

9.2.5 Declaration of Personal Interests at meetings

9.2.5.1 Where a matter arises at a meeting which relates to or affects an interest in Appendix B or a financial interest of the Councillor, a friend, relative or close associate (and it is not a Disclosable Pecuniary Interest listed in Appendix A), Councillors must do the following:

9.2.5.2 They should declare the interest at the beginning of the meeting when asked to do so by the Chairman or Mayor as a “Personal Interest” or if not then, they must do so before the matter is discussed or voted upon. They must do so regardless of whether or not the interest is registered in their Members Interest form.

9.2.5.3 Where a matter arises at a meeting which is a sensitive interest as defined under rule 9.2.3.4 Councillors do not have to declare the exact nature of their interest

9.2.5.4 They may however participate in the discussion and vote on the matter, subject to rule 9.2.6 below.

9.2.6 Declaration of Prejudicial Interests at meetings

9.2.6.1 Where the matter affects the declared interest under rule 9.2.5.1 more than the majority of people in the area affected by the decision, and a reasonable member of the public would think the Councillor’s view of the public interest would be adversely affected, the Councillor must do the following:

9.2.6.2 They should declare this as a Prejudicial interest at the beginning of the meeting when asked to do so by the Chairman or Mayor, or if not then, they must do so before the matter is discussed.

9.2.6.3 Where a matter arises at a meeting which is a sensitive interest as defined under rule 9.2.3.4 Councillors do not have to declare the exact nature of their interest but must follow the rules regarding non-participation, in rules 9.2.6.4 and 9.2.6.5 below.

9.2.6.4 When the item is introduced at the meeting, Councillors may continue to attend the meeting but only for the purpose of making representations, answering questions or giving evidence provided that the public are also allowed to attend the meeting for the same purpose.

9.2.6.5 They must then leave the room before the matter is discussed or voted upon.

9.2.7 Dispensations

9.2.7.1 On a written request, the Monitoring Officer or Deputy Monitoring Officer may grant a Councillor a dispensation to participate in a discussion and/or vote on a

matter at a meeting where they would otherwise not be allowed to if the Monitoring Officer or Deputy Monitoring Officer believes that the number of Councillors otherwise prohibited from taking part in the meeting would impede the transaction of the business; or it is in the interests of the inhabitants in the Council's area to allow the Councillor to take part or it is otherwise appropriate to grant a dispensation. The dispensation will last no longer than 4 years from the date of the dispensation.

9.2.8 Behaviour

9.2.8.1

Councillors must not behave such a way that a reasonable person would regard as disrespectful to others.

9.2.8.2

Councillors must not act in a way which a reasonable person would regard as bullying, or in any way which is intimidating to others.

9.2.8.3

Councillors must not seek to improperly confer an advantage or disadvantage on any person.

9.2.8.4

Councillors must only use the resources of the Council when undertaking Council business.

9.2.8.5

Councillors must not disclose information which is confidential or where disclosure is prohibited by law, unless he or she has the consent of the person authorised to give it, or he or she is required by law to do so.

9.2.8.6

Councillors must respect the impartiality of officers and not put undue pressure on them.

9.2.8.7

Councillors must not do anything which may cause their Council to breach any of the equality enactments (as defined in the Equality Act 2010).

9.2.8.8

Councillors must notify the Monitoring Officer of any gifts or hospitality worth more than an estimated value of £25 which the Councillor has received by virtue of his or her office or any gifts or hospitality worth more than an estimated value of £25 which they have been offered but which they subsequently declined.

**APPENDIX A
DISCLOSABLE PECUNIARY INTERESTS**

Interests defined by regulations made under s30(3) of the Localism Act 2011 and described in the table below.

(In the extracts from the Regulations below, ‘M’ means you and ‘relevant person’ means you and your partner). “Partner” means a spouse or civil partner of M, or a person with whom M is living as husband and wife or a person with whom M is living as if they were civil partners

Subject	Prescribed description
Employment, office, trade, profession or vacation	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 Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— a) under which goods or services are to be provided or works are to be executed; and b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to 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 relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.
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These descriptions on Disclosable Pecuniary Interests above are subject to the following definitions;

The Act	means the Localism Act 2011
Body in which the relevant person has a beneficial interest	means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;
Director	includes a member of the committee of management of an industrial and provident society;
Land	excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;
M	means a member of a relevant authority;
Member	includes a co-opted member;
Relevant authority	means the authority of which M is a member;
Relevant period	means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;
Relevant person	means M or any other person referred to in section 30(3)(b) of the Act;
Securities	means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

IMPORTANT NOTE:

Under s34 of the Localism Act 2011 it is a criminal offence if a Member or co-opted Member:

- a) fails to notify the Monitoring Officer of any Disclosable Pecuniary Interest within 28 days of election;
- b) fails to disclose a Disclosable Pecuniary Interest at a meeting of the Council if that interest is not included on the register;
- c) participates in any discussion or vote on a matter in which they have a Disclosable Pecuniary Interest;
- d) fails to notify the Monitoring Officer within 28 days of a Disclosable Pecuniary Interest that is not included on the register that they have disclosed to a meeting;
- e) as an Executive Member discharging a function acting alone i.e. an Individual Executive Member Decision, and having a Disclosable Pecuniary Interest in such a matter, fails to notify the Monitoring Officer within 28 days of the interest;
- f) As an Executive Member discharging a function acting alone, i.e. an Individual Executive Member Decision, and having a Disclosable Pecuniary Interest in such a matter, participates in any steps, or further steps in relation to the matter.
- f) knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a Disclosable Pecuniary Interest or in disclosing such an interest to a meeting.

APPENDIX B REGISTERED PERSONAL INTERESTS

Councillors must register:

- i) any body of which the Councillor is in a position of general control or management and to which he/she is appointed or nominated by the Council;
- ii) any body
 - exercising functions of a public nature; or
 - directed to charitable purposes; or
 - one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),
 -of which the Councillor is a member or in a position of general control or management;

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Agenda Item 35.

TITLE	Revised Process for Dealing with Misconduct Complaints
FOR CONSIDERATION BY	Standards Committee on 2 April 2015
WARD	None Specific
DIRECTOR	Andrew Moulton, Head of Governance and Improvement Services

OUTCOME / BENEFITS TO THE COMMUNITY

A more effective, clear and robust process for the consideration of Misconduct Complaints against Councillors which will help support high standards of ethical governance.

RECOMMENDATION

That the Standards Committee request that the Constitution Review Working Group recommend the revised process for the dealing with misconduct complaints to Council.

SUMMARY OF REPORT

Appendix B sets out a proposed revised process for the consideration of misconduct complaints against Councillors.

Background

Section 9.1.12.1 of the Council's Constitution sets out the process for dealing with misconduct complaints against Councillors. It is followed in respect of complaints made against members of Wokingham Borough Council and complaints made against members of the town or parish councils within the Borough.

Analysis of Issues

Appendix A is a copy of the **existing** complaints process.

Appendix B is a copy of the **proposed** revised complaints process.

1. The new draft is now in a chronological order in terms of what must be done upon receipt of the complaint, the Monitoring Officer consultation process, and then on to the investigation and hearing by the Hearings Panel. There are some changes to make the paragraphs easier to read. There is a clearer and more logical difference about what to do when a Subject Member has been found to be in breach of the code (where action can be taken) and when a Subject Member has been found not to be in breach of the code (where no action can be taken).
2. The member who is the subject of the complaint is now referred to as the 'Subject Member'. The rules about seeking comments from the Subject Member, and from the Town or Parish Clerk (if applicable) are the same. The rules about anonymous complainants are also the same.
3. There are more details about what the Monitoring Officer can decide to do at the Consultation Meeting with the Chairman of the Standards Committee and Independent Person, (see 9.1.13.4 of new process. Compare 9.1.13 of old process). The old rules did not specify what 'resolving informally' meant. This is stated more clearly in the new rules. In addition, mediation can only be requested if both parties are willing to do so, so this was also clarified. Another clarification is about letters of apology. In the past, occasionally apology letters by Subject Members were done in a way which appeared not to be genuine. There is now a new caveat that such letters should be acceptable to the Monitoring Officer and the Chairman of the Standards Committee. In addition, the Monitoring Officer could suggest a number of these options, instead of just one of them. For example there may be a situation where a letter of apology would be acceptable, but that further training would be required too. There is a new time by which the Monitoring Officer should make a decision, previously 14 working days, now 10 working days.
4. The rules about finding on investigation are changed. Where an investigation concludes that there has been no breach, the Monitoring Officer simply has delegated authority not to take any further action. (see 9.1.14 old process and 9.1.14.1 of new process). Previously the Monitoring Officer also had delegated authority to refer the matter to the Standards Committee if he/she feels that it would be appropriate. However, if the investigation finds no evidence of a breach, it was felt that there was nothing that the Standards Committee could add to this. *Is this acceptable to Members?* The Standards Committee will however receive a summary of these 'no breach' investigation reports. The rules

about advising the Town and Parish clerk, as appropriate, are the same, as is the rule about not disclosing the name of the Subject Member if they were found not to be in breach of the Code.

5. Where an investigation concludes that there has been a breach of the Code, the new rules simply mirror what the Monitoring Officer's choices are at the consultation meeting. (see 9.1.15 of the old process and 9.1.14.2 of new process). This is because the situation is the same (i.e. clear evidence of breach of the Code of Conduct), the difference being that an investigation has been carried out because, at the time of the complaint, there was lack of evidence. However, the rule about not disclosing the Subject Member's name when a decision is made to take an informal resolution is now gone, in other words, disclosure of his or her name can be made,. *Members are asked for their view here – should his or her name be published in the same way as when the Hearings panel make a decision that the Subject Member has breached the code?*
6. The procedure for local hearings is the same as the old procedure, but with the addition of explicit reference to the statutory role of the Independent Person in giving their views on the complaint, (para 9.1.15.3 (j) of the new process).
7. Paras 9.1.16.2 and 9.1.16.3 of the new process sets out the procedure around the findings of the hearings panel and publicising the decision when a decision has been made that the Subject Member is in breach of the Code of Conduct. This has been amended to clarify that when a decision is reported to a Wokingham Borough Council meeting it will not be the subject of discussion or debate. Please note the statement that the Subject Member has no right of appeal against a decision of the Monitoring Officer or the Hearings Panel. There never has been a provision for appeal by a Subject Member, therefore it was felt that this should be clarified. *Members are asked for their view on this.*
8. Guidance is being drafted for the Investigation Officer, giving more details on interviewing witnesses, and providing draft reports to the Subject Member for his or her comment before it is finalised. This is part of the investigation process, and not considered to be part of the formal complaints process. Guidance will be shown to the next Standards Committee for their information, and comments.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	£0	Yes	R
Next Financial Year (Year 2)	£0	Yes	R

Following Financial Year (Year 3)	£0	Yes	R
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Other financial information relevant to the Recommendation/Decision
N/A

Reasons for considering the report in Part 2
None

List of Background Papers
Attached.

Contact Mary Severin	Service Governance and Improvement Services
Telephone No 0118 974 6539	Email mary.severin@wokingham.gov.uk
Date 25 March 2015	Version No. 1.00

EXISTING COMPLAINTS PROCESS

9.1.12 Process for Dealing with Misconduct Complaints

9.1.12.1

The Localism Act 2011 requires the Council to adopt arrangements for dealing with complaints of breaches of the Code of Conduct by either Borough Council Members, Town/Parish Council Members or co-opted members of any of these bodies and such complaints can only be dealt with in accordance with such arrangements.

9.1.12.2

The following is the process that will be followed 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.

9.1.13 Receipt of Complaint

On receipt of a complaint the Monitoring Officer shall, subject to consultation with the Independent Person and the Chair of the Standards Committee, have delegated authority to decide whether the complaint:

- a) can be resolved informally i.e. by mediation with the two parties before making a decision on whether the complaint merits formal investigation;
- b) requires investigation;
- c) should be referred to the Standards Committee;
- d) no further action should be taken.

9.1.13.1

The Monitoring Officer will inform the complainant, normally within 14 working days of receipt of a complaint, of how the complaint will be dealt with and the reason for that decision.

9.1.13.2

Following receipt of a complaint the Monitoring Officer will inform the relevant Member that a complaint has been received about them and the nature of that complaint as soon as reasonably practical. The relevant Member's initial comments in response to the complaint will be sought by the Monitoring Officer.

The name of the complainant will be disclosed to the Member who is the subject of the complaint unless the complaint was made anonymously to the Monitoring Officer or the complainant has requested anonymity. A request for anonymity will only be agreed by the Monitoring Officer if they are satisfied that to do so is overwhelmingly in the public interest and after the view of the Independent Person and the Chair of the Standards Committee have been obtained.

Once a decision has been taken by the Monitoring Officer in consultation with the Independent Person and Chairman of the Standards Committee on what action to take

regarding the complaint, the Member and the complainant will be informed of the outcome as soon as possible by the Monitoring Officer in writing.

9.1.13.3 Anonymous Complaints

Anonymous complaints will not usually be considered. However it is recognised that in some exceptional circumstances some individuals may feel unable to reveal their identity. In these situations individuals can report their concerns regarding a Member anonymously, but should be aware that these concerns will carry less weight. Also the disclosure may not be sufficiently detailed to provide a successful investigation.

The Monitoring Officer is authorised, subject to consultation with the Independent Person and the Chair of the Standards Committee, to take any of the actions set out in Rule 9.1.13 in respect of an anonymous complaint.

9.1.13.4 Town/Parish Complaints

If the complaint relates to a Town/Parish Member the Monitoring Officer will also inform the relevant Town/Parish Council clerk of the complaint and seek the views of the Town/Parish Council clerk before deciding whether the complaint merits formal investigation. The Clerk will also be informed of the Monitoring Officer's decision.

9.1.13.5 Report to the Standards Committee

The Monitoring Officer will provide a report to the Standards Committee, on a quarterly basis, which would contain the following: the number and nature of complaints received; progress on any investigations and associated costs; and identify areas where training or other action might avoid further complaints. However the name(s) of the Member(s) will not be disclosed.

9.1.14 No Breach of Code - Finding on Investigation

Where a formal investigation finds no evidence of failure to comply with the Code of Conduct the Monitoring Officer shall have delegated authority to decide not to take any further action. The Monitoring Officer can, following consultation with the Independent Person and the Chair of the Standards Committee, decide to refer the matter to the Standards Committee if he/she feels that it is appropriate.

Once the no breach of Code finding has been reached the Monitoring Officer will advise the complainant, the Member under investigation and the Town/Parish if applicable that he/she is satisfied that no further action is required and will provide a copy of the Investigating Officer's final report.

Copies of all investigation reports will be provided to the Independent Person and the Chair of the Standards Committee and a summary of each such investigation will be provided to the Standards Committee for information.

9.1.15 Breach of Code - Finding on Investigation

Where a formal investigation finds evidence of failure to comply with the Code of Conduct the Monitoring Officer, in consultation with the Independent Person and the Chair of the Standards Committee, can:

- a) decide to seek a local resolution to the complaint eg the relevant Member acknowledging their conduct was unacceptable and offering an apology and/or other remedial action e.g. submitting to training and or mediation. . The Monitoring Officer will provide a summary report on the outcome of the

investigation and the resolution to the Standards Committee for information. However no names will be disclosed; or

- b) refer the Investigating Officer's report to a Hearings Panel, constituted from members of the Standards Committee, which will conduct a local hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, what action, if any, is to be taken in respect of the Member. The procedure that will be followed by the Hearings Panel is set out below.

9.1.16 Procedure for Local Hearings

9.1.16.1 Appointment, Composition and Terms of Reference of the Hearings Panel

The Monitoring Officer is required to establish and/or convene the Hearings Panel from the membership of the Standards Committee as necessary. The Hearings Panel will therefore not have a fixed membership.

The Hearings Panel shall comprise three or five voting members of the Standards Committee.

If the complaint relates to a Town or Parish Member then a co-opted Town or Parish Council member of the Standards Committee will also be part of the Hearings Panel. The Independent Person will be able to attend any Hearings Panel and give advice to it.

The purpose of the Hearings Panel is to review, upon the request of the Monitoring Officer and the Chair of the Standards Committee, a complaint that has been received which alleges that either a Member of the Authority/Member of a Town or Parish Council within the Wokingham Borough Council area has failed to comply with the relevant authority's Code of Conduct. The Hearings Panel will usually hear a complaint within two months of the date that the Monitoring Officer received the final investigation report.

9.1.17 Pre Hearing Process and Date of the Hearing

The date of the hearing will be arranged by the Monitoring Officer in consultation with the members of the Hearings Panel and the subject of the complaint.

Once the date for the Hearings Panel has been arranged the subject of the complaint will be notified and asked if they:

- a) wish to attend the hearing and can do so on the date notified;
- b) wish to be represented at the hearing by a solicitor, barrister or any other person;
- c) wish to provide written evidence to the hearing;
- d) wish to call relevant witnesses to give evidence at the hearing. The Chairman of the Hearings Panel will have the final decision on how many witnesses may reasonably be needed.

9.1.18 The Hearing

The Hearings Panel will receive a report from the Monitoring Officer which will include a copy of the Investigating Officer's final report.

9.1.18.1

The Hearings Panel will be held in private and this will be confirmed at the hearing.

9.1.18.2

The procedure for the Hearings Panel will be as follows:

- a) Confirm the names and status of those attending. If the subject of the complaint is not present at the start of the hearing, and they had indicated their intention to attend, the Chairman shall ask the Monitoring Officer whether the Member has provided any reasons why they would not be present. From the response the Hearings Panel will decide whether to make a determination in the absence of the Member or adjourn the hearing to another date.
- b) The Investigating Officer, or in his/her absence the Monitoring Officer or their representative, shall present the Investigating Officer's report having particular regard to any points of difference identified by the subject of the complaint and why they have concluded, on the basis of their findings of fact, that the Member had failed to comply with the Code of Conduct. The Investigating Officer may call witnesses as necessary in order to substantiate his/her findings.
- c) The subject of the complaint will then be given the opportunity to ask the Investigating Officer, or any of the witnesses, questions relating to the report or matters that have arisen during the witness statements.
- d) Members of the Hearings Panel and the Monitoring Officer will then have the opportunity of asking the Investigating Officer, or any of the witnesses, questions relating to the report or matters that have arisen during the witness statements.
- e) The subject of the complaint will then be invited to respond to the Investigating Officer's report and provide evidence, either by calling witnesses or by making representations to the Hearings Panel as to why they consider that they did not fail to comply with the Code of Conduct.
- f) The Investigating Officer will then be given the opportunity to ask the subject of the complaint, and any witnesses, questions relating to the representations made to the Hearings Panel.
- g) Members of the Hearings Panel and the Monitoring Officer will then have the opportunity to ask the subject of the complaint, and any witnesses, questions relating to the representations made to the Hearings Panel.
- h) The Investigating Officer will then be given the opportunity to sum up.
- i) The subject of the complaint will then be given the opportunity to sum up
- j) The Chairman of the Hearings Panel will check with the other members of the Panel whether they are satisfied that they have sufficient evidence to come to

a considered conclusion on the matter. If it is decided that additional evidence is required before a determination can be made then the hearing will be adjourned and the Investigating Officer be asked to either seek and provide such additional evidence and/or undertake further investigation on any point specified by the Hearings Panel.

- k) If the Panel is satisfied that that they do have sufficient evidence to make a decision this will conclude the evidence gathering part of the hearing. The Investigating Officer, the subject of the complaint and any witnesses that might be present will be asked to leave at this point, but the Clerk, Independent Person and Monitoring Officer will remain.
- l) The Panel will then determine the complaint on the balance of probabilities test. If the Panel determine that there has been a failure to follow the Code the Chairman shall seek advice from the Monitoring Officer as to what action they believe should be taken against the Member who has failed to follow the Code of Conduct.

9.1.19 Finding of the Hearings Panel

9.1.19.1 Finding of Non Failure to follow the Code of Conduct

If the Hearings Panel determine that the subject of the complaint has not failed to follow the Code of Conduct in the manner set out in the Investigating Officer's report then the complaint will be dismissed.

The decision notice stating the Hearings Panel's findings, in relation to a non-failure to follow the Code of Conduct, will be provided to the subject of the complaint, the Investigating Officer, the Monitoring Officer, the Independent Person but will not be published on the Council's website or otherwise disclosed.

9.1.19.2 Finding of Failure to follow the Code of Conduct

If the Hearings Panel determine that the subject of the complaint has failed to follow the Code of Conduct then it can decide to take any of the following actions:

- a) Formally censure the relevant Member in writing for their failure to follow the Code of Conduct and/or;
- b) Recommend to the Member's Group Leader (or in the case of un-grouped Members, recommend to Council or to Committee(s) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- c) Recommend to the Leader of Council that the Member be removed from the Executive, or removed from particular portfolio responsibilities;
- d) Instruct the Monitoring Officer to (or recommend that the relevant Town/Parish Council) arrange training for the Member;
- e) Remove (or recommend to the relevant Town/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 Town/Parish Council);

- f) Withdraw (or recommend to the relevant Town/Parish Council that it withdraws) facilities provided to the Member by the Council, such as a computer, website and/or e-mail and internet access;
- g) Exclude (or recommend that the relevant Town/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 or Sub-Committee meetings; or
- h) Report its findings to the Crown Prosecution Service in respect of a Member that has been found to have committed an offence under Rule 9.2.13.

9.1.19.3 Publication of the Decision

Within 3 working days, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel. A copy of the decision notice will be sent to the complainant, the Member (and, if applicable, the relevant Town/Parish Council) and the Independent Person. The decision notice will be available for public inspection, and published on the Borough Council's website. If a Borough Member the decision will be reported to the next convenient meeting of the Borough Council. If a Town/Parish Member the relevant Council will be requested to report the decision to its next Council Meeting.

PROPOSED REVISED COMPLAINTS PROCESS

9.1.13 Process for Considering Code of Conduct Complaints

9.1.13.1 Receipt and Acknowledgment of the Complaint

Following receipt of a Councillor Code of Conduct complaint, the Monitoring Officer¹ will write to the complainant to acknowledge receipt of the complaint and provide them with a copy of this complaints process.

The complainant will be told that full details of their complaint, including the parts of the Code of Conduct which have allegedly been breached and their name, will be given to the Councillor they have complained about, (“the Subject Member”), subject to 9.1.13.5 below. (Anonymous complaints).

If the complaint relates to a Parish or Town Councillor, the Clerk to that Council will be informed. In the case of Subject Members who sit on more than one Council, the Monitoring Officer will seek clarification from the complainant if it is unclear which Council the Subject Member was acting for at the time of the alleged breach.

9.1.13.2 Response of the Subject Member

The Subject Member will be asked for initial comments on the complaint. If the Monitoring Officer requires further clarification from the complainant in response to the comments made by the Subject Member, then these comments may be passed back to the complainant for further comment.

9.1.13.3 Response of the Town or Parish Clerk

If the complaint is about a Town or Parish Councillor, the Monitoring Officer shall seek the views of the Town/Parish Clerk about the complaint. Their view will be recorded in the Monitoring Officer’s summary and taken into account when a decision is made, under 9.1.13.4 below.

9.1.13.4 Initial Decision of the Monitoring Officer

The Monitoring Officer shall write a summary of the complaint and then, subject to consultation with an Independent Person and the Chairman² of the Standards Committee, have delegated authority to decide to:

- a) Take no action if there is clear evidence that there has been no breach of the Code of Conduct.
- b) Resolve the matter informally by asking the Subject Member to
 - take part in mediation with the complainant in order to settle the complaint, provided both the Subject Member and the complainant are willing to do so, and/or
 - make a written apology to the complainant which is acceptable to the Monitoring Officer and Chairman of the Standards Committee, and/or
 - attend training and/or

¹¹ Reference to the Monitoring Officer in this document includes the Deputy Monitoring Officer

² Reference to the Chairman of the Standards Committee includes the Vice-Chairman of the Committee

- correct an entry in the Members' Register of Interests or correct a declaration made; OR
- c) Require a formal investigation and a written investigation report by an Investigating Officer. The investigation report shall conclude whether there has been a breach of the Code of Conduct. Copies of the investigation report will be provided in confidence to the Independent Person, the Chair of the Standards Committee, and the Subject Member. OR
- d) Refer the complaint to the Standards Committee for a decision on whether options a), b) and c) above should followed;

The decision by the Monitoring Officer will normally be taken within 10 working days of receipt of the complaint. Once a decision has been made by the Monitoring Officer the complainant, the Subject Member and the Town/Parish Clerk (if applicable) will be informed of the outcome as soon as possible.

9.1.13.5 Anonymous complaints

Anonymous complaints will not usually be considered. However it is recognised that in some exceptional circumstances some individuals may feel unable to reveal their identity. In these situations, complainants wishing to remain anonymous should be aware that their concerns may carry less weight, because the evidence may not be sufficient enough to provide a successful investigation and fair result. The Monitoring Officer is authorised, subject to consultation with the Independent Person and Chair of the Standards Committee to accept or decline an anonymous complaint.

9.1.14 Finding on Investigation

9.1.14.1 No Breach of Code of Conduct

Where a formal investigation concludes that the Subject Member did not fail to comply with the Code of Conduct, the Monitoring Officer shall have delegated authority to decide not to take any further action.

If the Monitoring Officer makes a decision not to take any further action, he or she will advise the complainant, the Subject Member and the Town/Parish Clerk if applicable.

A summary of all investigations will be provided to the Standards Committee for information. However, where there is a determination that there has been no breach of the Code of Conduct, no names will be disclosed.

9.1.14.2 Breach of Code of Conduct

Where a formal investigation finds evidence that the Subject Member has failed to comply with the Code of Conduct, the Monitoring Officer, in consultation with an Independent Person and the Chairman of the Standards Committee, shall make a decision to:

- a) Resolve the matter informally by asking the Subject Member to
 - take part in mediation with the complainant in order to settle the complaint, provided both the Subject Member and the complainant are willing to do so, and/or
 - make a written apology to the complainant which is acceptable to the Monitoring Officer and Chairman of the Standards Committee, and/or

- attend training and/or
 - correct an entry in a register or correct a declaration made; OR
- b) refer the Investigating Officer's report to a Standards Committee Hearings Panel, constituted from members of the Standards Committee. The Hearings Panel will conduct a local hearing following the procedure in 9.1.15. below, and make a decision in accordance with 9.1.16.2 below.

The Hearings Panel will usually hear a complaint within two calendar months of the date that the Monitoring Officer received the final investigation report.

9.1.15 Procedure for Local Hearings

9.1.15.1 Appointment, Composition and Terms of Reference of the Hearings Panel

The Monitoring Officer is required to convene a Hearings Panel from the membership of the Standards Committee as necessary. The Hearings Panel will therefore not have a fixed membership.

The Hearings Panel shall comprise three to five voting members of the Standards Committee.

If the complaint relates to a Town or Parish Councillor then a co-opted Town or Parish Council Councillor of the Standards Committee will also be part of the Hearings Panel, but will not have voting rights.

An Independent Person will be asked to attend any Hearings Panel and give advice to it in respect of the complaint as required by s28(7) Localism Act 2011.

9.1.15.2 Pre Hearing Process

The date of the hearing will be arranged by the Monitoring Officer in consultation with the members of the Hearings Panel and the Subject Member.

Once the date for the Hearings Panel has been arranged the Subject Member will be notified and asked if they:

- a) wish to attend the hearing;
- b) wish to be represented at the hearing by a solicitor, barrister or any other person;
- c) wish to submit any written evidence or documentation to be considered by the Panel. This must be sent no later than 3 working days prior to the hearing and will be passed to the complainant and the Investigating Officer for any comment. Additional evidence or documentation not submitted by this deadline may not be accepted by the Panel
- d) wish to call relevant witnesses to give evidence at the hearing. The Chairman of the Hearings Panel appointed at the meeting will have the final decision on how many witnesses may reasonably be needed.

The Hearings Panel will receive a report from the Monitoring Officer which will include a copy of the Investigating Officer's final report.

The Hearings Panel will be held in private and this will be confirmed at the hearing.

9.1.15.3 Procedure for the Hearings Panel

The procedure for the Hearings Panel will be as follows:

- a. Confirm the names and status of those attending. If the Subject Member is not present at the start of the hearing, and they had indicated their intention to attend, the Chairman shall ask the Monitoring Officer whether the Subject Member has provided any reasons why he or she would not be present. From the response the Hearings Panel will decide whether to make a determination in the absence of the Subject Member or adjourn the hearing to another date.
- b. The Investigating Officer, or in his/her absence the Monitoring Officer, shall present the Investigating Officer's report having particular regard to any points of difference identified by the Subject Member and why the Investigating Officer had concluded, on the basis of their findings of fact, that the Subject Member had failed to comply with the Code of Conduct. The Investigating Officer or Monitoring Officer may call witnesses as necessary in order to substantiate his/her findings.
- c. The Subject Member will then be given the opportunity to ask the Investigating Officer, or any of the witnesses, questions relating to the report or matters that have arisen during the witness statements.
- d. Members of the Hearings Panel, the Independent Person and the Monitoring Officer will then have the opportunity of asking the Investigating Officer, or any of the witnesses, questions relating to the report or matters that have arisen during the witness statements.
- e. The Subject Member will then be invited to respond to the Investigating Officer's report and provide evidence, either by calling witnesses or by making representations to the Hearings Panel as to why they consider that they did not fail to comply with the Code of Conduct.
- f. The Investigating Officer will then be given the opportunity to ask the Subject Member and any witnesses, questions relating to the representations made to the Hearings Panel.
- g. Members of the Hearings Panel, the Independent Person and the Monitoring Officer will then have the opportunity to ask the Subject Member, and any witnesses, questions relating to the representations made to the Hearings Panel.
- h. The Investigating Officer will then be given the opportunity to sum up.
- i. The Subject Member will then be given the opportunity to sum up.
- j. The Independent Person will then be invited to comment and outline their view in respect of the complaint.
- k. The Chairman of the Hearings Panel will check with the other members of the Panel whether they are satisfied that they have sufficient evidence to come to a considered conclusion on the matter. If it is decided that additional evidence is required before a determination can be made then the hearing will be adjourned.

and the Investigating Officer be asked either to seek and provide such additional evidence and/or undertake further investigation on any point specified by the Hearings Panel.

- l. If the Panel is satisfied that that they do have sufficient evidence to make a decision this will conclude the evidence gathering part of the hearing. The Investigating Officer, the Subject Member, the Independent Person and any witnesses that might be present will be asked to leave at this point, but the Democratic Services Clerk and Monitoring Officer will remain.
- m. The Panel will then determine the complaint on the balance of probabilities test. If the Panel determine that there has been a failure to follow the Code the Chairman shall seek advice from the Monitoring Officer as to what action they believe should be taken against the Subject Member.

9.1.16 Finding of the Hearings Panel

9.1.16.1 Finding of Non Failure to follow the Code of Conduct

If the Hearings Panel determine that the Subject Member has not failed to follow the Code of Conduct in the manner set out in the Investigating Officer's report then the complaint will be dismissed.

The decision notice stating the Hearings Panel's findings, in relation to a non-failure to follow the Code of Conduct, will be provided to the Subject Member, the Investigating Officer, the Monitoring Officer, and the Independent Person on a confidential basis. It will not be published on the Council's website or otherwise disclosed.

9.1.16.2 Finding of Failure to follow the Code of Conduct

If the Hearings Panel determines that the Subject Member has failed to follow the Code of Conduct then it can decide to take any or more of the following actions:

- a) Formally censure the Subject Member in writing for their failure to follow the Code of Conduct;
- b) Recommend to the Subject Member's Group Leader (or in the case of ungrouped Members, recommend to Council or to Committee(s) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- c) Recommend to the Leader of Council that the Subject Member be removed from the Executive, or removed from particular portfolio responsibilities;
- d) Instruct the Monitoring Officer (or recommend that the relevant Town/Parish Council, as appropriate) to arrange training for the Member;
- e) Remove (or recommend to the relevant Town/Parish Council that the Subject Member be removed) from all outside appointments to which he/she has been appointed or nominated by the authority (or by the Town/Parish Council);
- f) Withdraw (or recommend to the relevant Town/Parish Council that it withdraws) facilities provided to the Subject Member by the Council, such as a computer, website and/or e-mail and internet access;

- g) Exclude (or recommend that the relevant Town/Parish Council exclude) the Subject Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee or Sub-Committee meetings; or
- h) Report its findings to the Crown Prosecution Service in respect of a Subject Member that has been found to have committed an offence under Rule 9.2.13.

9.1.16.3 Publication of the Decision on Finding a Breach of the Code of Conduct

Within 3 working days, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel. A copy of the decision notice will be sent to the complainant, the Subject Member (and, if applicable, the relevant Town/Parish Council) and the Independent Person. The decision notice will be available for public inspection, and published on the Borough Council's website.

If the complaint is directed at a Borough Councillor, the decision will be reported to the next convenient meeting of the Borough Council. The report will be noted and there be no discussion on the item. If the complaint is directed at a Town/Parish Councillor, the relevant Council will be requested to report the decision to its next Council Meeting.

The Subject Member has no right of appeal against a decision of the Monitoring Officer or the Hearings Panel.

TITLE	Update on Complaints and Feedback
FOR CONSIDERATION BY	Standards Committee on 2 April 2015
WARD	None Specific
DIRECTOR	Andrew Moulton, Head of Governance and Improvement Services

OUTCOME/BENEFIT TO THE COMMUNITY

To inform and feedback results of the Member Complaints process.

RECOMMENDATION

To note the report and agree any further action the Committee may wish to take following analysis of the complaints.

SUMMARY OF REPORT

Since the last meeting of the Committee on 21 January there have been five new complaints received. To date the outcome of the complaints has not yet been concluded.

Details are reported at Appendix A.

Background

Under Section 9.1.13.5 of the Council's constitution, the Monitoring Officer provides a report to the Standards Committee, on a quarterly basis, which contains the following: the number and nature of complaints received; progress on any investigations and associated costs; and identify areas where training or other action might avoid further complaints. However the name(s) of the Member(s) will not be disclosed.

Since the last meeting of the Committee in January 2015, two new Code of Conduct complaints have been received.

Under the Council's adopted policy for the consideration of Code of Conduct Complaints, the Monitoring has delegated authority to decide whether the complaint:

- a) can be resolved informally i.e. by mediation with the two parties before making a decision on whether the complaint merits formal investigation;
- b) requires investigation;
- c) should be referred to the Standards Committee;
- d) no further action should be taken.

Analysis of Issues

Further details of the complaints are shown at Appendix A.

Reasons for considering the report in Part 2
If the Committee decides to discuss the specifics of individual cases it may be necessary to consider excluding the public if that would involve the disclosure of exempt information.

List of Background Papers
None.

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Date Tuesday, March 24, 2015	Version No. 2

Appendix A - Code of Conduct Complaints – Outcome of Complaints Previously Reported as “Pending”

Council	Received	Summary of Complaint	Outcome
Parish/Town Council	05/02/15	The complainant alleges failure to treat others with respect, bullying behavior and bringing the Parish/Town council into disrepute. A consultation meeting with the Deputy Chair and Independent person was held on 25 February when it was agreed that an investigation into the complaint should be conducted.	To be confirmed.
Wokingham Borough Council	03/03/15	Alleged Bullying Failure to declare an interest	To be confirmed
Wokingham Borough Council	12/03/15	Preventing access to information they are entitled by law Dishonest and deceitful behaviour bringing their office into disrepute	To be confirmed
Wokingham Borough Council	12/03/15	Preventing access to information they are entitled by law Dishonest and deceitful behaviour bringing their office into disrepute	To be confirmed
Parish/Town Council	13/03/15	Promote equality by not discriminating unlawfully against any person Failure to treat with respect Comprise or likely to compromise the impartiality of those who work for an authority.	To be confirmed

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