

# Cheshire West and Chester Code of Conduct for Local Councils – April 2022

## WELCOME & INTRODUCTIONS



# What this session covers:

- Background
- General and Code principles
- Application of the Code
- General Member Conduct
- Registering and declaring interests
- Sensitive information
- Dispensations
- Gifts and Hospitality
- Complaints Procedure



# Background - Localism Act 2011

The latest enactment of Standards Legislation:

- Abolished 'Standards Board'
- No single mandatory code but duty to promote and maintain high standards of conduct
- Councils can adopt their own Code of Conduct – but no 'blank sheet of paper' there are statutory requirements for any code
- Statutory duty to promote and maintain high standards of conduct by Elected Members

There must be a process in place to investigate complaints  
– Local Councils in the Borough use the CW&C processes



# Background - Local Councils Obligations

Town and Parish Councils must:

- Adopt a Code (it may be their own)
- Ensure Councillors register their interests – 28 days from date they take office or when the council adopts its code
- Registers must be published on Councils website
- Registers must also be published on CW&C website
- MAY make arrangements to grant dispensations
- CW&C responsible for investigating any breaches



# General Principles (based on 7 Nolan Principles)

The general principles of the Code are based on the 7 Nolan Principles of Public Life and they apply whenever a councillor is acting in their official (not their private) capacity:

## 7 Nolan Principles of Public Life

Selflessness

Openness

Integrity

Honesty

Objectivity

Leadership

Accountability



# New Code – 10 new General Principles

New Code sets out the minimum standards of conduct that a local councillor should display with regard to these areas:

- Respect
- Bullying, harassment and discrimination
- Impartiality of officers of the council
- Confidentiality and access to information
- Disrepute
- Use of position
- Use of local authority resources and facilities
- Compliance with the Code of Conduct
- Protection your reputation and the reputation of the local authority
- Gifts and hospitality

Applies as soon as declaration of acceptance of office is signed and continues until you cease to be a councillor.

Applies to all forms of communication and interaction.

Includes when a member of the public might reasonably have the *impression* that you were acting as a councillor.



# Application of the Code

- ▶ Make sure you formally adopt at a full council meeting (maybe your annual meeting);
- ▶ Ensure all councillors have a copy;
- ▶ Personalise the CW&C Code – such as filling in YOUR Council name etc;
- ▶ Note that it applies equally to co-opted members;
- ▶ Signpost available training and support and
- ▶ Remember that a failure to meet the standards might result in a complaint and further action.



# Disclosable Pecuniary Interests

- ▶ Within 28 days of being elected (or the code being adopted) register any DPIs
- ▶ These are defined by Regulation and are set out in Table 1 of the CW&C Code
- ▶ They include those of the Councillor; Spouse; Civil Partner or living with as if a Spouse or Civil Partner
- ▶ If not on your register disclose at the meeting and then update your register within 28 days
- ▶ You must declare the interest, not participate in any discussion or vote and must not remain in the room





# Categories of DPI

- ▶ Employment/Office/Trade etc
- ▶ Sponsorship (inc Election Expenses or Trade Union Payments)
- ▶ Contracts for goods and services (within your council area!)
- ▶ Landholdings and licences (again – within your council area)
- ▶ Tenancies (with your council)
- ▶ Securities
  - ▶ Present in your council area
  - ▶ Total face value exceeds £25,000 or 100<sup>th</sup> total share capital
  - ▶ Does NOT include money deposited with Building Society



# 'Sensitive' Interest or Information

Very rarely information about a member may be considered 'sensitive'. Where that is the case:

- ▶ There is no need to disclose the 'sensitive interests' where there may be a risk of violence or intimidation against the member or their friends/family etc
- ▶ This can only be withheld with the permission of the Monitoring Officer;
- ▶ Declarations will still need to be made at meetings but the sensitive information need not be disclosed
- ▶ It is a Criminal offence to fail to register and/or to participate at any meeting involving a DPI
- ▶ There is a potential fine of up to £5000 or a 5 year disqualification



# Dispensations

Section 33 of the Localism Act 2011 permits the granting of dispensations in limited circumstances:

- ▶ 33(2)(a) without it the number of councillors able to participate would fall below a quorum;
- ▶ 33(2)(c) it is in the interests of the community;
- ▶ 33(2)(e) it is otherwise appropriate (give reason)

Council may grant dispensations or may delegate decision making to the clerk

It should be recorded (a model form is available)



# Dispensations

..... TOWN/PARISH COUNCIL

## COUNCILLOR'S REQUEST FOR DISPENSATION

Councillors seeking dispensations under Section 33 of the Localism Act 2011 may do so using this Form.

The matter for which dispensation is sought (refer to agenda item number if appropriate)	
Details of your interest in that business	
Date of meeting or time period (up to 4 years) for which dispensation is sought	
Dispensation requested to: participate, or participate further, in any <i>discussion</i> of that business	Yes / No
Dispensation requested to: participate in any vote, or further <i>vote</i> , taken on that business	Yes / No
<b>REASON(S) FOR DISPENSATION</b>	
33(2)(a) without the dispensation the number of persons unable to participate in the transaction of business would be so great as to impede the transaction of the business	Yes / No
33(2)(c) the dispensation is in the interests of persons living in the council's area	Yes / No
33(2)(e) that it is otherwise appropriate to grant a dispensation  Reason :	Yes / No

Print Name: .....

Signature: .....

Date: .....

DECISION :	
Dispensation given: YES / NO	Length of Dispensation : .....
Date: .....	Minute Number: .....
Signed: .....	Clerk to the Council



# Other Registerable Interests

Set out in Table 2 of the CW&C Code. You must register as an Other Registerable Interest:

- ▶ Any unpaid directorships
- ▶ Any body of which you are a member or are in a position of general control or management AND to which you are nominated or appointed by your authority;
- ▶ Any body:
  - ▶ Exercising functions of a public nature
  - ▶ Directed to charitable purposes or
  - ▶ One whose principal purposes include 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.

You may speak only if members of the public are also allowed to speak but you may not take part in the discussion or vote



# Non-Registerable Interests

If these **directly relate** to your financial interest or wellbeing (or those of a relative or close associate) but are not DPI's (which are set out in Table 1). Then

- ▶ You must disclose the interest;
- ▶ You may speak at the meeting;
- ▶ You must not take part in the discussion or vote;
- ▶ You may not remain in the room.

If these **affect** your own financial interest or wellbeing (or those of a relative or close associate) or the financial interest or wellbeing of a body included in Table 2 then you must disclose the interest.

If it **affects** that financial interest or wellbeing to a greater extent than it affects the majority of your electors and a reasonable member of the public would believe that it would affect your judgement then you may only speak if the public are able to do so.



# Gifts and Hospitality

The new code makes it clear that no substantive gift should be accepted if it might be for personal gain or give the impression that it will curry favour.

If gifts of £50 or more are accepted they must be registered with the Clerk within 28 days of its receipt – a register should be kept for this purpose.

The same with any significant gift or hospitality that has been refused.



# Complaints procedure

## Initial assessment by Monitoring Officer

### Options:

- Take no action
- Arrange other action (e.g. mediation)
- Refer back to local council chairman for informal action
- Arrange formal investigation
- Refer to the police or other relevant authority



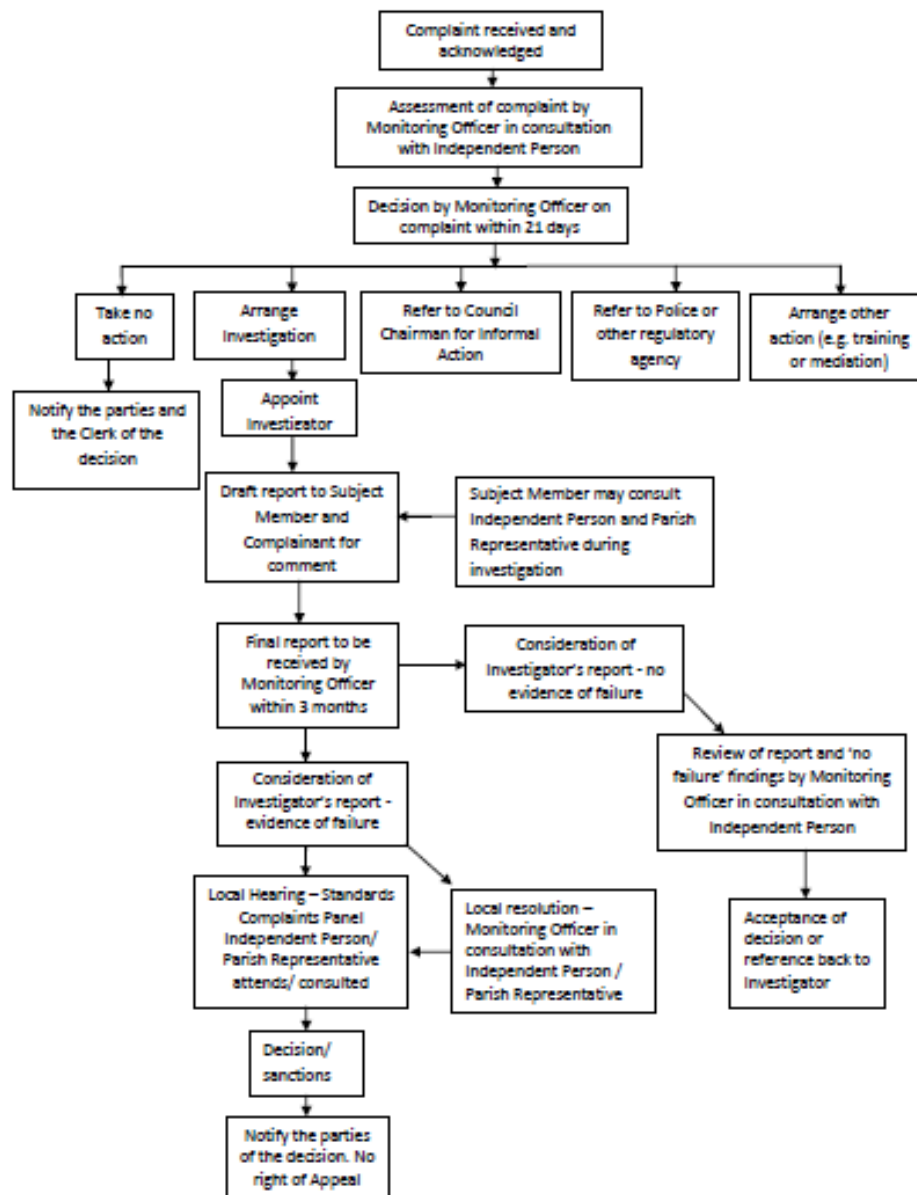


# Formal investigation

- ▶ Investigator is appointed
- ▶ Independent person may be consulted (in the case of a parish complaint parish member may also be consulted)
- ▶ Written report produced by investigator (normally within 3 months)
- ▶ No evidence of failure – no further action
- ▶ Evidence of failure – local resolution or referral to Standards Complaints Panel for conduct of hearing
- ▶ Copy of Decision Notice to Subject Member and local council clerk – NO right of appeal



Flowchart of arrangements for dealing with Conduct complaints against  
Town and Parish Council Members in Cheshire West and Chester



# Complaints Procedure Flow-chart





# What next?

- Copies of the slides will be sent to you following the close of this session
- If questions arise that have not been addressed send them to

[jackieweaver@chalc.org.uk](mailto:jackieweaver@chalc.org.uk)

- Jackie will be happy to answer any points you remain uncertain of or you could contact her direct on:

07891 519558

- Your feedback is important to us – please let us know what you think we can improve on
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