



East
Northamptonshire
Council

Standards Board – 20 June 2012

Final Report on Future Standards Arrangements

Purpose of report

The purpose of this report is to present the proposed arrangements for future standards arrangements at this council following the work of the second Standards Working Party and the issuing for the regulations for the transitional arrangements and Discloseable Pecuniary Interests.

Attachment(s)

Appendix 1: Final Discloseable Pecuniary Interests Regulations.

Appendix 2: Procedure for Handling Complaints of breach of the Member Code of Conduct

Appendix 3: Terms of Reference for the Joint Standards Complaints Committee

1.0 Background

- 1.1 The Localism Act 2011 made fundamental changes to the system of regulation of standards of conduct for elected and co-opted councillors (Sections 26-37 of the Act) which it has now been confirmed will take effect from 1 July 2012.
- 1.2 The regulations defining the **Discloseable Pecuniary Interests** (DPIs) that will have to be declared by councillors on their Register of Interest were issued this week and are attached at Appendix 1. As they are very brief in nature it is anticipated that guidance notes will also have to be produced to assist Councillors in completing their Register of Interests. Although training and assistance will be offered, the late release of the regulations, means that it will be challenging for all concerned to complete these registers and return them to the Monitoring Officer by the appointed deadline of 29 July. Consideration is now being given as to how these registers can be published on the website as required by the Localism Act
- 1.3 The transitional regulations have also been published and will take effect from the 7 June. Like many other authorities, East Northamptonshire Council will be unable to complete all the necessary arrangements in time for a seamless transition on the 1 July. This is for two key reasons:
 - a) The council will have to re-confirm its chosen Code of Conduct at the next Council meeting on 16 July as no provision was included in the Transitional Regulations for the choice to take place prior to the 7 June. Advice has been sought from the Solicitor to the Council and his advice is that members should re-adopt the code of conduct as this will ensure that the code of conduct will therefore be lawful and beyond challenge on the grounds that it might have been adopted prematurely. (This is also the case for any Town or Parish Council who will be notified accordingly)
 - b) The transitional regulations, did not as anticipated, provide for the appointment of an existing Independent member of the Standards Board as in an interim Independent Person pending the advertisement and recruitment of a permanent appointee. Although the regulations do now enable current Independent Members to serve as the Independent Person, the council will still have to advertise the role of independent person, as is required by section 28(8) of the Localism Act 2011. Furthermore, subsection (8) of section 28 requires that the appointment of an independent person is to be made by a majority of the members of the authority which could be interpreted as meaning a majority of members of our full Council meeting. If this latter point is confirmed, then there would be a build-up of

complaints that would need to wait to be processed until the appointment of the independent person by the 29 October Council Meeting. A verbal update on the proposed solution will be made at the meeting.

2.0 Procedure for handling of complaints of breach of the Councillor Code of Conduct

2.1 Following a detailed review by the second Standards Working Party (comprising Cllrs A and G Mercer, B Northall, B Jenney), a procedure for handling complaints of breach of the Member Code of Conduct has been agreed for recommendation to Council in July. This will be form Part 9 of the Constitution (Appendix 2).

3.0 Other Changes and Actions Required.

3.1 It is also proposed that a Joint Standards Complaints Committee (JSCC) is created to deal with the handling of complaints only. The JSCC would be composed of seven ENC councillors and seven Town and Parish councillor Members. The proposed Terms of Reference (Appendix 3) will form Article 9 (part 2) of the Constitution if agreed.

3.2 There are also many other consequential changes to the Constitution and revisions to the Scheme of Delegation required which will also be put to Council in July.

3.3 An advertisement for the new role of Independent Person will be placed in the Nene Valley News in July, following Council approval of the new arrangements. Recruitment will take place in September for this and the Town and Parish Members of the JSCC.

4.0 Equality and Diversity Implications

4.1 There are no obvious equality implications from the proposals as currently drafted. However if the principle relating to “respect for others” was deleted from the code it could be considered significant in relation to comments and actions by councillors in relation to equality and diversity issues. It should be noted that the approach taken by the Act in relation to standards provisions appears to avoid duplicating the provision of existing legislation in relation to such matters. The Equalities Act 2010 provisions will still apply to the council, and to individual councillors in some instances.

5.0 Legal Implications

5.1 It is necessary for the council’s constitution and other policies and procedures to be amended in order to comply with the provisions of the Localism Act as they come into force. All proposed changes will be reviewed by a lawyer for legal compliance before being proposed to council in July.

6.0 Risk Management

6.1 In drafting a new Code of Conduct for East Northamptonshire Council this council will have to balance the risks of creating too onerous a code or complaint system with the need to provide a complaint system that meets the requirements for a right to a fair hearing and a code which meets the high public expectations of councillor behaviour but which does not encourage unnecessary complaints e.g. that are tit for tat

7.0 Financial Implications

7.1 There are no known additional financial implications arising from the implementation of the standards aspects of the Localism Bill. The proposed level of remuneration to be offered to the Independent Person (and Reserve) will be less than the current level

8.0 Corporate Outcomes

8.1 The duty to promote high standards of ethical governance links to the following Corporate Outcomes:

- Employees and members with the Right Knowledge, Skills and Behaviours
- Effective Management – legal compliance

9.0 Recommendation

9.1 That Members note the contents of this report and endorse the approach taken by this council for future standards arrangements.

[Reason: To fulfil the Standards Board's aim of assisting the council in developing its future arrangements for standards]

Legal	Power: Localism Act 2011				
	Other considerations:				
Background Papers: Previous Reports to Standards Board					
Person Originating Report: Sharn Matthews – Monitoring Officer					
Date: 23/1/12					
CFO		MO		CX	

STATUTORY INSTRUMENTS

2012 No. 1464

LOCAL GOVERNMENT, ENGLAND

**The Relevant Authorities (Disclosable Pecuniary Interests)
Regulations 2012**

<i>Made</i> - - - -	<i>6th June 2012</i>
<i>Laid before Parliament</i>	<i>8th June 2012</i>
<i>Coming into force</i> - -	<i>1st July 2012</i>

The Secretary of State, in exercise of the powers conferred by sections 30(3) and 235(2) of the Localism Act 2011(a), makes the following Regulations.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and shall come into force on 1st July 2012.

(2) In these regulations—

“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(b) and other securities of any description, other than money deposited with a building society.

(a) 2011 c.20.
(b) 2000 c. 8.

Specified pecuniary interests

2. The pecuniary interests which are specified for the purposes of Chapter 7 of Part 1 of the Act are the interests specified in the second column of the Schedule to these Regulations.

Signed by authority of the Secretary of State for Communities and Local Government

Grant Shapps
Minister of State

6th June 2012

Department for Communities and Local Government

SCHEDULE

Regulation 2

<i>Subject</i>	<i>Prescribed description</i>
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(a).
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

(a) 1992 c. 52.

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.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 30 of the Localism Act 2011 provides that a member or co-opted member of a relevant authority as defined in section 27(6) of the Localism Act 2011, on taking office and in the circumstances set out in section 31, must notify the authority's monitoring officer of any disclosable pecuniary interest which that person has at the time of notification. These Regulations specify what is a pecuniary interest. Section 30(3) of the Act sets out the circumstances in which such an interest is a disclosable interest.

A full impact assessment has not been produced for these Regulations as no impact on the private or voluntary sectors is foreseen.



East Northamptonshire Council Constitution

**DRAFT FOR PRESENTATION TO COUNCIL –
subject to final legal advice/check**

Part 9: Procedure for Assessment, Investigation Determination and Appeal of Complaints against Councillors and Dispensations

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Appendices:

A. Guidelines for the Assessment of Complaints

B. Guidelines for the Conduct of Investigations

C. Guidelines for the Conduct of Hearings

1.0 Introduction

- 1.1 This procedure sets out the arrangements for the assessment, investigation, determination and appeal of allegations of misconduct by Councillors¹. It explains how we will deal with a complaint that any of the 40 East Northamptonshire Councillors or any of the approximately 350 Town and Parish Councillors in East Northamptonshire has breached, or may have failed to comply with, the code of conduct which has been adopted by the council concerned.
- 1.2 Each Council is required by the Localism Act 2011 to adopt a Code of Conduct for Councillors which is compliant with the Nolan Principles of Public Life. The codes which the councils in the East Northamptonshire district have adopted can be viewed on the East Northamptonshire Council's website.
- 1.3 The process for dealing with complaints will be the same for all Councillors regardless of the code adopted and the Councillor's political affiliations or the tier of local government they represent. No departure from this procedure will be made unless the Monitoring Officer² has first notified the Councillor(s) against whom the allegation has been made of the proposed variation to the procedure and the reasons for that variation.
- 1.4 The Monitoring Officer will work with the Independent Person and the Joint Standards Complaints Committee (see below) to process and review complaints of possible breach of the Code..
- 1.5 The Localism Act 2011 requires the appointment of at least one Independent Person. The Independent Person is required to be independent of links to any Councillor or council in the district. This council also wishes them to be free of any political party links and to reside in the locality. The Localism Act allows the views of the Independent Person to be sought by any Councillor in relation to complaints covered by this procedure. (It should be noted that this does not apply to complainants.)
- 1.6 The Joint Standards Complaints Committee (JSCC) is composed of seven Councillors from East Northamptonshire Council and seven Councillors nominated by the Town and Parish Councils which has agreed to be bound by its decisions. The terms of reference for the JSCC can be found at Article Nine of Part Two of the Council's Constitution.
- 1.7 Where this procedure makes reference to consultation with the Chair or Vice Chair of the JSCC, the consultation will usually be with the Councillor who represents the same tier as the Councillor(s) complained against. Exceptionally, if this person is unavailable, the other Councillor will be consulted.

¹ This procedure applies to allegations of breach of the council's code of conduct by elected and co-opted members of East Northamptonshire Council and, in respect of alleged breaches of the codes of conduct of the Town and Parish Councils in East Northamptonshire, to members of those councils and the word "Councillor" is to be taken to refer to all such persons. Under Section 28(6) and (7) of the Localism Act 2011 the Council must have in place such a procedure.

² The "Monitoring Officer" is an officer of East Northamptonshire Council who has been designated as the authority's Monitoring Officer under Section 5 of the Local Government and Housing Act 1989. The Monitoring Officer has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of councillor misconduct.

- 1.8 In all cases mentioned in this document the Deputy Monitoring Officer has the same responsibilities and delegated functions in respect of these procedures to act as the Monitoring Officer when the Monitoring Officer is unavailable or has a conflict of interest.
- 1.9 This procedure also sets out the arrangements for determining requests for dispensations where Councillors have an interest in a decision and would otherwise be unable to take part in the decision making process.

2 Making a Complaint

- 2.1 All complaints must be made in writing (by letter or e-mail) to:
The Monitoring Officer
East Northamptonshire Council
Cedar Drive
Thrapston
NN14 4LZ
Or via MO@east-northamptonshire.gov.uk
- 2.2 In order to ensure that all the information needed to be able to process the complaint, complainants will be asked to complete the complaint form, which can be downloaded from the authority's website ([link here](#)) or provide the equivalent information in their written complaint.
- 2.3 Complainants must provide a name and a contact address or email address, so that the Monitoring Officer can acknowledge receipt of the complaint and keep the complainant informed of progress. The Monitoring Officer will acknowledge receipt of complaints within 5 working days of receiving it and provide updates after key stages or a minimum of monthly intervals thereafter.
- 2.4 In the interests of fairness and natural justice, East Northamptonshire Council believes that Councillors who are complained about are entitled to know who has made the complaint against them and the substance of that complaint. The identity of a complainant or the details of a complaint will not be withheld **unless there are exceptional reasons for doing so**. Factors which will be taken into consideration include whether the complainant –
- would be at risk of physical harm;
 - has a serious health condition and there is a medical risk associated with disclosure of his identity, or
 - where there would be practical difficulties in proceeding with an investigation, or the interests of natural justice would be not be met, if the complainant's identity is unknown to the Councillor(s).
- 2.5 If complainants wish to keep their name and address confidential in the circumstances outlined in 2.4, then they should indicate this in the space provided on the complaint form. In such cases the Monitoring Officer will not disclose the complainant's name and address to the member complained against without the complainant's consent. If a request for confidentiality is not granted, the complainant will usually have the option of withdrawing the complaint. Exceptionally, the Monitoring Officer, after consultation with the Independent Person and Chair or Vice Chair of the JSCC, may proceed with an investigation or other action and disclose complainants' names, even if they have expressly asked the Council not to, if it is believed that the matter complained about is extremely serious.

2.6 The authority will not normally investigate anonymous complaints, unless there is an overriding public interest in doing so.

3.0 Stage 1 – Initial Assessment of the Complaint

3.1 All complaints received about Councillor conduct will be passed to the Monitoring Officer, who will take action in accordance with the Guidelines for the Assessment of Complaints (Appendix A). If it is not clear whether the complaint is a substantive allegation of misconduct, the Monitoring Officer will contact the complainant to seek further information. If the complainant alleges criminal conduct or breach of other regulation by any person, the Monitoring Officer will inform the Police or other appropriate regulatory agencies

3.2 The Monitoring Officer will inform Councillor(s) concerned that a complaint has been received and unless the confidentiality provisions apply, provide them with a copy of the complaint letter. The Councillor(s) concerned will then have 5 working days to make a written response unless there is an overriding reason for an extension of time. In the latter circumstance the Monitoring Officer would notify the complainant of the revised timetable.

3.3 Where the Monitoring Officer requires additional information, an approach may be made to the complainant or the Councillor(s) for such information.

3.4 The Monitoring Officer will review the information provided in respect of every complaint received. In reaching the decision the Monitoring Officer will consider relevant case law and other guidance, including the guidelines in Appendix A. The Monitoring Officer will also consult with, and have regard to the views of, the Independent Person and the Chair or Vice Chair of the Joint Standards Complaints Committee (as outlined in paragraph 1.7) The Independent Person will be required to disclose if they have been approached by the complained against Councillor(s) and what advice they provided.

3.5 No decision is made at this stage as to whether a breach has or has not taken place. However when deciding what action to take at this stage consideration will be given to the implications if a breach of the Code were later to be proved.

3.6 The Monitoring Officer may decide to take:

a) *No further action.* The Complainant and Councillor(s) complained against will be provided with a written summary of the decision but no further action will be taken.

b) *Take other/informal action.* In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member choosing to offer an apology, or other remedial action by the authority. Where the member of the authority makes a reasonable offer of local resolution, but the complainant is not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation. Where other/informal action is agreed the Monitoring Officer will arrange for the required action to be taken. Once the action is completed, the Monitoring Officer will inform the complainant, Councillor(s) complained against, the JSCC (and Town or Parish Council if relevant).

c) *start a formal investigation*, leading to the production of an investigation report. (see Section 4)

3.7 The decision will normally be taken within 20 working days of receipt of the complaint. The Monitoring Officer, after taking a decision, will normally inform the complainant, relevant Councillor(s) and if appropriate the Town or Parish Council of the decision and the reasons for that decision via a written summary. The summary will include the main points considered, the conclusions reached and the reasons for the decision and will be available for public inspection for a year. No formal publication (on the council's website or in a newspaper) of the outcome will take place unless requested by the Councillor(s) affected.

3.8 Exceptionally, in relation to the circumstances in paragraph 2.4, the Monitoring Officer may decide that the Councillor(s) complained against should not receive the written summary if it is considered this would be against the public interest or would prejudice any future investigation. . In such circumstances an appropriately redacted version will be provided. .

4.0 Stage 2 - Investigation

4.1 The Monitoring Officer, after deciding that a complaint merits formal investigation, will appoint an Investigating Officer, who may be another senior officer of the authority, an senior officer of another authority or an external investigator. The function of the Investigating Officer is to ensure, as far as possible, that all the information which is relevant to the allegation is identified and presented. The Investigator' report will indicate whether there is a case to answer that the Councillor(s) has failed to comply with the Council's code of conduct.

4.2 The Investigating Officer may, with the approval of the Monitoring Officer, appoint other people to assist in conducting the investigation. The Investigating Officer will speak to both the complainant and Councillor(s) complained about to understand their relative perspective on the complaint and to identify which people they need to interview and documents they need access to. (See Appendix B for more detail on the conduct of investigations)

4.3 Usually information which the Investigator obtains in the course of the investigation will not be released to individuals or organisations except where it is necessary to allow the complaint to be dealt with properly.

4.4 In exceptional cases (under the circumstances outlined in paragraph 2.4),, where it is appropriate to keep the identity of the complainant confidential or disclosure of details of the complaint to the Councillor(s) might prejudice the investigation, the Monitoring Officer can advise the Investigating Officer to withhold details until the investigation has progressed sufficiently.

4.5 As soon as reasonably practical, and usually within three months, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to the complainant and to the Councillor(s) concerned, to give them both an opportunity to identify any matter in that draft report which they disagree with or which they consider requires more consideration. Having received and taken account of any comments which have been made on the draft report, the Investigating Officer will send their final report to the Monitoring Officer. Investigating Officers may be asked to reconsider their report if the Monitoring Officer is not satisfied that an investigation has been conducted properly.

- 4.6 Once satisfied, the Monitoring Officer will ask the Councillor(s) concerned to give their response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing. The Monitoring Officer will then consult the Independent Person and Chair or Vice Chair of the JSCC as to their views as to the next step.
- 4.7 *If the Investigating Officer concludes that there is no case to answer of a failure to comply with the Code of Conduct* and the Monitoring Officer agrees that no further action is required, the Monitoring Officer will write accordingly to the complainant and the Councillor(s) concerned (and to the Town or Parish Council, where the complaint relates to a Town or Parish Councillor). The letter will include a copy of the Investigating Officer's final report
- 4.8 *If the Investigating Officer concludes that there is a case to answer of a failure to comply with the Code of Conduct, the Monitoring Officer will then decide between the following two actions:*
- a) *Other action* - The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, the Monitoring Officer will consult the Independent Person and Chair or Vice Chair of the JSCC. Such resolution may include the Councillor(s) choosing to agree that their conduct was unacceptable and offering an apology, and/or other remedial action by the council such as training or changes to council procedures. Where other action is agreed the Monitoring Officer will arrange for the required action to be taken and once completed, the Monitoring Officer will inform the complainant, Councillor(s) complained against, the JSCC (and Town or Parish Council if relevant).
 - b) *Referral to a hearing* - If the Monitoring Officer considers that local resolution is not appropriate the Investigating Officer's report will be submitted to a Hearings Panel which will conduct a hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

5.0 Stage 3 – Hearing

- 5.1 The Monitoring Officer will convene a Hearing Panel from the appropriate tier of Councillors on the JSCC. The Monitoring Officer, in consultation with the Chairman of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted. The business of such meetings will usually be conducted in confidence due to the personal nature of the information being considered. (Appendix C details the arrangements for a Hearing Panel.)
- 5.2 The Independent Person will also be present at the Hearing meeting and will give their view on the merits of the case presented. The Independent Person will be required to disclose if they have been approached by the complained against Councillor(s) or the complainant and if so what advice they provided.
- 5.3 It is intended that hearings should be conducted in a formal manner but the attendance of legally qualified representative advisors of the complainant and complained against Councillor(s) is not encouraged. Accordingly no assistance will be given towards the cost of any such legally qualified representatives. The Hearing Panel will act in an inquisitorial manner, rather than an adversarial manner, seeking the truth in relation to the conduct of the Councillor(s) on the balance of the information available to it, and will be able to commission further investigation or

information where it needs to do so in order to come to a decision.

- 5.4 At the hearing the Investigating Officer will present the report, call such witnesses as considered necessary and make representations to substantiate the case that the Councillor(s) have failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask the complainant to attend and give evidence to the Hearing Panel. The Councillor(s) will then have an opportunity to give their evidence, to call witnesses and to make representations to the Hearing Panel as to why they consider that they did not breach the Code of Conduct.
- 5.5 Where the Monitoring Officer or the Investigating Officer arranges for someone to attend for interview or as a witness at a Hearing, they may pay that person a sum to cover any reasonable costs incurred.
- 5.6 The Hearing Panel may conclude that the Councillor(s) did not breach the Code of Conduct, and so dismiss the complaint. No formal publication (on the council's website or in a newspaper) of the outcome will take place unless requested by the Councillor(s) affected.
- 5.7 If the Hearing Panel concludes that the Councillor(s) did breach the Code of Conduct, the Chair will inform them of this finding. The Hearing Panel will then give the Councillor(s) an opportunity to make representations to the Panel. The Panel will then consult the Independent Person. Finally the Panel will decide what action, if any, to take in respect of the matter.
- 5.8 If a breach is found to have occurred, the Hearing Panel will choose from one or more of the following list of actions. These actions will be implemented in case of Councillors from those councils who have delegated to the JSCC such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. On all other cases, the Hearing Panel recommendation will be forwarded to the council by the Monitoring Officer, with a recommendation for appropriate.
- Take no further action
 - Recommend to the relevant council that the Councillor(s) be censured for their breach of the Code of Conduct
 - Recommend an apology to be made by the Member to the complainant (and/or others)
 - Publish its findings in respect of the member's conduct. (Advice will be sought as to the most effective place of publication to attract the attention of the relevant community) If this is on a council website, the publication on the website will be removed after 12 months.
 - Recommend to the member's Group Leader (or in the case of un-grouped members, recommend to the relevant Council) that the member be removed from any or all Committees or Sub-Committees of the Council
 - Instruct the Monitoring Officer to arrange training for the member
 - Recommend to the relevant Council the removal from some or all outside appointments to which the member has been appointed or nominated by the relevant council
 - Withdraw some or all facilities provided to the member by the Council, (including access to buildings) provided this does not prevent the Councillor(s) carrying out the member role,
- It should be noted that the Hearing Panel has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances

5.9 At the end of the hearing, the Chairman will state the decision of the Hearing Panel as to whether the member was a breach of the Code of Conduct and any sanction which the Hearing Panel has decided is appropriate. Within 5 working days of the decision being made by the Hearing Panel, the Monitoring Officer will arrange for a formal decision notice to be prepared in consultation with the Chairman of the Hearings Panel, and send a copy to the complainant, the Councillor(s) complained against (and to the Town or Parish Council if relevant) . The outcome will also be reported to the JSCC at the next meeting and recorded in the minutes.

6.0 Stage 4 - Appeal

6.1 An appeal may be made where the complainant or Councillor(s) complained about feels that the process outlined in this procedure has not been followed, the sanction applied is considered inappropriate or that significant new evidence is available which has not been considered during the previous process. Any such appeal should be made in writing (by letter or e-mail) to the Monitoring Officer within 20 working days of the receipt of the notification of the relevant decision.

6.2 If an appeal is made the Monitoring Officer will notify the complainant, Councillor(s) (and Town or Parish Council if appropriate). The Appeal Panel which will consist of three Councillors, normally drawn from the appropriate tier of Councillors on the JSCC who have not previously been involved in the matter. (In exceptional circumstances it may not be possible to find three Councillors from the same tier who have no previous connection to the complainant or Councillor(s) concerned. In these circumstances consideration will be given to an Appeal Panel having only two Councillors from the same tier.) The reserve Independent Person will also be present at the Hearing meeting (to ensure a fresh perspective).

6.3 The business of such meetings will usually be conducted in confidence due to the personal nature of the information being considered. Every endeavour will be made to hold the Appeal Panel within 20 working days of the appeal notification being received.

6.4 The Appeal Panel will be presented with all the information previously considered for the original decision, together with any additional representations received from the complainant or Councillor(s) complained against.

6.5 The Appeal Panel will either:
(i) confirm the original decision and ask that the appropriate action be taken or
(ii) disagree with the original decision and decide that an alternative action (from those available to the original decision makers) should be implemented.

6.6 At the end of the hearing, the Chairman will explain why a particular decision has been made by the Appeal Panel. Within 5 working days of the decision being made by the Appeal Panel, the Monitoring Officer will arrange for a formal decision notice to be prepared in consultation with the Chairman of the Appeals Panel, and send a copy to the complainant, the Councillor(s) complained against, (and to the Town or Parish Council if relevant) . The outcome will also be reported to the JSCC at the next meeting.

7.0 Granting of Dispensations

7.1 The Localism Act provides that dispensations will be able to be granted in the following circumstances –

- a) That so many members of the decision-making body have Disclosable Pecuniary Interests in a matter that it would “impede the transaction of the business”. In practice this means that the decision-making body would be inquorate as a result;
- b) That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter.
- c) That the authority considers that the dispensation is in the interests of persons living in the authority’s area. (Under this category dispensations could be given to ‘dual-hatted’ Councillors where their current prejudicial interest arises out of the financial interests of the ‘other’ council.)
- d) That the authority considers that it is otherwise appropriate to grant a dispensation.

7.2 All requests for such dispensations for East Northamptonshire Councillors should normally be submitted in writing (by letter or e-mail) to the Monitoring Officer in advance of the relevant meeting. Under delegated authority the Monitoring Officer may agree dispensations on the grounds of (a) and (b) in paragraph 7.1 as they are objective in determination and may be required at short notice. A Dispensations Panel of three Councillors, with Members from the appropriate tier of councils will be convened to determine dispensations under grounds (c) and (d).

7.3 The Panel will consult with the Independent Person before making its determination. Any grant of a dispensation will specify how long it lasts for, up to a maximum of four years.

8.0 Assistance to the Monitoring Officer and Investigating Officer

8.1 The Monitoring Officer may arrange for all or any of the Monitoring Officer’s functions under this procedure to be undertaken by any other person or persons. Any such delegations should be reported to the next meeting of the JSCC

8.2 The Monitoring Officer and Investigating Officer may, in conducting the investigation, obtain expert or other advice from any person who, in their opinion is particularly qualified to assist. Their name and experience of such persons will be recorded in the appropriate Hearing or Appeal Panel minutes

9.0 Confidentiality

9.1 No members or officers serving the JSCC shall disclose any information which they have obtained in the course of an investigation or in pursuance of this Procedure except in the circumstances set out in Paragraph 9.2 below. This also applies to the Independent Person.

9.2 The circumstances referred to above are:

- (ii) the disclosure is made for the purposes of enabling the Monitoring Officer or the Investigating Officer to conduct the investigation or otherwise to carry out their functions
- (iii) the person(s) to whom the information relates has consented to the disclosure;
- (iv) the disclosure is made in pursuance of a statutory requirement for disclosure;
- (v) the information has previously been placed in the public domain;
- (vi) the disclosure is for the purpose of criminal proceedings and the information in

question was not obtained as a result of personal enquiries of the person subject to the criminal proceedings.

10.0 Revision of these arrangements

- 10.1 Amendment of these arrangements may only be made by agreement of East Northamptonshire Council by resolution at a Council meeting.
- 10.2 The Monitoring Officer will review these arrangements after the initial 12 months of any changes (to ensure effectiveness) and present to council proposals for any necessary changes to ensure the smooth and effective management of complaints. Otherwise the procedure will be reviewed after five years following the last change

Local Guidelines for the Assessment of Complaints about Councillor Conduct

1. **Preliminary steps:** The Monitoring Officer will confirm that:-

- (a) the complaint is against one or more named East Northamptonshire Councillor, or Member of a Parish or Town Council in East Northamptonshire
- (b) the named councillor was in office at the time of the alleged conduct and a Code was in force at the time
- (c) the complaint submitted sufficient information and specified how the Code is considered to have been breached.
- (d) the complainant's contact details have been provided or, if the complaint is anonymous, that it raises such significant concerns that further consideration is warranted.

The complaint will not be pursued if it fails one or more of these tests.

2. **Summary from the Monitoring Officer:** To assist the Independent Person and Chair/Vice Chair of the Joint Standards Complaints Committee (JSCC), the Monitoring Officer will provide a short written report setting out:

- The paragraphs of the code of conduct which are alleged to have been breached
- Key aspects of the complaint (for lengthy or complex complaints)
- Any relevant further information, including, where relevant:
 - The code in force at the time of the activity which has given rise to the complaint
 - declaration of acceptance of any documents which contain the code e.g. Constitution/standing orders
 - minutes of meetings
 - copy of relevant entry in Register of Interests
 - details from Companies House or the Land Registry
 - whether any Members of the Board or relevant officers are likely to be conflicted out
 - any written representation(s) received from the complained against councillor(s)
 - if the complaint has already been the subject of an investigation or other action relating to the code of conduct, or investigated by other regulatory authorities
 - any relevant matters about the health or circumstances of the relevant parties – to note any relevant points such as resignation, death or serious illness (which could influence a decision to proceed with an investigation)
 -

3 **Criteria to be followed:** Complaints about Councillor conduct will be –

- taken seriously
- dealt with in a way that seeks to ensure fairness for both the complainant and the Councillor(s) complained about
- treated on their merits, and
- with regard to proportionality, and the cost and time of an investigation and possible hearing.

The Monitoring Officer, Independent Person and Chair/Vice Chair of the JSCC will consider the following issues in deciding what action should be taken:-

(a) How long ago did the alleged conduct take place? If there is a lengthy delay in making the complaint, the Monitoring Officer may, having regard to the nature of the complaint, take the view that no further action is required. The Monitoring Officer will not entertain a complaint that is more than a year old unless the evidence of the breach has only become available within the past year.

(b) Is the complaint too trivial to warrant further action? If the answer is Yes, the Monitoring Officer is likely to decide that no further action will be taken.

(f) Does the complaint appear to be simply malicious, politically motivated, vexatious, or tit-for-tat? If the answer is Yes, the Monitoring Officer is likely to decide that further action is not warranted. Where complaints are received from one councillor who is of the same party as the Councillor(s) complained about and on the same Council, the complaint will be passed to the relevant Group Leader or local party branch for resolution.

(g) Are there other factors which could influence the decision such as –

- Incorrect advice given to the councillor
- Exceptional circumstances?

4.0 Complaints which do not raise serious issues: Wherever possible the Monitoring Officer will seek informal resolution for complaints considered to be less serious, rather than refer them for investigation. Examples of other action are conciliation, training, and improved procedures/protocols. Consistent with their duty to uphold standards of conduct, the Monitoring Officer will seek:

- (a) the simplest and most cost-effective way of resolving the issue
- (b) to help the Council (or the Town or Parish Council) to work more effectively
- (c) to avoid similar complaints in the future.

Appendix 2B - Conduct of Investigations

1.0 Initial response of the Councillor(s)

The Investigating Officer will write to ask the Councillor(s), asking for a reply within 10 working days,

- (i) whether the Councillor admits or denies the breach of the code of conduct or local protocol which is the subject of the complaint;
- (ii) to list any documents which the Councillor(s) want to be taken into account in the investigation, and where possible to provide copies of them, or say where the original documents may be inspected;
- (iii) to provide the name, address and telephone number (or other appropriate contact details) of any person or organisation whom the Councillor(s) wants to be interviewed as part of the investigation, and
- (iv) to provide any information which the Councillor(s) wants to be obtained from that person or organisation.
- (v) Any other information that the Councillor(s) believes relevant to the investigation

2.0 Conduct of the Investigation

2.1 Purpose

The purpose of the Investigating Officer's enquiries is to enable the preparation of a report which will provide the Monitoring Officer with sufficient information to determine whether the Councillor(s) have a case to answer of breach of the code of conduct or local protocol and, if so, whether action should be taken in accordance with paragraphs 5.8 of Part 9 of the Constitution. The report of the investigation will explain the essential elements of the case and may be used to inform the action recommended by a Hearing Panel.

2.2 Termination of the Investigation

The Investigating Officer may conclude the investigation at any point if satisfied that sufficient information has been obtained to enable a report to be prepared. The investigation is regarded as completed when the Monitoring Officer receives the final report and accepts that no further investigation is necessary. Any decision to defer an investigation must be made by the Monitoring Officer.

2.3 Additional Matters/References back to the Monitoring Officer

If, in the course of the investigation, the Investigating Officer

- becomes aware of any other matter which appears to indicate a potential breach of the code of conduct or local protocol or any other legislation by the Councillor(s) other than the complaint which is currently being investigated, or
- believes - as a result of new evidence or information - the matter is materially more, or less, serious, **and** that it would not have been referred for investigation if the Monitoring Officer had been aware of the information or evidence, or

- believes that it is no longer appropriate to continue with the investigation because the Councillor complained of has died, or is seriously ill or has resigned from the Council, or from the Parish or Town Council

the Investigating Officer will immediately report the matter(s) to the Monitoring Officer.

2.4 Production of documents, information and explanations

The Investigating Officer will make enquiries of anyone reasonably believed to have relevant information, and request anyone to provide any document, information or explanation, necessary to carry out the investigation.

2.5 Interviews

- (i) The Investigating Officer may ask anyone reasonably believed to have relevant information to attend an interview or to provide relevant documents. It should be noted that officers or councillors from those councils which have delegated their responsibilities for the determination of Standards Issues to the JSCC are expected to co-operate with any requests from the Investigation Officer. Where a councillor or officer refuses to co-operate in these circumstances further action may be considered, including the completion of the investigation report without their input.
- (ii) Anyone interviewed may be accompanied at their own expense by a friend or legally qualified representative .
- (iii) The Investigating Officer will produce a written note of the material points of interviews, provide two copies of that note to the person interviewed and ask them to return one copy signed as a correct record of the interview, with any corrections or amendments they feel are necessary.

2.6 Costs

Where it is appropriate to facilitate the conduct of the enquiries, the Investigating Officer may, when authorised by the Monitoring Officer, pay anyone who provides documents, information, advice or explanation in response to a request, a reasonable fee or allowance.

3 Report

3.1 When the Investigating Officer is satisfied that sufficient information has been obtained for the purpose, or that as much information has been gathered as reasonably capable of being obtained, a draft report will be prepared, setting out:

- (i) the details of the allegation;
- (ii) the Councillor(s)' initial response to the allegation (if any);
- (iii) relevant information and explanations obtained in the course of the investigation;
- (iv) a chronology and list of any relevant documents;
- (v) a list of interviewees and organisations from whom information has been

sought;

- (vi) a note of anyone or any organisation that failed to co-operate with the investigation;
- (vii) a statement of draft findings of fact, and
- (viii) a recommendation as to whether there is case to answer

AND/OR

- (ix) any other matters arising out of the investigation. This could be the need for a review or reconsideration of the decision which was the subject of the breach of the code, a recommendation for rectifying any deficiency in the Council's decision-making procedures or for training to prevent or deter any breach of the code of conduct.
- 3.2 The Investigating Officer will issue the draft report to the Councillor and the complainant, asking for their comments within 10 working days. At this stage the report is confidential.
- 3.3 After 10 working days (or such extended period as the investigating Officer allows after consulting the Monitoring Officer), the Investigating Officer will reconsider the draft report in the light of the comments received and produce a final report which includes the matters in Paragraph 3.1
- 3.4 The Investigating Officer will send the final report to the Monitoring Officer, together with a list of all background documents including any notes of interviews which have been relied upon in preparing the report, and copies of any documents held that can conveniently be copied, that have been relied on in preparing the report. These papers will be held for one year after the final decision on the complaint.

Appendix 2C – Conduct of Hearings

1.0 Arranging the Hearing

- 1.1 The Hearing must take place within 30 working days of the date on which the investigation is completed or the date the Monitoring Officer received the Investigating Officer's report, but at least 10 working days after the report was sent to the Councillor(s) complained about.
- 1.2 The Monitoring Officer will notify the Councillor(s) complained against at least 10 working days before the date of the Hearing Panel meeting, of the date, time and place of the meeting and will provide a copy of the Investigating Officer's final report and this procedure for the Conduct of Hearing. The Monitoring Officer will have due regard for the availability of the complainant and councillor(s) complained against and any good reason why they may not be available on the date proposed.
- 1.3 Where the Investigating Officer's report finds that the Councillor(s) have a case to answer that there may have been a breach of the code of conduct or local protocol has occurred, the Monitoring Officer will ask the Councillor(s) to:
- provide a written statement in response to the report, within 10 working days of receiving it,
 - state whether the Councillor(s) want their response to be sent to the Hearing Panel at the same time as the report.
 - identify in the written statement any matter(s) in the report which the Councillor(s) proposes to dispute at the Hearing Panel meeting, so that any witnesses or documents necessary to evidence the disputed matter(s) can be invited to attend the meeting,
- 1.4 The Investigating Officer, in securing the attendance of persons to give evidence to the Sub-Committee, may pay their reasonable fees or allowances as appropriate, as authorised by the Monitoring Officer..

2 Committee Agenda and Reports

- 2.1 The following papers will be sent out to the Hearing Panel, complainant and councillor(s) complained against at least 5 clear days before the date of the Hearing.
- The agenda for the meeting of the Hearing Panel;
 - a copy of the Monitoring Officer's covering report
 - a copy of the Investigating Officer's report
 - a copy of any written statement in response to the report received from the Councillor(s)

The provision of any such papers may be conditional upon an appropriate undertaking of confidentiality until such time as the report is agreed to be available to the press and public.

- 2.2 In determining whether the public and the press will be excluded from the meeting, the provisions of Schedule 12A of the Local Government Act 1972 However for the purposes of consultation by the Hearing Panel, the Independent Person will not be excluded along with the press or public if the exclusion of the latter is resolved.

- 2.3 Background papers: Upon request, any member of the Hearing Panel and the Councillor(s) may have access to any background documents that have referenced by the Investigating Officer in the report at any reasonable time between the issue of the agenda and the time of the meeting.
- 2.4 Where the Monitoring Officer considers that the Investigating Officer's report and/or the Councillor(s)' written statement in response is likely to disclose "exempt information"¹, and in consequence that it is likely that the Hearing Panel will, during consideration of these papers, not be open to the public, copies of the agenda or background papers will not be provided to the press or public, or any councillor other than the members of the Hearing Panel, complainant and the complained against Councillor(s), in advance of the meeting. These papers may also not be inspected by the press or public in advance of the meeting.

3 Procedure at the Hearing

3.1 Attendance of the Councillor(s) complained against

- The Councillor(s) may arrange to be accompanied at the meeting by a friend or legally qualified representative but will pay any necessary expenses.
- If the Councillor(s) are not present at the start of the meeting, the Hearing Panel will decide whether to adjourn to enable the Councillor(s) to attend, or to proceed in the absence of the Councillor(s). Where the Panel proceeds in the absence of the Councillor(s), the procedure for the meeting will be adapted as necessary, giving any representative of the Councillor(s) who is present such rights as would otherwise be accorded to the Councillor(s). The minutes will record the reason for proceeding in the absence of the Councillor(s).

3.2 The order of business at the meeting will be

- (i) Quorum. The Monitoring Officer or representative will confirm that the Hearing Panel is quorate (i.e. three members of the JSCC from the appropriate tier are present)
- (ii) Election of a Chairman for the Hearing Panel
- (iii) The Chairman will introduce the Hearing Panel, Monitoring Officer (or representative), the Investigating Officer and the Councillor(s) and any representative(s) of the Councillor(s), and explain how the Hearing will be run
- (iv) disclosures of interest by all relevant persons;
- (v) representations from the Investigating Officer and/or the Councillor(s) as to reasons why the Hearing Panel should exclude the press and public and determination by the Hearing Panel as to whether to exclude the press and public. (Where the Hearing Panel decides that it will not exclude press and public, copies of the agenda and reports will be provided at this point to any members of the press and public who are present);
- (vi) preliminary procedural issues to be resolved, if any;
- (vii) noting of significant disagreements about the facts, if any;

¹ Exempt information" is defined in Schedule 12A to the Local Government Act 1972, as amended by sections 3 and 4 of the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 and 2004 respectively.

- (vii) Presentation by the Investigating Officer of the report of the investigation. The Investigating Officer will at this stage address only the issue of whether the Councillor(s) have a case to answer that they breached of the code of conduct or local protocol. The Investigating Officer may introduce any witnesses required to substantiate any matter contained in that report which the Councillor(s) have disputed in their written statement in response. Members of the Hearing Panel may question the Investigating Officer and any witness on their evidence. There will be no cross-examination by the Councillor(s), but the Councillor(s) may request the Chairman of the Hearing Panel to direct appropriate questions to the Investigating Officer or to any witness they have introduced;
- (viii) Presentation by the Councillor(s). The Councillor(s) (or representative(s)) will at this stage address only the issue of whether the actions have breached the code of conduct or local protocol. The Councillor(s) (or representative(s)) may introduce witnesses required to substantiate any matter contained in the written statement in response. Members of the Hearing Panel may question the Councillor(s) and any witness on their evidence. There will be no cross-examination by the Investigating Officer, but that Officer may request the Chairman to direct appropriate questions to the Councillor or to any witness they have introduced.
- (ix) Where the Councillor seeks to dispute any matter in the Investigating Officer's report and no-notice of intention to dispute in the written statement had been given, the Investigating Officer will draw this to the attention of the Hearing Panel, which may then decide:
- to adjourn the meeting to enable the Investigating Officer to investigate and report on the dispute and/or to arrange for appropriate witnesses to attend as to the disputed information; or
 - to admit the dispute, but invite the Investigating Officer to respond thereto, recalling any witness as necessary; or
 - any other matters arising out of the investigation. This could be the need for a review or reconsideration of the decision which was the subject of the breach of the code, a recommendation for rectifying any deficiency in the Council's decision-making procedures or for training to prevent or deter any breach of the code of conduct. Where the complaint relates to a Parish or Town Councillor, such matters would be for recommendation by the Hearing Panel to the Parish or Town Council.
- (x) At the conclusion of the presentation by the Councillor, the Chairman will ask the Investigating Officer whether there was any matter raised during the course of the presentation which was not raised in the Councillor's written statement in response. The Investigating Officer may then respond to any new matter, or may request the Hearing Panel to adjourn to enable that Officer to investigate and report on the new matter and /or to secure the attendance of witnesses as to the new matter (but the Hearing Panel will not adjourn on more than one occasion under these provisions);
- (xi) The Hearing Panel is required to come to a decision as to whether the councillor(s) acted in breach of the code of conduct or local protocol. The members have to satisfy themselves that they have sufficient information upon which to take that decision, and they may question the Investigating Officer, the Councillor(s) and any witness in order to obtain sufficient information to enable them to come to a decision on this issue;

- (xii) at the conclusion of the Investigating Officer and Councillor's presentations and any questions from the members of the Panel, members of the Panel will then hear of the views of the Independent Person before considering whether the member has failed to comply with or acted in breach of the code of conduct or local protocol. At any stage in their consideration they may return to ask any further questions of the Investigating Officer or the Councillor(s) or to seek further advice;
- (xiii) the Hearing Panel may seek further advice at any time. Such advice will on all occasions be given in the presence of the Investigating Officer and the Councillor(s);
- (xiv) at the conclusion of their consideration, the Chairman will announce the Panel findings of fact and advise the Councillor(s) of the decision as to whether the Councillor has acted in breach of the code of conduct, and the reasons for that decision;
- (xv) if the Panel concludes that the Councillor has acted in breach of the Code of Conduct or local protocol, it will then hear representations from the Independent Person, Investigating Officer and then the Councillor(s) as to whether the Panel should take any action against the Councillor and what form any action should take. Members of the Panel may ask questions of the Investigating Officer and the Councillor and seek advice in order to satisfy themselves that they have the information upon which to take a proper decision;
- (xvi) the Panel will then consider whether to take any action against the Councillor(s) and what form such action should take (as outlined in Paragraph 5.8 of the Complaints Procedure). The Chairman will advise the Investigating Officer and the Councillor(s) of its decision on whether to take any action against the Councillor(s) and what action it has decided to take and the reasons why;
- (xvii) the Panel will then consider whether there are any recommendations which it should make arising from its consideration of the allegation. For example, for reviewing or reconsidering any decision which was the subject of the breach of the code of conduct or local protocol, for rectifying any deficiency in the relevant Council's decision-making procedures or for preventing or deterring any future breach of the code.

4. Reporting the Decision

4.1 As soon as practicable after the Hearing Panel has completed its consideration and decision in respect of the allegation, the Monitoring Officer will:

- (i) send the Councillor(s) a written notice of the finding of the Panel, and the reasons for it; the statement will include a statement of any rights of appeal against that decision;
- (ii) send a written report of the Panel decision to the next convenient meeting of the JSCC
- (iii) where the complaint relates to a member of a Parish or Town Council, send a written notice of the decision to the Clerk to the relevant Parish or Town Council;

- (iv) send a copy of the decision to the complainant which gave rise to the investigation.

**Article 9 - The East Northamptonshire Joint Standards Complaints Committee
(Part 2 of the ENC Constitution)**

9.01 Terms of Reference

- a) This joint committee, to be known as the East Northamptonshire Joint Standards Complaints Committee, will be constituted for the discharge of the duties as provided under the Localism Act 2011 section 18. It will act, under powers delegated under section 101 of the Local Government Act 1972, to implement the arrangements agreed by East Northamptonshire (as Part 9 of the Constitution) for the investigation and determination of allegations.
- b) The East Northamptonshire Joint Standards Complaint Board will have the following roles and functions in addition to the provision of Panels for the Hearing and Appeal stages of a complaint or a Dispensations Panel when necessary under Part 9:
 - i) Receive a quarterly activity report from the Monitoring Officer which includes for the preceding quarter:
 - the level of advice on the Code and Complaints procedure
 - summary outcome of any complaints determined (with appropriate written report/summary as an appendices)
 - feedback on any 'other action' taken in respect of complaints
 - details of the dispensations granted and refused by the Monitoring Officer and Dispensations Panels
 - ii) advising East Northamptonshire Council on the adoption or revision of the Members' Code of Conduct or arrangements for the review of its procedures for handling complaints against councillors
 - iii) advising, training or arranging to train Councillors on matters relating to the Members' Code of Conduct;
 - iv) granting dispensations to Councillors from requirements relating to interests set out in the Members' Code of Conduct;
 - v) provision of an appointments panel to select an Independent Person and reserve for recommendation to East Northamptonshire Council for appointment.
- c) In addition, in accordance with part 9 of the ENC Constitution the Chairman or Vice Chairman may be consulted by the Monitoring Officer when decisions are taken on:
 - Initial assessment of a complaint
 - If an Investigation Report concludes there is evidence of failure and it is proposed that other action is to be taken
 - Shortlisting of candidates for Independent Person
- d) Political Balance: As a joint committee, membership of this committee is exempt from the political proportionality requirements of section 15 of the Local Government & Housing Act 1989

9.02 Composition

- a) The joint committee shall consist of 14 members of whom 7 members shall be appointed by East Northamptonshire Council (ENC) from its Members.
- b) The remaining seven members will be elected by vote, with one vote per council from the town and parish councils within the East Northamptonshire District. Up to one nomination per council will be sought in advance of the election. Nominees must be

currently serving as town or parish councillors. The seven nominees with the greatest number of votes in any election will be elected to serve on the joint committee. In the case of a tie in numbers of votes cast, membership shall be decided by drawing of lots by the Monitoring Officer

- c) All members of the joint committee shall serve for no more than two consecutive terms of four years or for a shorter period of time. Such a shorter period shall end upon them ceasing to be eligible to act as a member of that committee or them ceasing to be a District or Town or Parish Councillor.
- d) The Independent Person, as required under Section 18 of the Localism Act 2011, shall be eligible to attend all meetings and panels of the joint committee. That person will not be co-opted or have voting rights, but will be able to remain for any discussions and debate when the public and press are excluded in order to discharge the advice giving role as outlined in the Act.

9.03 Proceedings of the Committee

- a) The Chairman of the Committee shall be elected by majority vote of those present at the first meeting of the Civic Year. If the elected Chairman is an ENC Councillor then an election for the Vice Chairman shall be held from the Town and Parish members. If the elected Chairman is a Town or Parish councillor then an election for the Vice Chairman shall be held from the ENC members.
- b) A meeting of the Joint Standards Complaints Committee shall not be quorate unless at least five members (including one District Councillor, and one Town or Parish Councillor) are present for its duration
- c) The meetings and proceedings of the joint committee shall be conducted in accordance with the rules set out in Part 4 of the East Northamptonshire Council Constitution.
- d) The Committee will meet at least every quarter, with panels being convened as and when required
- e) When Hearing, Appeal or Dispensation Panels are required, the three councillors required will generally be drawn from members of this committee who serve on the same tier of council. Exceptionally, where this is not possible because of conflict of interest or other reasons such as illness, such panels will have a majority of members from the same tier. The Monitoring Officer and Deputy Monitoring Officer have delegated authority to select the members of panels on the basis of availability and experience.
- f) Each member of the joint committee shall be entitled to recover from East Northamptonshire Council any expenses he incurs in connection with the discharge of the joint committee's functions (as per the travel and expenses procedures outlined in Part 6 of the Council's Constitution). No further allowance will be payable. The expenses incurred by the joint committee shall be defrayed by East Northamptonshire Council.
- g) When serving on the JSCC, all councillors are expected to follow the Code of Conduct adopted by the East Northamptonshire Council
- h) Support for the administration of the Joint Committee will be provided by East Northamptonshire Council.

9.04 Role of the Independent Person

- a) The Localism Act 2011 provides that the Independent Person
 - must be consulted by the authority before it makes a finding as to whether a member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that member (this means on a decision to take no action where the investigation finds no evidence of breach or, where the investigation finds evidence that there has been a breach, on any local resolution of the complaint, or on any finding of breach and on any decision on action as a result of that finding);
 - may be consulted by the authority in respect of a standards complaint at any other stage; and
 - may be consulted by a member or co-opted member of the District Council or of a Parish Council against whom a complaint has been made.
- b) East Northamptonshire Council will appoint, by agreement of the majority of councillors at a Council meeting, one person to carry out the duties of an Independent Person in relation to its adopted procedure for dealing with Complaints against Councillors. It will also appoint by the same process a reserve Independent Person to act if the Independent Person is unavailable to act due to illness or holiday or other circumstance (including conflict of interest in the case of appeals).
- c) The 'call to action' of the reserve Independent Person will be made by the Monitoring Officer and will be reported in their Quarterly Activity Report to the Joint Standards Complaints Committee.
- d) The Independent Person (and reserve) will be offered, and expect to undertake, appropriate training for their role.
- e) The Independent Person, when acting in this role, is expected to abide by the Cllrs Code of Conduct outlined in the East Northamptonshire Council Constitution and will sign an undertaking to that effect on appointment.

9.05 Appointment of the Independent Person

- a) The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.
- b) The Localism Act 2011 states that a person cannot be "independent" if he/she:
 - Is, or has been within the past 5 years, a member, co-opted member or officer of the authority, OR
 - Is or has been within the past 5 years, a member, co-opted member or

officer of **any other local government council** (except former Independent Members of Standards Committees) OR

- Is a relative, or close friend, of a person within paragraph 2.2.1 or 2.2.2 above

For this purpose, "relative" means:

- (a) the candidate's spouse or civil partner;
- (b) any person with whom the candidate is living as if they are spouses or civil partners;
- (c) the candidate's grandparent;
- (d) any person who is a lineal descendent of the candidate's grandparent;
- (e) a parent, brother, sister or child of anyone in Paragraphs (a) or (b);
- (f) the spouse or civil partner of anyone within Paragraphs (c), (d) or (e);
- (g) any person living with a person within Paragraphs (c), (d) or (e) as if they were spouse or civil partner to that person

- c) In addition this council requires that an Independent Person should:
 - not be a member of a political party
 - be resident within the District or within 20 miles of the border of the District
- d) The Independent Person and reserve will be appointed for a maximum period of two four year terms.
- e) When the appointment of the Independent Person (and reserve) is required, an advertisement will be placed on the council's website and in Nene Valley News (or equivalent) outlining the role and seeking expressions of interest together with details of relevant experience, allowing three weeks for response.
- f) A shortlist of candidates will then be prepared by the Monitoring Officer in consultation with the Chairman and Vice Chairman of the Joint Standards Complaints Committee (JSCC). Five members of the JSCC (chaired by, and with a majority of, ENC Councillors) will interview the shortlisted candidates and select the chosen candidate and reserve candidate for recommendation to Council for appointment.

9.06 emuneration of the Independent Person

- a) As the Independent Person is not a member of the authority or of its Committees or Sub-Committees, the remuneration of the Independent Person no longer comes within the scheme of members' allowances, and can therefore be determined without reference to the Independent Remuneration Panel.
- b) In comparison to the current Chairman of the Standards Committee, the role of Independent Person is likely to be less onerous. The key activities will be:
 - being available for consultation by the Monitoring Officer at the following stages of a complaint-
 - initial assessment

- after production of an Investigation Report where the Monitoring Officer is considering 'other action'.
 - Attendance by invitation at Hearing Panels in order to present their views (they will not be voting or co-opted members)
 - Being available for consultation by members against whom a complaint has been made.
- c) The Independent Person will be paid at 25% of the basic councillor's allowance (plus mileage) to reflect the above responsibilities. The reserve will be paid a retainer of 10% which would include:
- attendance by invitation at the quarterly meetings of the Joint Standards Complaints Committee (for training purposes only)
 - carrying out the duties of the Independent Person for up to 4 calendar weeks in any 12 months
- Duties for longer periods than 4 weeks would be paid pro-rata to the allowance for the Independent Person.