

Report of the Monitoring Officer

REVIEW OF THE CODE OF CONDUCT AND ARRANGEMENTS FOR DEALING WITH CODE OF CONDUCT COMPLAINTS1. Purpose of report

To seek approval for the amendments to the Code of Conduct and Arrangements for dealing with Code of Conduct complaints, prior to recommending to Council for adoption.

2. Detail

The Localism Act 2011 section 27, places the Council under a duty to promote and maintain high standards of conduct. In discharging this duty, the Council is required to adopt a Code dealing with the conduct that is expected of its Members and Co-opted Members. Section 28(6) of the Act also requires the Council to have in place arrangements under which allegations can be investigated and decisions on allegations can be made.

The Council's Code of Conduct (the Code) and arrangements were last reviewed and adopted by Full Council on 11 July 2012. This review's objectives were to update the Code and arrangements to ensure they are fit for purpose, provide clarity on expected behaviours and process, to manage and reflect public expectation.

Following consultation during 2020, the Local Government Association's (LGA) published the final version of the model Code in January 2021. The model Code, and best practice recommendations made by the Committee on Standards in Public Life (CSPL) can be found on the link in the background papers. The LGA describes the model Code as 'designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government'. The expectation is that all Councils should adopt it as a minimum but provision for additional local variations is permitted. Further background detail is provided at Appendix 1.

The established Member Task and Finish Group, in consultation with the Monitoring Officer and Deputy Monitoring Officers have put forward recommendations to adopt the model Code, in part with local amendments (Appendix 2), to amend and update the arrangements in line with the CSPL best practice recommendations at Appendix 3, A summary of main changes can be found at Appendix 4.

A comprehensive training programme will be developed to ensure Members and Parish Councils are aware of any approved changes.

Recommendation

The Committee is asked to RECOMMEND the locally amended Code of Conduct at Appendix 2 and arrangements at Appendix 3, for adoption to Full Council, to be implemented from 11 May 2022.

3. Background papers

- 3.1 Members Code of Conduct as approved at Council on 11 July 2012:
<https://www.broxtowe.gov.uk/media/1467/document-no-5a-the-code-of-conduct-of-broxtowe-borough-council.pdf>
- 3.2 The Councils arrangements for dealing with Code of Conduct complaints adopted on 11 July 2012.
<https://www.broxtowe.gov.uk/media/8242/arrangements-for-dealing-with-complaints-2020.pdf>
- 3.3 Standards Committee Report – 19 October 2020 CSPL Review of Ethical Standards in Local Government and list of Recommendations and list of Best Practice Report, January 2019:
<https://www.gov.uk/government/publications/localgovernment-ethical-standards-report>
- 3.4 Local Government Association Model Councillor Code of Conduct:
<https://www.local.gov.uk/publications/local-government-association-model-councillor-code-conduct-2020>
- 3.5 Guidance on Local Government Association Model Councillor Code of Conduct:
<https://www.local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct>

APPENDIX 1Background:**Code of Conduct**

The Localism Act 2011 abolished the previous national model Code and instead imposed a simple requirement that each Council put in place a Code dealing with conduct that is expected of Members & Co-opted Members, when they act in that capacity (s27(2)). Each Code must, when viewed as a whole, be consistent with the 7 Nolan Principles of Public Life and must contain “appropriate provisions” for the registration and disclosure of disclosable pecuniary interests and ‘other’ interests.

During 2018 the Committee on Standards in Public Life (“CSPL”) undertook a review of local government ethical standards to establish how effective the current arrangements were in light of the changes made by the Localism Act 2011. Also in response to rising local government concern about the increasing incidence of public, Member to-Member and officer/Member intimidation and abuse and overall behavioural standards and expectations in public debate, decision making and engagement.

The CSPL found there was considerable variation in the length, quality, and clarity of codes of conduct across Councils.

One of the main recommendations of the CSPL was that the Local Government Association (LGA) should create an updated, non-mandatory, model Code of Conduct, which Councils could then consider either adopting in full or adapting according to their local circumstances.

The LGA aimed to develop a code that benchmarks a standard for all public office and for those engaged in public discourse and debate. It aimed to set out the duties and expectations of persons in public office as well as their rights, particularly their right to be protected from abuse and intimidation resulting from their undertaking of public office.

The LGA has now developed a model Member Code of Conduct, which was published in January 2021, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for Councils to adopt in whole and/or with local amendments.

The model Code, has changed slightly from the version that was consulted upon in the summer of 2020. Most significantly, the requirement of “civility” which was in the original draft has now been replaced with “respect” and additional guidance has now been published with the model Code.

There is currently no mandatory statutory requirement to adopt the model Code. Whilst the CSPL report indicated there “*would*” be a model Code, it is unclear whether the intention was that this would be a statutory code which would require adoption through amendment to the Localism Act 2011 (“the Act”). It is always going to be a challenge to find a model that suits all, arguably only through mandatory adoption is there likely to be unity by Councils in relation to a Code of Conduct.

Lawyers in Local Government undertook a survey of Monitoring Officers earlier in the year to gauge how many had chosen to adopt the model Code following its publication in January 2021. A total of 82 responses were received from Monitoring Officers or Deputy Monitoring Officers. Of those who responded:

- 20% indicated they would be adopting the model Code in full.
- 20% indicated they would be adopting part of the Code.
- 55% indicated they would not be adopting the Code.
- 5% indicated they were undecided at this time.

The survey responses further revealed from the 55% not adopting the Code.

- 25% will not be adopting the model Code or changing their own Code.
- 30% not adopting the model Code in whole or part but were looking to make changes to their own Code.

This Committee is responsible for standards functions as set out in the constitution and for advising the Council on the adoption or revision of the Members’ Code of Conduct. The Localism Act provides that any adoption, replacement or revision of a Code must be undertaken by Council. The Council last updated and adopted its Member Code of Conduct in 11 July 2012.

The Task and Finish Group, in consultation with the Monitoring Officer and Deputy Monitoring Officers, have considered both the Best Practice Recommendations produced by the CSPL and the model Code and compare it to the Council’s existing Code of Conduct, with a view to bringing forward recommendations, as to whether the Model Code should be adopted by the Council in full, or in part with local amendments.

The Task and Finish Group recommend adopting the Model Code in part with local amendments and by removing the guidance notes. The Task and Finish Group, felt that the guidance contained within the Model Code was helpful, but ambiguous in parts. The guidance also made the Model Code too lengthy and would if adopted in full dilute the clear message of the Council’s Code.

Arrangement for dealing with Member Code of Conduct complaints.

Section 28(6) of the Act also requires the Council to have in place arrangements under which allegations can be investigated and decisions on allegations can be made.

CSPL report put forward the following Best Practice Recommendations be implemented by Councils to improve the Code of Conduct complaint handing process:

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Best practice 7: Local authorities should have access to at least two Independent Persons.

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Best practice 11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

Best practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

The Task and Finish Group in consultation with the Monitoring Officer and Deputy Monitoring Officers reviewed the Council's current arrangement in detail over several meetings in 2021. The Council's existing arrangements were also compared with other Council's arrangement and Independent Person and external experts were consulted on the proposed amendments.

The proposed amendments recommended by the Task and Finish Group implement the Best Practice Recommendations detailed above, and have proposed further revisions to the Arrangements (as set out in Appendix 3) to ensure the complaints process is fair and

effective in dealing with complaints for both the complainant and the Member being investigated.

The Council has recruited two new Independent Persons in line with Best Practice Recommendations to ensure the appropriate check and challenge is in place and to support the effective and timely handling of Code of Conduct complaints.

The assessment criteria and complaints form for dealing with Code of Conduct complaints, have also been amended (attached at Appendix 3), to help Complainants provide the necessary information required to process complaints and to reduce delays in requesting further information.

APPENDIX 2

Code of Conduct of Broxtowe Borough Council

Part 1: General Provisions

Introduction

This section sets out general interpretation and background to the Code of Conduct, including definitions used within the Code, the purpose of the Code, the principles the Code is based on and when the Code applies. It does not form part of the Code of Conduct itself and consequently does not contain any obligations for you to follow, as these are contained in the 'Code of Conduct' section below.

All Councils are required to have a local Member Code of Conduct.

Definition

For the purposes of this Code of Conduct, a "Member" means a Member or Co-opted Member of Broxtowe Borough Council ('the Council').

A "Co-opted Member" is defined in the Localism Act 2011 Section 27(4) as "a person who is not a Member of the Council but who

- a) is a Member of any committee or sub-committee of the Council, or;
- b) is a Member of, and represents the Council on, any joint committee or joint sub-committee of the Council;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee".

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a Member, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow Members, Council officers and the reputation of the Council and local government. It sets out general principles of conduct expected of all Members and your specific obligations in relation to standards of conduct. The fundamental aim of the Code is to create and maintain public confidence in the role of Member and local government.

You are Member or Co-opted Member of the Council and you have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

Application of the Code of Conduct

The Code of Conduct has been adopted by the Council under Section 27 of the Localism Act 2011.

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office or attend your first meeting as Member or Co-opted Member and continues to apply until you cease to be a Member.

The Code of Conduct applies to you when you are acting in your capacity as a Member or Co-opted Member of the Council and conduct the business of the Council (which, in this Code includes the business of the office to which you are elected or appointed).

Where you act as a representative of the Council on another Council, you must, when acting for that other Council, comply with that other Council's Code of Conduct.

When you act as a representative of the Council on any other body, you must, when acting for that other body, comply with this Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are expected to uphold high standards of conduct and show leadership at all times when acting as a Member.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct. It is your responsibility to comply with the provisions of this Code and to ensure all its obligations are met. You are encouraged to seek advice from the Monitoring Officer on any matters that may relate to the Code of Conduct, which you are unsure of. Town and Parish Members are encouraged to seek advice from their Clerk (who may refer matters to the Monitoring Officer).

General principles of Member conduct

In accordance with the Localism Act provisions, when acting in this capacity you are committed to behaving in a manner that is consistent with the following Seven Principles of Public Life also known as the Nolan Principles set out below: These general principles underpin the obligations in the Code of Conduct that follows and aim to achieve best value for our residents and maintain public confidence in this Council:

SEVEN PRINCIPLES OF PUBLIC LIFE:

1. **SELFLESSNESS:** Holders of public office should act solely in terms of the public interest.
2. **INTEGRITY:** Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.
3. **OBJECTIVITY:** Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
4. **ACCOUNTABILITY:** Holders of public office are accountable for your decisions and you must co-operate fully with whatever scrutiny is appropriate to your office internally and externally, including by local residents.
5. **OPENNESS:** Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
6. **HONESTY:** Holders of public office should be truthful.
7. **LEADERSHIP:** Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Part 2 – Member Code of Conduct

General Obligations:

This section sets out your obligations, which are the minimum standards of conduct required of you as a Councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

1. Respect

- 1.1 You must always treat all others with respect, including the organisations, staff and public you engage with and those you work alongside.
- 1.2 You must value colleagues and staff and engage with them in an appropriate manner

and one that underpins the mutual respect between you that is essential to good local government.

2. Bullying, harassment and discrimination

2.1 You must not do anything which may cause the Council to breach any of the equality enactments.

- a) bully any person;
- b) harass any person;
- c) behave in an improper or offensive manner;
- d) discriminate unlawfully against any person due to their race, age, religion, gender, sexual orientation or disability and will promote equalities.

3. Impartiality of officer of the Council

3.1 You must not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

3.2 You must deal with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.

4. Confidentiality and access to information

4.1 You must not disclose information:

- a) given to you in confidence by anyone, or
- b) acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, unless:
 - 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 legal advice provided that the third party agrees not to disclose the information to any other person; or
 - iv) the disclosure is:
 - 1. reasonable and in the public interest; and
 - 2. made in good faith and in compliance with the reasonable requirements

of the Council.

3. you have consulted the Monitoring Officer [or Clerk] prior to its release.

- 4.2 You must not improperly use knowledge gained solely as a result of your role as a Councillor for the advancement of yourself, your friends, your family members, your employer or your business interests.
- 4.3 You must not prevent another person from gaining access to information to which that person is entitled by law.

5. Disrepute

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

6. Use of your position

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

7. Use of local authority resources and facilities

- 7.1 You must not misuse Council resources;
- 7.2 You must, when using or authorising the use by others of the resource of the Council act in accordance with the Council's reasonable requirements;
- 7.2 You must ensure that such resources are not used improperly, including use for political and party political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the Council or of the office to which you have been elected or appointed.

8. Decision making

- 8.1 When reaching decisions on any matter you must have regard to any relevant advice provided to you by officers of the Council acting pursuant to their statutory responsibilities (including a proper officer designated by the Council), or other professional officers of the Council, taking all relevant information into consideration, remaining objective and making decisions on merit
- 8.2 You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed.

- 8.3 You must behave in accordance with all the Council's legal obligations, alongside any requirements contained within this Council's policies, protocols and procedures.
- 8.4 You must not allow other pressures to unreasonably deter you from pursuing constituents' casework, the interests of the Council's area or the good governance of the Council in a proper manner.

9. Complying with the Code of Conduct

- 9.1 You will undertake Code of Conduct training provided by your Council.
- 9.2 You will fully cooperate with any Code of Conduct investigation and/or determination.
- 9.3 You will not intimidate or attempt to intimidate any person who is likely to be involved with 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 Council's Code of Conduct;
- 9.4 You will comply with any sanction imposed on you following a finding that you have breached the Code of Conduct.

Protecting your reputation and the reputation of the Council

10. Interests

- 10.1 You will register and disclose your interests in accordance with the provisions set out in Appendix A.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of Members of the Council. The register is publically available and protects you by demonstrating openness and willingness to be held accountable.

You are personally responsible for deciding whether or not you should disclose an interest in a meeting which allows the public, Council employees and fellow Councillors know which of your interests gives rise to a conflict of interest. If in doubt you should always seek advice from your Monitoring Officer.

You should note that failure to register or disclose a disclosable pecuniary interest as defined in Appendix A, is a criminal offence under the Localism Act 2011.

11. Gifts and hospitality

- 11.1 You will not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the Council or from persons who may apply to the Council for any permission, licence or other significant advantage.

- 11.2 You will register with the Monitoring Officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.
- 11.3 You will register with the Monitoring Officer any significant gift or hospitality with an estimated value of at least £25 that you have been offered but have refused to accept

12. Dispensations

- 12.1 You may request a dispensation from the Monitoring Officer for one meeting only.
- 12.2 You must make the request in writing detailing what my interest is, why the dispensation is required and for what meeting.
- 12.3 You must make any request 5 days prior to the meeting at which the Dispensation is required.
- 12.4 You must make any further requests for dispensation to the Standards Sub Hearing Committee.
- 12.5 You will only be granted a Dispensation where there are reasonable grounds for doing so and where such grounds are in the public interest.

Appendix A sets out the situations where a Member's personal interest in a matter may prevent them from participating in the decision-making process. In certain circumstances, however, there may be reasonable grounds to allow a Member to participate in decision-making on that matter where it would be in the public interest to do so. Where you consider that there may be good grounds for you to continue to participate you should request a dispensation from the Monitoring Officer.

APPENDIX A**Disclosable Pecuniary Interests****1. Definitions**

“Disclosable Pecuniary Interest” means any interest described as such in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and includes an interest of yourself, or of your Partner (if you are aware of your Partner's interest) that falls within the descriptions set out in the following table. A Disclosable Pecuniary Interest is a Registerable Interest.

“Partner” means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

Table of Disclosable Pecuniary Interests

Subject	Prescribed description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain, which you, your spouse or civil partner, undertakes. {any unpaid directorship}
Sponsorship	Any payment or provision of any other financial benefit (other than from your Council) made or provided within the previous 12 month period in respect of any expenses incurred by you in carrying out duties as a Member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Any contracts	Any contract which is made between you, your spouse or your civil partner or person with whom you are living with as spouse or civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and the Council under which a) goods or services are to be provided or works are to be

	<p>executed; and b) which has not been fully discharged.</p> <p><i>For this purpose “body in which you or they have a beneficial interest” means a firm which the relevant person is a partner or a body corporate of 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.</i></p>
Land	<p>Any beneficial interest in which you, or your spouse or your civil partner, have and which is within the area of the Council.</p> <p><i>For this purpose “ Land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for you, your spouse, civil partner (alone or jointly with another) to occupy the land or to receive income.</i></p>
Licences	<p>Any licences (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of the Council for a month or longer.</p>
Corporate tenancies	<p>Any tenancy where (to your knowledge) a) the landlord is the Council; and b) the tenant is a body in which you, or your spouse or your civil partner or the person with whom the Member is living with, as if they were spouse/civil partners is a partner of or a director of or has a beneficial interest in the securities of.</p>
Securities	<p>Any beneficial interest in securities of a body where: (a) that body (to your knowledge) has a place of business or land in the area of the relevant Council; 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</p>

	<p>Member, or his/her spouse or civil partner or the person with whom the Member is living as if they were spouse/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p> <p><i>For this purpose, “securities” mean 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.</i></p>
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Note - Failure to declare a Disclosable Pecuniary Interest and to take part in any discussion in or vote on any matter in which the Member has a pecuniary interest is a criminal offence, which is punishable by a fine of up to £5,000 and disqualification.

“Registrable Interests” are interests that you are required to register in accordance with this Code of Conduct and include both Disclosable Pecuniary Interests and Other Registerable Interests.

“Other Registerable Interests” are a personal interest in any business of your Council which relates to or is likely to affect:

- a) any unpaid directorships
- b) any body of which you are in general control or management and to which you are nominated or appointed by your Council; or
- c) any body
 - (i) exercising functions of a public nature
 - (ii) any body directed to charitable purposes or
 - (iii) 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.

“Non-Registrable Interests” are interests that you are not required to register but need to be disclosed in accordance with section 3.3.

A “**Dispensation**” is agreement that you may continue to participate in the decision-making process notwithstanding your interest as detailed at section 12 of the Code of the Conduct and this Appendix.

A “**Sensitive Interest**” is as an interest which, if disclosed, could lead to the Member, or a person connected with the Member, being subject to violence or intimidation. In any case where this Code of Conduct requires to you to disclose an interest (subject to the agreement of the Monitoring Officer in accordance with paragraph 2.4 of this Appendix regarding registration of interests), you do not have to disclose the nature of the interest, if it is a Sensitive Interest in such circumstances you just have to disclose that you have a Sensitive Interest under S32(2) of the Localism Act 2011. You must update the Monitoring Officer when the interest is no longer sensitive, so that the interest can be recorded, made available for inspection and published.

A matter “**directly relates**” to one of your interests where the matter is directly about that interest. For example the matter being discussed is an application about a particular property in which you or somebody associated with you has a financial interest.

A matter “**affects**” your interest where the matter is not directly about that interest but would still have clear implications for the interest. For example, the matter concerns a neighbouring property.

2. Registering Interests

- 2.1 You must, within 28 days of this Code being adopted by the Council, or taking office as a Member or appointed as a Co-opted Member, register all details of Disclosable Pecuniary Interest and Other Registerable Interests, with the Monitoring Officer.
- 2.2 You must upon your re-election as a Member or your re-appointment as a Co-opted Member, within 28 days re-register all details of Disclosable Pecuniary Interest and Other Registrable Interests, with the Monitoring Officer.
- 2.3 You must register any change to a Disclosable Pecuniary Interest or new interest within 28 days of becoming aware of it.
- 2.4 You must notify the Monitoring Officer where you have a Sensitive Interest, with the reasons why you believe it is a Sensitive Interest. If the Monitoring Officer agrees they will withhold the interest from the public register.
- 2.5 You must observe the restrictions the Council places on your involvement in matters where you have a Disclosable Pecuniary Interest or Other Registerable Interest, as defined by the Council.

3. Declaration at and Participation in Meetings

If you are present at a meeting and you have either a Registerable or Non-Registerable Interest in any matter to be considered or being considered, and the interest is not a Sensitive Interest, you must disclose that interest to the meeting (whether or not it is registered).

To determine whether your interest affects your ability to participate in a meeting, you must first determine what type of interest you have and, if necessary, go on to apply the tests as set out below.

3.1 Disclosable Pecuniary Interests

3.1.1 Where a matter arises at a meeting which **directly relates** to one of your Disclosable Pecuniary Interests:

Action to be taken

- **you must disclose the nature of the interest** at the commencement of that consideration, or when the interest becomes apparent, whether or not such interest is registered in the Council's register of interests of Member and Co-opted Members or for which you have made a pending notification. If it is a sensitive interest you do not have to disclose the nature of the interest, just that you have an interest.
- **you must not participate in any discussion** of that particular business at the meeting, or if you become aware of a disclosable pecuniary interest during the meeting you must not participate further in any discussion of the business, including by speaking as a member of the public.
- **you must not participate in any vote** or further vote taken on the matter at the meeting and
- **you must withdraw from the room** at this point to make clear to the public that you are not influencing the meeting in anyway and to protect you from the criminal sanctions that apply should you take part, unless you have been granted a Dispensation.

3.2 Other Registerable Interests

3.2.1 Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests:

Action to be taken

Where a matter arises at any business of the Council, of its executive or any committee of the executive, or any committee, joint committee, or joint sub-committee of the Council and you have a Disclosable Pecuniary Interest relating to any business that is or will be considered at the meeting:

- **you must disclose** the interest at the commencement of that consideration, or when the interest becomes apparent, whether or not such interest is registered in the Council's register of interests of Member and Co-opted Members or for which you have made a pending notification. If it is a sensitive interest you do not have to disclose the nature of the interest, just that you have an interest.

- **you must not take part in any discussion or vote** on the matter, but may speak on the matter only if members of the public are also allowed to speak at the meeting
- **you must withdraw from the room** unless you have been granted a Dispensation.

3.2.2. The provisions of paragraph 3.1.1 and 3.2.1 shall be applied in such a manner as to recognise that this Code should not obstruct a Member's service on more than one Council. For the avoidance of doubt, participation in discussion and decision making at one Council will not by itself normally prevent you from taking part in discussion and decision making on the same matter at another Council. This is on the basis that a reasonable member of the public will see no objection in principle to such service or regard it as prejudicing a Member's judgement of the public interest and will only regard a matter as giving rise to a Personal Interest which might lead to bias in exceptional circumstances.

3.3 Non-Registerable Interests

3.3.1 Where a matter arises at a meeting which **directly relates** to a financial interest or the well-being of yourself or of a friend, relative or close associate (and is not a Registerable Interest):

Action to be taken

- **you must** disclose the interest; if it is a sensitive interest you do not have to disclose the nature of the interest, just that you have an interest.
- **you must not take part in any discussion or vote**, but may speak on the matter only if members of the public are also allowed to speak at the meeting; and
- **you must withdraw** from the room unless you have been granted a Dispensation.

3.3.2. Where a matter arises at a meeting which does not directly relate to but **affects**

- a) a financial interest or the well-being of yourself or of a friend, relative or close associate; or
- b) a financial interest or wellbeing of a body included in those you need to disclose under Other Registerable Interests

Action to be taken

- **you must disclose the interest** and extent of your interest including enough detail to allow a member of the public to understand its nature, at the commencement of that consideration, or when the interest becomes apparent.

In order to determine whether you can remain in the meeting after disclosing your interest the following test in paragraphs 3.3.3 and 3.3.4 should be applied.

3.3.3. Where a matter under paragraph 3.3.2 **affects** the financial interest or well-being or body:

- a) to a greater extent than it affects the financial interests or wellbeing of the majority of inhabitants of the ward affected by the decision; and
- b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest.

Action to be taken

- **you must not take part in any discussion or vote** on the matter but may speak on the matter only if members of the public are also allowed to speak at the meeting; and
- **you must withdraw from the room** unless you have been granted a Dispensation.

3.3.4. Where a matter under paragraph 3.3.2 **does not affect** the financial interest or well-being or body:

- a) to a greater extent than it affects the financial interests or wellbeing of the majority of inhabitants of the ward affected by the decision; and/or
- b) a reasonable member of the public knowing all the facts would not believe that it would affect your view of the wider public interest

Action to be taken

- **you may remain in the room,**
- **you may speak** if you wish to and take part in any discussion or
- **you may vote** on the matter, provided you have disclosed your interest under paragraph 3.3.2.

4. Single-Member-Decision-Making

4.1. In the event that you are making a decision as a single Member the following section applies in relation to any interests you may have.

4.1.1. Where you have a personal interest on a matter to be considered or is being considered by you as a Cabinet Member in exercise of your executive function (i.e., single-Member-decision-making) and the interest is:

- a) A Registrable Interest; or
- b) A Non-Registrable Interest that falls under paragraph 3.3.3 above

Action to be taken

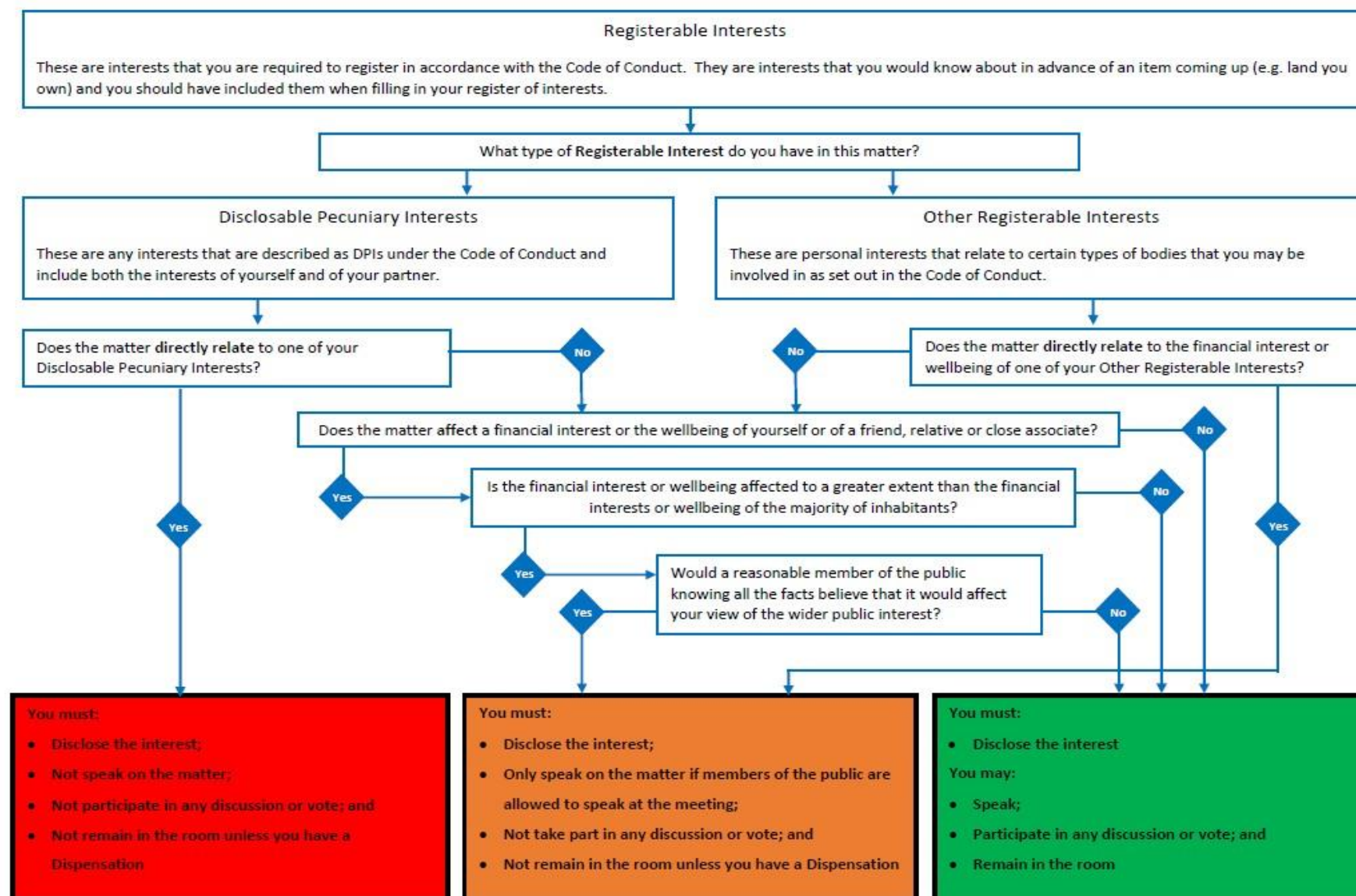
- **you must notify** the Monitoring Officer of the interest and

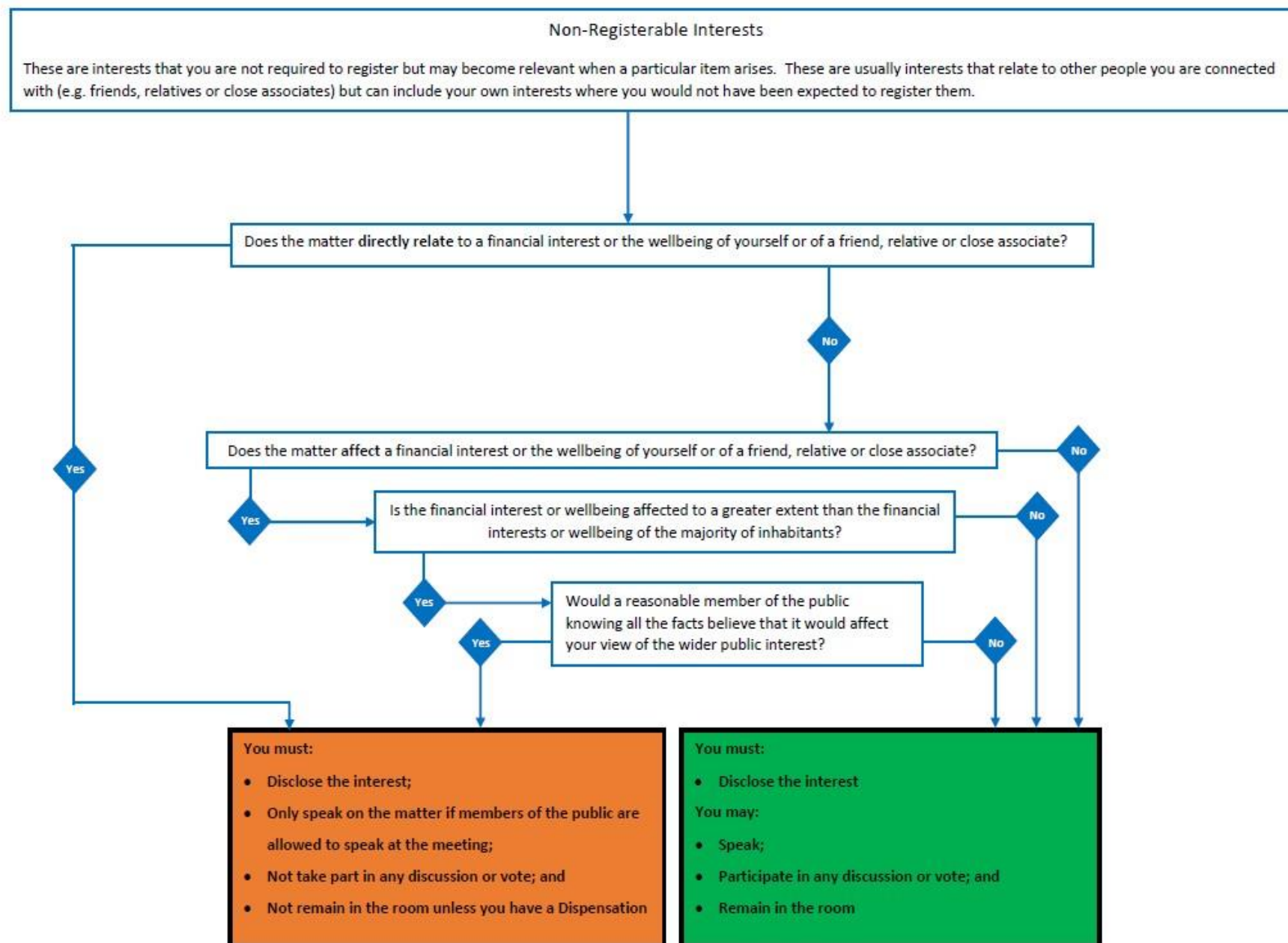
- **you must not** take any steps or further steps in the matter apart from arranging for someone else to deal with it.

4.1.2. Where you have a personal interest on a matter to be considered or is being considered by you as a Cabinet Member in exercise of your executive function (i.e. single-Member-decision-making) and the interest is a Non-Registrable Interest that falls under paragraph 3.3.4,

Action to be taken

- **you must** make sure that any written statement of that decision records the existence and nature of your interest.





APPENDIX 3

Broxtowe Borough Council
Arrangements for dealing with Code of Conduct complaints
under the Localism Act 2011

1. Introduction

These “Arrangements” set out how to make a complaint that an elected or Co-opted Member of Broxtowe Borough Council (“the Council”), or of a Town or Parish Council within the Borough of Broxtowe, has failed to comply with the Council’s Code of Conduct, and sets out how the Council will deal with allegations of a failure to comply with that Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a Member or Co-opted Member of the Council, or of a Town or Parish Council within the Borough of Broxtowe, or of a Committee or Sub-Committee of the Council, has failed to comply with that Council’s Code of Conduct can be investigated and decisions made on such allegations.

The statutory arrangements provide for the Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Council at any other stage, or by a Member or Co-opted Member of a Town or Parish Council within the Borough of Broxtowe, against whom an allegation has been made.

The Council takes seriously all Code of Conduct complaints. The investigation of complaints will be dealt with fairly for both the Complainant and the Member of the complaint.

These arrangements came into effect from (date to be inserted when adopted by Council) and were adopted by a meeting of full Council on (date to be inserted when adopted by Council).

2. The Code of Conduct

The Council has adopted a Code of Conduct for its Members, which is attached as Appendix C to these arrangements and available for inspection on the Council's website and on request from Reception at the Council Offices.

Each Town and Parish Council is also required to adopt a Code of Conduct. This is a matter for each individual Council to consider. If anyone wishes to inspect a Town or Parish Council's Code of Conduct, they should visit any website operated by the Town or Parish Council or request the Town or Parish Clerk to allow inspection of the relevant Code of Conduct, as the Town and Parish Council's may have adopted a different Code of Conduct than Broxtowe Borough Council

3. Definitions

The following definitions are used throughout these arrangements:

Complainant	The person who has raised the complaint. This might be a member of the public, an officer or another Member.
Member(s) being investigated	The Member against whom the complaint has been made.
Independent Person	The person appointed by the Council whose views must be sought by the Council before making a decision on an allegation, which is within the jurisdiction of the arrangements for dealing with Code of Conduct complaints.
Monitoring Officer	A senior officer of the Council who has responsibility for maintaining the register of Members' interests and who is responsible for administering the system in respect of complaints of Member misconduct and is the Council's Proper Officer for such matters.

Member	Councillor of Broxtowe Borough Council or of a Town or Parish Council within Broxtowe or a dual hatted Councillor.
Co-opted Member	A person who is not a Member of the Council but who is a Member of any committee or sub-committee of the Council, or is a Member of, and represents the Council on, any joint committee or joint sub-committee of the Council, and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.
Sanctions	The range of actions that can be taken against a Member where it is concluded that they have failed to comply with the Code of Conduct.
Informal Resolution	Informal resolution may involve the Member being investigated accepting that their conduct was unacceptable and offering an apology, or other remedial action proposed by the Monitoring Officer.

4. Making a complaint

If you wish to make a complaint, please write to:

The Monitoring Officer
Broxtowe Borough Council
Council Offices
Foster Avenue
Beeston
Nottingham
NG9 1AB

or email: membercomplaints@broxtowe.gov.uk

In order to ensure that the Monitoring Officer has all the information which is needed to be able to process a complaint, the correct Member Code of Conduct complaint form (Appendix B) should be completed. The form can be downloaded from the Council's website www.broxtowe.gov.uk under [Member complaints](#) and is available

on request from reception at the Council Offices or from the Monitoring Officer. If you decide not to use the Member complaint form, you must still provide all of the information requested within it, otherwise we will not be able to progress your complaint until this information is provided.

Help to complete the form or to make a written Member complaint is available by contacting the Monitoring Officer on 0115 917 3221 or by emailing membercomplaints@broxtowe.gov.uk.

Under the Equality Act 2010, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint. We can also help you if English is not your first language.

Parish and Town Councils as employers should have processes in place to ensure the fair and proper treatment of staff. Complaints about the conduct of a Parish or Town Members towards a Clerk should be made by the chair or by the Parish or Town Council as a whole, rather than the Clerk in all but exceptional circumstances.

A Complainant will be required to provide their name, a contact address and where possible, an email address, so that the complaint can be acknowledged and the Complainant kept informed of progress.

The Monitoring Officer will acknowledge receipt of a complaint within 3 working days of receiving it and the Complainant will be kept informed of the progress of the complaint.

5. Complaints against ‘Dual Hatted’ Members

A ‘dual hatted’ Member is a Member of a Council and who is also a Member of another Council within the County. The Member could be a serving County Councillor, Fire Authority Councillor, District Councillor and Town or Parish Councillor.

Complaints against Members are received by the Monitoring Officer for and on behalf of the Council. The Monitoring Officer will consider whether:

- The complaint relates to a ‘dual hatted’ Member;
- The complaint clearly relates to incidents or circumstances which have occurred solely in that Member’s capacity as a Councillor of the Council;

- That no other countywide Council is involved; and
- That the conduct or actions complained of relate to possible failure to comply with the Member Code of Conduct.

If so, the complaint shall be processed by the Monitoring Officer in accordance with these adopted arrangements for dealing with Member complaints.

Where the complaint relates to:

- A 'dual hatted' Member;
- In the view of the Monitoring Officer the complaint may impact on the capacity of the Member as a Member of another Council;
- The complaint may relate to incidents or circumstances which have occurred in the Member's capacity as a Councillor of the Council and of another Council;
- The conduct or actions complained of relate to a possible failure to comply with the Member Code of Conduct; and / or
- The complaint or a similar complaint may also have been received by another Council, the Monitoring Officer shall refer the Complainant to any additional Council that could process the complaint and continue to deal with the relevant aspects of the case to be dealt with under the arrangements adopted by the Council.

6. Confidentiality

As a matter of fairness and natural justice, the Member being investigated should be told who has complained about them. There may be occasions where the Complainant requests that their identity is withheld. Such a request may be granted only in circumstances that the Monitoring Officer considers to be exceptional, for example:

- a) The Complainant suffers from a serious health condition, which may be adversely affected if their identity is disclosed.
- b) The Complainant has reasonable grounds for believing that they will be at risk of intimidation, victimisation or physical harm if their identity is disclosed.
- c) The Complainant is an officer who works closely with the Member being investigated and they are afraid of the consequences to their employment if their identity is disclosed.

This is not intended to be an exhaustive list.

If the Monitoring Officer decides to refuse a request by the Complainant for confidentiality, they will offer the Complainant the option to withdraw the complaint, rather than proceed with disclosure of the Complainant's identity. If the Complainant withdraws the complaint their identity and the nature of the complaint will not be shared with the Member being investigated.

If, however the Monitoring Officer considers that disclosure of details of the complaint to the Member being investigated might prejudice the investigation, the Monitoring Officer can agree to delay notifying the Member being investigated until consideration of the complaint has progressed sufficiently. Any such decision to withhold details of the complaint should be taken only where the Monitoring Officer considers that exceptional grounds exist which make this necessary.

The Council will not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

7. Conflict of Interest

Where the Monitoring Officer considers they may have a conflict of interest, for example, as a result of a close professional relationship with the Member being investigated, the Monitoring Officer will pass the complaint to the Deputy Monitoring Officer to deal with. Where the Deputy Monitoring Officer similarly has a conflict of interest, arrangements may be made for a Monitoring Officer from another local Council in Nottinghamshire to oversee and manage the complaint.

8. What will happen to the complaint?

There are 4 stages to dealing with complaints that are received as detailed below.

Opportunities are provided throughout these arrangements to enable informal resolution between the Complainant and the Member being investigated.

The Complainant can at any time request to withdraw a complaint, however the Monitoring Officer may decide that it remains in the public interest to continue to pursue the complaint through the process.

Stage 1 – Initial Intake Test and Initial consideration of complaint

The Monitoring Officer will review every complaint received against the assessment criteria attached at Appendix A. If the complaint fails one or more of the initial intake tests (set out in the assessment criteria) the complaint will not be progressed. The Complainant will be informed that the complaint has been rejected and No Further Action will be taken, with the exception of complaints which fall under 7 and 8 above, which may be progressed for assessment after the date the other process has been completed or after the election.

If the complaint passes the initial intake test the Monitoring Officer will normally inform the Member being investigated (unless the exceptions set out in section 6 above apply) of the complaint within 5 working days of receiving the fully completed complaint form, or if the complaint form is not used, on receiving all the information requested within the complaint form in writing.

The Member being investigated will be invited to send their written comments within 7 working days (or such longer or shorter period as the Monitoring Officer may agree) and the Member being investigated will be notified of their right to consult the Independent Person. At the same time the Monitoring Officer will write to the Independent Person with details of the allegations so that they may be aware of the nature of the complaint in case the Monitoring Officer or the Member being investigated wishes to consult the Independent Person at this stage. The written representations from the Member being investigated will be taken into account when deciding how the complaint will be dealt with.

Subject to the exception set out in the next paragraph, the Monitoring Officer will always seek informal resolution in the first instance. If this resolves the matter, the Monitoring Officer will formally write to the Complainant and the Member being investigated.

If the complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies. If the complaint refers to failure to comply with the requirement to register a disclosable pecuniary interest, then the matter will be referred direct to the Police (Localism Act, Chapter 20 Part 1, Chapter 7, Section 34 – Offences).

When the Member being investigated is provided with details of the complaint they should keep this matter confidential, save that:

- a) They may disclose all or any part of the complaint to their group Leader
- b) They may disclose all or any part of the complaint to their professional association for the purposes of obtaining advice
- c) They may disclose all or any part of the complaint to their solicitors for the purposes of obtaining legal advice
- d) The group leader may nominate another Councillor to act as support for the Member being investigated, and any or all details of the complaint may be disclosed to that Councillor. Any Councillor who is appointed as a supporter by their group Leader should keep the material they receive confidential.

Complainants are asked to treat the complaint confidential whilst the matter is being investigated.

Stage 2 – Formal consideration of complaint
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If informal resolution is not achieved, or not considered appropriate, the Monitoring Officer will consult with the Independent Person before progressing with the complaint.

The Monitoring Officer will then take a decision as to whether the complaint merits investigation.

This decision will normally be taken within 10 working days of the conclusion of stage one. When the Monitoring Officer has taken a decision, they will inform the Complainant and the Member being investigated in writing of their decision and the reasons for that decision.

Where the Monitoring Officer requires additional information in order to come to a decision, they may go back to the Complainant for such information, and may request information from the Member being investigated. Where the complaint relates to a Town or Parish Councillor, the Monitoring Officer may also seek the views of the Town or Parish Council before deciding whether the complaint merits formal investigation.

In circumstances where the provision of this information leads to the time period for the compliance with this stage being extended the Monitoring Officer should, notify the Complainant and the Member being investigated of the period required to make a decision on this stage.

The Monitoring Officer may again seek to resolve by informal resolution, without the need for a formal investigation. If this resolves the matter, the Monitoring Officer will formally write to the Complainant and the Member being investigated to confirm that the matter is closed.

Where the Member being investigated makes a reasonable offer of informal resolution, the Complainant will be asked for their views but if they are not willing to accept the informal resolution offered, the final decision will be the Monitoring Officer's, in consultation with the Independent Person, who will take account of this in deciding whether the complaint merits formal investigation.

In reaching their decisions on the complaint at Stages 1 and 2 the Monitoring Officer and the Independent Person will need to consider the assessment criteria outlined at Appendix A.

Stage 3 - Investigation

The following procedure will be used for the investigation of misconduct complaints.

Investigating Officer

If the Monitoring Officer, in consultation with the Independent Person, decides that a complaint merits formal investigation, the Monitoring Officer will appoint an Investigating Officer, who may be another senior officer of the Council, an officer of another Council or an external investigator. The Monitoring Officer may also write to the Town or Parish Council and ask them to produce a statement report providing supporting evidence, statements, information and copies of relevant documentation. The Investigating Officer should normally be appointed within 7 working days of the decision being taken that the complaint merits investigation at this stage. The identity of the Investigating Officer should be notified to the Complainant and the Member being investigated in writing as soon as they are appointed.

The investigation process

The Investigating Officer will decide whether they need to meet or speak to the Complainant to understand the nature of the complaint, to gain an understanding of events, to decide what additional documents need to be seen, and who else needs to be interviewed.

The Investigating Officer will write to the Member being investigated again and (unless the exception in section 6 still applies) provide them with a copy of the complaint, and ask the Member to provide their explanation of events, to identify what documents the Investigating Officer needs to see and who they need to interview.

In exceptional cases, where it is appropriate to keep the Complainant's identity confidential or disclosure of details of the complaint to the Member might prejudice the investigation, the Monitoring Officer may delete their name and address from the papers given to the Member being investigated, or delay notifying the Member until the investigation has progressed sufficiently.

The Investigating Officer should complete their investigation as soon as possible and where possible within 20 working days. If the Investigating Officer is not able to complete their investigation within that time they should write to both the Complainant and the Member being investigated to explain the reason for the delay and to give them a new target date for the completion of the investigation.

The investigation report

At the end of their investigation and within 10 working days thereafter, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to the Complainant and to the Member being investigated, to give both an opportunity to identify any matter in that draft report which they disagree with or which they consider requires more consideration. The Complainant and Member being investigated should respond within 7 working days. The Investigating Officer should within 7 working days of having received and taken account of any comments which they may make on the draft report, will send their final report to the Monitoring Officer.

The Monitoring Officer will review the Investigating Officer's report and, if they are satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to the Complainant and the Member being investigated and give all a copy of the Investigating Officer's final report within 7 working days. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, they may ask the Investigating Officer to reconsider their report within 10 working days. If an extension to this time is required throughout the investigation process, the Complainant and Member being investigated will be informed.

Conclusion – no failure to comply

If the report concludes that there is insufficient evidence to make a finding for a failure to comply with the Code of Conduct, and the Monitoring Officer is satisfied with the content of the report, then all relevant parties (the Complainant, Member being investigated and the Independent Person) will be notified in writing and the matter will be closed.

Conclusion – failure to comply

If the report concludes that there is sufficient evidence to make a finding that there has been a failure to comply with the Code of Conduct, the Monitoring Officer will review the Investigating Officer's report and will then consult with the Independent Person. The Monitoring Officer will again seek informal resolution, however if this does not resolve the matter, the complaint will be listed for a hearing before the Standards Hearing Sub Committee.

Informal Resolution

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 with the Independent Person, the Complainant and with the Member being investigated and seek agreement on what is considered to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Member accepting that their conduct was unacceptable and offering an apology, and/or other remedial action considered appropriate by the Monitoring Officer or the Standards Hearing Sub Committee. If the Member complies with the suggested resolution, the Monitoring Officer will take no further action. The Monitoring Officer's decision is final.

Stage 4 –Standards Hearing Sub Committee

If the report concludes that there has been a failure to comply and the Monitoring Officer considers that informal resolution is not appropriate or that informal resolution has failed to resolve the matter the Monitoring Officer in consultation with the Chair (in their absence Vice Chair) of the Governance, Audit and Standards Committee will convene a Standards Hearing Sub Committee. The Monitoring Officer will report the Investigating Officer's report to the Standard Hearing Sub Committee, which will conduct a local hearing before deciding whether the Member being investigated has

failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the breach.

The Standards Hearing Sub Committee

The Standards Hearing Sub Committee will comprise of 5 elected Members . The Standards Hearing Sub Committee should, at all times, be advised by the Monitoring Officer or their representative. The Standard Hearing Sub Committee meeting should be convened as soon as possible and where possible within 20 working days of the Monitoring Officer announcing their decision that such a meeting is necessary.

The Independent Person is invited to attend all hearings by the Standards Hearing Sub Committee and their views are sought and taken into consideration before the Standards Hearing Sub Committee takes any decision on whether the Member's conduct constitutes a failure to comply with the Code of Conduct and as to any recommended action to be taken following a finding of failure to comply with the Code of Conduct.

Hearings will usually be held in public, unless there are exceptional reasons for it not being, in accordance with section 6 above.

Procedures for Hearings

At least 5 working days prior to the meeting of the Standards Hearing Sub Committee the Monitoring Officer will ask the Member being investigated to identify in writing what aspects of the Investigating Officers report are accepted and what are in dispute. The purpose of this is to identify what is likely to be agreed and what is likely to be in contention at the hearing. In addition, the Chair (or in their absence the Vice Chair) of the Standards Hearing Sub Committee may issue directions as to the manner in which the hearing will be conducted, but before doing so will give the Member being investigated the opportunity to make representations on any proposed directions. Any directions given will be for the purpose of ensuring a fair and effective hearing.

At the hearing, the Investigating Officer will present their report, call such witnesses, as they consider necessary and make representations to substantiate their conclusion that there is evidence that the Member being investigated has 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 Standards Hearing Sub Committee. The Member being investigated will then have an opportunity to give their evidence,

to call witnesses and to make representations to the Standards Hearing Sub Committee, as to why they consider that they did not fail to comply with the Code of Conduct. The Member being investigated, the Investigating Officer, the Monitoring Officer (or their representative(s) directly through the Chair of the Standards Hearing Sub Committee will have the opportunity to ask questions of any witness called by the other party. The Standards Hearing Sub Committee can also question witnesses.

Although, the meeting will be in public unless exceptional circumstances arise the discussion of the Standards Hearing Sub Committee, as to what conclusion they reach will be in private. The Standards Hearing Sub Committee may be assisted by an administrative officer (usually the Monitoring Officer and the Independent Person) but the Investigating Officer and the Member being investigated must not be present during those discussions.

In reaching a decision the Standards Hearing Sub Committee will reach a decision by majority vote, with the material being evaluated on the balance of probabilities.

Conclusion – no failure to comply

The Standards Hearing Sub Committee, with the benefit of any advice from the Monitoring Officer and the Independent Person, may conclude that the Member being investigated did not fail to comply with the Code of Conduct, and so dismiss the complaint.

Conclusion – failure to comply

If the Standards Hearing Sub Committee, concludes that the Member being investigated did fail to comply with the Code of Conduct, the Chair will inform the Member being investigated of this finding and Standards Hearing Sub Committee will then consider what action, if any, it should take or recommend as a result of the Member's failure to comply with the Code of Conduct.

In doing this, the Standards Hearing Sub Committee will give the Member being investigated an opportunity to make representations and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

The announcement of the conclusion reached by the Standards Hearing Sub Committee must be in public, as will the opportunity for the Member being investigated

to make any representations, if necessary. However, the decision as to what sanction to recommend must be in private. Neither the Investigating Officer nor the Member being investigated must be present during those discussions.

At the end of the hearing, the Chair will state the decision of the Standards Hearing Sub Committee, as to whether the Member being investigated failed to comply with the Code of Conduct and as to any actions which the Standards Hearing Sub Committee resolves to take or recommend. As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Standards Hearing Sub Committee, and send a copy to the Complainant, to the Member being investigated and to the Town or Parish Council where applicable. The Decision Notice will be made available for public inspection through the Council website.

9. Sanctions

The Council has delegated to the Monitoring Officer and to the Standards Hearing Sub Committee, such of its powers to recommend action in respect of individual Members as may be necessary to promote and maintain high standards of conduct. Accordingly, the Monitoring Officer and Standards Hearing Sub Committee may:

1. Publish its findings in respect of the conduct of the Member being investigated;
2. Report its findings to the relevant Town or Parish Council, if appropriate;
3. Report its findings to Council for information;
4. Recommend to Council that the Member being investigated be censured for the breach of the Code of Conduct;
5. Recommend to the group Leader that the Member being investigated be removed from any or all Committees or Sub-Committees of the Council;
6. Recommend to the Leader that the Member being investigated be removed from Cabinet, or removed from particular Portfolio responsibilities;
7. Recommend to Council that the Member being investigated be removed or any Chair or Vice-Chair that he or she holds;
8. Recommend to Council that the Leader or Deputy Leader be removed from Cabinet or removed from particular Portfolio responsibilities;

9. Instruct the Monitoring Officer to [or recommend that the Town or Parish Council] arrange training for the Member being investigated;
10. Recommend to Council to remove [or recommend to the Town or Parish Council that the Member being investigated be removed] the Member being investigated from any or all outside appointments to which they have been appointed or nominated by the Council [or by the Town or Parish Council].
11. Remove [or recommend to the Parish or Town Council concerned that it removes] the Member being investigated from the Council's Offices or other premises with the exception of meeting rooms, as necessary for attending Council, Cabinet, Committee and Sub-Committee Meetings; at the discretion of the Standards Hearing Sub Committee for a maximum of 12 months.

NB. There is no power to suspend or disqualify the Member or to withdraw a Member's basic or special responsibilities allowance. Although, basic or special responsibility allowance will not be paid if the Member is no longer entitled, as a result of being removed from the Cabinet, portfolio responsibilities, committee, Chair or Vice Chair position.

10. Who is the Independent Person?

The Independent Person is a person who has applied for the post following advertisement, and is then appointed by a positive vote from a majority of all the Members of Council. The Localism Act 2011 sets a number of criteria for the recruitment of the Independent Person and these can be found on Part 1, Chapter 7, Section 28.

Any changes to the appointment of the Independent Person must be in line with the recruitment processes outlined in the Localism Act 2011 and agreed by a positive majority of full Council.

11. Failure to co-operate with the complaint process

Failure by the Complainant or Member being investigated or witnesses to take part in the complaint process will be taken into consideration throughout the assessment and investigation stages. If the Complainant, Member being investigated or witnesses fails to respond to requests for information throughout the process, one reminder will be sent in the interest of fairness to allow for this information to be provided. If there is still no response the complaint will be progressed without any further delay.

The Monitoring Officer or their representative and or investigation may exercise their discretion to allow a further opportunity to respond, if they consider exceptional circumstances apply.

12. Revision of these arrangements

The Chair of the Standards Hearing Sub Committee may, following consultation with the Monitoring Officer and Independent Person, depart from the procedures detailed herein where he/she considers it is necessary to do so in order to secure the effective and fair consideration of any matter.

The Council may by resolution agree to amend these arrangements.

13. Appeals

There is no right of appeal either as the Complainant or the Member being investigated against a decision of the Monitoring Officer or their representative or of the decision of the Standards Hearing Sub Committee.

If it is felt that the Council has failed to deal with the complaint properly, you may make a complaint to the Local Government Ombudsman (www.lgo.org.uk).

14. “In Writing”

Any requirement in these arrangements that information is provided in writing may be satisfied by that information being provided electronically, unless there is an Equality Act reason for the information to be in a physical form.

APPENDIX A

ASSESSMENT CRITERIA

In reaching their decisions on the complaint at Stage 1 and 2 the Monitoring Officer (or substitute decision makers specified under section 7 'conflict of interest' provisions) and the Independent Person will need to consider the following assessment criteria:

Stage One: Initial Intake Test:

The Monitoring Officer must be satisfied that the complaint meets the following requirements: -

1. The complaint is against one or more named Member or Co-opted Member of the Council or a Parish or Town Council within their jurisdiction;
2. The named Member or Members were in Office at the time of the alleged conduct and the Code of Conduct was in force at the time; and
3. The named Member or Members were acting in their official capacity when the alleged conduct took place.
4. The Complainant has given their name and contact details (unless the Monitoring Officer considers there is a clear public interest in proceeding with the anonymous complaint)
5. The complaint is an allegation under the Code of Conduct rather than dissatisfaction of a Council's service, decision or a statement of policy disagreement.
6. The complaint is about events that occurred within the last 3 months unless the Monitoring Officer considers there are exceptional grounds for the delay presented by the Complainant when submitting the complaint.
7. The complaint is not being dealt with by the police, Ombudsman or another complaint process (in this case the complaint will not be assessed until after the other process has been completed).

8. The complaint is not being made about the Member or Co-opted Member within 6 weeks prior to an election day (if the complaint is within the 6 week period the complaint will not be assessed until after the election outcome has been announced).

If the complaint fails one or more of these tests it will not be progressed and the Complainant will be informed that the complaint has been rejected and No Further Action will be taken, with the exception of complaints which fall under 7 or 8 above, which may be progressed for assessment after the date the other process has been completed or after the election.

The Member being complained of will normally be informed of the complaint, subject to the Complainant providing consent to share their complaint.

Onward referrals:

The Monitoring Officer will advise the Complainant if their complaint needs to be referred elsewhere eg when:

- a) The complaint is alleging conduct relating to election/political campaigning activities as these are outside the remit of the Members Code of Conduct and will not be assessed for further action. Potential election offences should be reported to the Police or the Electoral Commission.
- b) Complaints allege that Members may have committed a criminal offence in breaching the “disclosable pecuniary interest” provisions under Section 34 of the Localism Act 2011, will be referred by the Monitoring Officer to Nottinghamshire Police for consideration.
- c) Complainants will be redirected to the whistling blowing policy where considered necessary.

This list is not exhaustive.

STAGE 1 and STAGE 2 considerations:

The Monitoring Officer and Independent Person (or substitute decision makers specified under section 7 'conflict of interest' provisions) will consider the following when considering what action to take in respect of the complaint:

1. The extent to which the Member being investigated is alleged to have failed to treat others with respect;
2. Whether the allegations relates to bullying, harassment, intimidating or attempting to intimidate a person involved in an allegation against a Member being investigated;
3. Whether in disclosing confidential information the Member being investigated failed to take or to heed advice;
4. The implications for the public perception or the reputation of the Council;
5. Whether the continuing pattern of behaviour being complained about is likely to bring the Council into disrepute, and or significantly and unreasonably disrupts the business of the Council, and there is no appropriate alternative informal resolution other than to investigate.
6. The implications of the misconduct on staff relations and other Members;
7. The seniority or position of influence of the Member being investigated and public trust or confidence;
8. The extent to which the Member being investigated is alleged to have acted in a way that may cause the Council to breach an equality enactment;
9. The consequences or the likely consequences of the Members being investigated alleged actions;
10. The extent to which the Member being investigated is alleged to have used his or her position as a Member improperly to confer or secure an advantage or disadvantage;
11. The extent to which the Member being investigated is alleged to have misused or abused the resources of the Council;
12. The detriment caused by acting against advice when reaching decisions;
13. The extent to which a failure to register or to declare interests resulted from a failure or refusal to seek or to follow advice;

14. Whether the matter of the complaint has already been the subject of a previous investigation or of an investigation by another regulator, e.g. the Local Government Ombudsman or the District Auditor, or the subject of proceedings in court;

A DECISION TO TAKE NO FURTHER ACTION

Reasons for taking No Further Action include:

1. That the subject matter of the allegation is outside the jurisdiction of the Standards Hearing Sub Committee; eg the complaint is an allegation about dissatisfaction of a Council's service, decision or a statement of policy disagreement or breach of the standing orders etc.
2. That the allegation does not appear to disclose a failure by the Member to comply with the Member's Code of Conduct when acting in that capacity;
3. Whether the complaint is about something that happened so long ago that there would be little public benefit in taking action now. The Monitoring Officer will normally reject a complaint where the last event complained of took place more than 3 months prior to the date of the complaint or where those involved are unlikely to remember the event/s or incident/s clearly enough to provide credible evidence.
4. The matter of complaint or a substantially similar allegation has already been the subject of a previous investigation or of an investigation by another regulator or the subject of proceedings in court and there is nothing more to be gained by a further action being taken.
5. Whether the complaint appears to be simply malicious, vexatious, politically motivated, relatively minor, too trivial, insufficiently serious or tit-for-tat to warrant further action.
6. Where the resources needed to investigate are wholly disproportionate to the allegations and or there is no overriding public interest in carrying out an investigation. Public interest is regarded as 'something which is of serious concern and benefit to the public'.
7. Whether there is enough information currently available to justify a decision to refer the matter for investigation or to seek an informal resolution;
8. The information submitted by the Complainant is insufficient to enable the Monitoring Officer and the Independent Person to come to a firm conclusion on the matter and as such it is unlikely that an investigation will be able to come to a firm conclusion on the matter and or where independent evidence is likely to be difficult or impossible to obtain.

9. It is considered that the Member being investigated has offered a satisfactory remedy to the Complainant (for example by apologising).
10. Whether the Monitoring Officer considers the matter is suitable for informal resolution and the Member being investigated is amenable to such an approach.
11. The complaint is about someone who has died, resigned, is seriously ill or is no longer a Member of the Council concerned and therefore it is not in the public interest to pursue.
12. The complaint is anonymous; The Monitoring Officer will not usually investigate anonymous complaints unless there is a clear public interest in doing so.

APPENDIX B

MEMBER CODE OF CONDUCT COMPLAINT FORM

To: The Monitoring Officer
Broxtowe Borough Council
Foster Avenue,
Beeston,
Nottingham
NG9 1AB

Your details

1. Please provide us with your name and contact details:

Title:	
First name:	
Last name:	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile telephone:	
Email address:	
Date Complaint submitted	

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

However, we will tell the following people that you have made this complaint:

- the Member(s) you are complaining about
- the Monitoring Officer of the Council
- the Council's Independent Person
- officers involved in investigation or informal resolution (if applicable)

We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate to be able to deal with it. If you have serious concerns about your name and a summary, or details of your complaint being released, please complete section 7 of this form to request your details are treated as 'Confidential'.

2. Please tell us which Complainant type best describes you:

- ☐ Member of the public
- ☐ An elected or co-opted Member a Council, Town or Parish Council,
please specify which Council
- ☐ Local Council Monitoring Officer
- ☐ Other Council officer or Council employee
- ☐ Other, please specify

Equality Monitoring

The Council's Equality Monitoring Questionnaire is attached at the end of the form. The completion of this form is voluntary and any information will be treated as confidential, and will not be disclosed when your complaint is considered.

Making your complaint – Initial Intake test

3. The Assessment Criteria (in the local arrangements for dealing with Code of Conduct complaints) sets out an initial intake test that is applied to Member and Co-opted Member complaints. Please answer the questions below so your complaint can be checked against the initial intake test, which requires your complaint to meet the following requirements:

1. Is the complaint against one or more named Member or Co-opted Member of the Council or a Parish or Town Council within their jurisdiction?

☐ Yes, please provide necessary detail below;
☐ No

☐ Not sure

2. The named Member or Members were in Office at the time of the alleged conduct and the Code of Conduct was in force at the time;

☐ Yes
☐ No

☐ Not sure

3. The named Member or Members were acting in their official capacity when the alleged conduct took place.

☐ Yes
☐ No

☐ Not sure

4. Have you given your name and contact details at the top of the form.

☐ Yes
☐ No, if not please complete the request for confidentiality under section 7

An exception not to disclose your identity must be applied for (further details on requests for 'Confidentially' can be found under section 6 of the arrangements for dealing with Code of Conduct complaints) under section 7 of this form, if you are not providing your details.

Please note, the Council will not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

5. Is the complaint is an allegation under the Code of Conduct rather than dissatisfaction of a Council's service, decision or a statement of policy disagreement.

☐ Yes
☐ No

6. Is the complaint about events that occurred within the last 3 months?

☐ Yes
☐ No

If you have any exceptional reasons why you were not able to make this complaint earlier, please provide details in the box below:

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7. Is the complaint being dealt with by the police, Ombudsman or another complaint process (in this case the complaint will not be assessed until after the other process has been completed)?

☐ Yes the complaint is being dealt with by another process
☐ No

If you answered yes above, please provide detail in the table below of which other organisation is dealing with the issues complained of and a contact name and number of the person progressing this matter, if know, and the stage the matter has progressed to:

--

8. Is the complaint being made about the Member within 6 weeks prior to an election day (if the complaint is within the 6 week period the complaint will not be assessed until after the election outcome has been announced).

<input type="checkbox"/>	Yes
<input type="checkbox"/>	No

If you answered yes above please provide detail in the table below:

--

N.B Please note, if the complaint fails one or more of these tests it will not be progressed and the Complainant will be informed that the complaint has been rejected and No Further Action will be taken, with the exception of complaints which fall under 7 and 8 above, which may be progressed for assessment after the date the other process has been completed or after the election outcome.

The Member being complained of will normally be informed of the of the nature of the complaint and your details unless an exception under the confidentiality section has been agreed.

4. Please provide us with the name of the Member(s) or Co-opted Member(s) you believe have breached the Code of Conduct and the name of their Council:

Title	First name	Last name	Council name

5. Please explain in this section (or on separate sheets) what the Member has done that you believe breaches the Code of Conduct. If you are complaining about more than one Member you should clearly explain what each individual person (preferably on separate complaint forms for each Member or Co-opted Member) has done and how you believe this breaches the Code of Conduct.

It is important that you provide with this complaint form, **all the information** you wish to have taken into consideration and for a decision to be made on whether to take any action on your complaint. For example:

- You should be specific, wherever possible, about exactly what you are alleging the Member said or did and **what part of the Code you say they failed to comply with**. For instance, instead of writing that the Member insulted you, you should state what it was they said.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information and include copies of any documents, photographs or other records you are relying on.

Please provide us with details of your complaint. Continue on a separate sheet if there is not enough space on this form.

6. Please indicate which paragraphs of the Code of Conduct you consider the Member(s) or Co-opted Member to have breached by ticking the appropriate box(es).

Code of Conduct Obligation	Tick if you consider this obligation was breached	How did the Member breach this obligation
1. Respect		
2. Bullying, harassment and discrimination		
3. Impartiality of officers of the Council		
4. Confidentiality and access to information		
5. Disrepute		
6. Use of position		
7. Use of Council resources and facilities		.
8. Making decisions		
9. Complying with the Code of Conduct		
10. Interests		
11. Gifts and hospitality		
12. Dispensations		

The Code of Conduct is available on the Council's website in Chapter 5a of the Council's Constitution www.broxtowe.gov.uk/constitution or online in the local arrangements for dealing with Member Code of Conduct complaints under the complaints section under Member complaints or from the Monitoring Officer at the above address.

7. Confidentiality

Only complete this next section if you are requesting that your identity is kept confidential.

In the interests of fairness and natural justice, we believe Members who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint unless you provide us with an explanation of the exceptional reason why you think your details and/or identity should be kept confidential. More details of what may be considered to be exceptional circumstances are set out in our arrangement for Code of Conduct complaints, which can be found on the Council website under Councillor

Complaints.

A request for confidentiality should be made when submitting this complaint form, to allow time for proper consideration of this request.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

Please mark an X in the boxes below to confirm that you consent to disclosure of your identity and details of your complaint being shared with the Member being complained of and with those identified in section 1 above (if applicable):

1. I agree to my identify being disclosed

<input type="checkbox"/>	Yes
<input type="checkbox"/>	No

2. I agree to the detail of my complaint being disclosed

<input type="checkbox"/>	Yes
<input type="checkbox"/>	No

If you have answered **No** to either or both of the above questions:

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

8. Informal Resolution

It is often possible to resolve complaints without recourse to formal investigation and hearing. In such cases it is important that appropriate action to seek to achieve informal resolution of the matter is undertaken without delay.

To assist us in doing this it would be helpful if you could describe what remedy you are seeking/what action you think would be appropriate to resolve your complaint.

Please provide us with details of what remedy you are seeking/what action you think might provide a satisfactory resolution to your complaint.

9. Additional Help

Complaints must be submitted in writing. This includes electronic submissions. However, in line with the requirements of the Disability Discrimination Act 2000, we

can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

The Council has access to a language line and can assist you to complete this form if English is not your first language. If you require any assistance, please contact Sach Khosa, Monitoring Officer on 01159173221.

Please note, we will not be able to progress your complaint without receiving all the requested information, so it is important that you seek assistance to complete this form or provide this information, if necessary.

Complainants are asked to treat the complaint confidential whilst the matter is being investigated.

Please sign below to confirm that you have provided **all the information** requested in the complaint form and the content of this information is true to the best of your knowledge and belief.

Signed..... Date.....

Equality monitoring

The completion of the Council's Equality Monitoring is voluntary and any information will be treated as confidential, and will not be disclosed when your complaint is considered.

Ethnicity Monitoring Categories

How would you class yourself? Please tick

White	Asian or Asian British
<input type="checkbox"/> British	<input type="checkbox"/> Indian
<input type="checkbox"/> Irish	<input type="checkbox"/> Pakistani
<input type="checkbox"/> Any other White background	<input type="checkbox"/> Bangladeshi
	<input type="checkbox"/> Any other Asian background
Black or Black British	Other Ethnic Groups
<input type="checkbox"/> Caribbean	<input type="checkbox"/> Chinese
<input type="checkbox"/> African	<input type="checkbox"/> Any other Ethnic group
<input type="checkbox"/> Any other Black background	<input type="checkbox"/> Not stated
Mixed	
<input type="checkbox"/> White and Black Caribbean	<input type="checkbox"/> Male
<input type="checkbox"/> White and Black African	<input type="checkbox"/> Female
<input type="checkbox"/> White and Asian	<input type="checkbox"/>
<input type="checkbox"/> Not stated	
<input type="checkbox"/> Any other Mixed background	

Disability Monitoring Question

Do you consider yourself as disabled or have any long term health problem that limits daily activity?

<input type="checkbox"/> Yes	<input type="checkbox"/> No
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Age Monitoring Categories

Which of the following age groups do you belong to?

- | | |
|---|--------------------------------|
| <input type="checkbox"/> 17 years and under | <input type="checkbox"/> 18-24 |
| <input type="checkbox"/> 25-29 | <input type="checkbox"/> 30-44 |
| <input type="checkbox"/> 45-59 | <input type="checkbox"/> 60-64 |
| <input type="checkbox"/> 65+ | |

APPENDIX 4

Summary of main changes to the Code of Conduct

Revised Code of Conduct	Recommendation
Part 1. General Provision <ul style="list-style-type: none">Added new introduction setting out legal requirement for the Code of ConductAdded new section on Definitions for clarificationAdded new section on the purpose of the Code of Conduct to ensure Members have a clear understanding for importance of CodeAdded new section on the application of the Code, so Members have clarity on when the Code applies to themFormatted the existing Codes principles under the relevant headings of the Nolan Principles	LGA Model Code
Part 2. General Obligations <ul style="list-style-type: none">Formatted the existed obligations within the Code under the relevant headings for clarificationAdded new obligations for bullying, harassment and discriminationAdded new obligations on confidentiality and access to information, which expands on the wording of the existing CodeAdded new obligation not to bring my Council into disreputeAdded new obligation to comply with the Code and to undertake relevant trainingAdded new section on gifts and hospitalityAdded new section on dispensation	LGA Model Code
Appendix A - Interest	LGA Model Code

Summary of main changes to the Arrangements

Revised Arrangements	Recommendation
1. Introduction <ul style="list-style-type: none"> Title revised to Arrangements for dealing with standards allegations to Arrangements for dealing with Code of Conduct complaints Replaced Authority to read Council throughout the arrangements. Added reference to the process will be fair to both the complainant and the Member being complained about. 	<p>Amended and updated to reflect Localism Act wording by Monitoring Officer</p> <p>Amended to have consistency throughout the document by Monitoring Officer</p> <p>Task and Finish Groups & MO recommendation</p>
3. Definitions <ul style="list-style-type: none"> New definition added for Subject Member amended to Member being investigated New definition added for Co-opted Member to provide necessary clarity. Definition for Local Resolution changed to Informal Resolution. 	<p>Task and Finish Groups & MO recommendation.</p> <p>Considered useful and necessary to provide clarify by Task and Finish Group and MO</p>
4. Make a complaint <ul style="list-style-type: none"> Revised complaint form to ensure we guide the complainant to provide the necessary information that will be required to assess the complaint. Added section to highlight support can be provided to complete the complaint form as required under the Equality Act 2010 provisions. Added section that Parish Council as a whole should if necessary submit a complaint concerning a Parish Councillors conduct towards a Clerk, in line with best practice recommendations. 	<p>Implementing CSPL best practice recommendation 10.</p> <p>Implementing CSPL best practice recommendation 10.</p> <p>Implementing CSPL best practice recommendation 11.</p>
6. Confidentiality <ul style="list-style-type: none"> Added if the Complainant withdraws the complaint their identity and nature of the complaint of the complaint will not be shared with the Member being investigated. 	<p>Necessary clarification made by Monitoring Officer</p>

<ul style="list-style-type: none"> Added any decision to withhold details about a complaint should be taken only where the Monitoring Officer considers that exceptional grounds exist. 	Task and Finish Groups recommendation & MO
7 Conflict of Interest. <ul style="list-style-type: none"> Added new conflict of interest section to ensure there are arrangements in place to progress complaints where conflict of interests arise. 	Implementing CSPL best practice recommendation 13.
8. What will happen with the complaint <ul style="list-style-type: none"> New assessment criteria and initial intake test add to ensure clear straightforward public interest test against which allegations can be filtered is included in the arrangements. Timescales for handling complaints, investigations, hearing and outcome have been specified. New section under stage 1 has been added to clarify who the Member being investigated can share the complaint with. Added requirement for the Complainant to keep the complaint confidential whilst the complaint is being investigated. Amended reference to Governance, Standards and Audit Panel Hearing to Standards Hearing Sub Committee and added further direction requirements under stage 4, procedure for the hearing, to clarify the process for all involved. 	<p>Implementing CSPL best practice recommendation 6 & 8.</p> <p>Implementing CSPL best practice recommendation 10 and considered necessary by Task and Finish Group</p> <p>Task and Finish Groups & MO</p> <p>Task and Finish Groups & MO</p>
8. Sanction <ul style="list-style-type: none"> Revised and added the full range of sanctions available to the Standards Hearing Sub Committee to impose. 	Task and Finish Groups & MO recommendation