

# Warwick District Council Code of Conduct

## Part A – General Obligations

As a member or co-opted member of Warwick District Council, I 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.

I recognise that this Code of Conduct will apply at all times when I am acting as a member of Warwick District Council and I recognise that failure to adhere to this Code could result in the issuing of sanctions against me.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this Authority:

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

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

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

**ACCOUNTABILITY:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

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

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

**LEADERSHIP:** Holders of public office should promote and support these principles by leadership and example.

As a Member of Warwick District Council, my conduct will in particular address the principles of the Code of Conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting the public interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the Authority or the good governance of the Authority in a proper manner.
- Recognising that all parties are equal and my position is one of privilege and not one that should be used to secure advantage or disadvantage for any party.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this Authority.
- Listening to and respecting the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective, making decisions on merit and providing reasons for the decisions taken.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this Authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account.
- Never disclosing information given to me in confidence by anyone, or information acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, except where:
  - (1) I have the consent of a person authorised to give it;
  - (2) I am required by law to do so; and
  - (3) The disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person;  
or
  - (4) The disclosure is
    - (a) Reasonable and in the public interest; and
    - (b) Made in good faith and in compliance with the reasonable requirements of the authority.
- Behaving in accordance with all my legal obligations, alongside any requirements contained within this Council's policies, protocols and

procedures, including those on the use of the Council's resources (which shall never be for political purposes).

- Valuing and respecting my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect and acting in a polite and courteous manner, including the organisations and public I engage with and those I work alongside, both officers and fellow Members.
- Providing leadership through behaving in accordance with the principles of this Code when championing the interests of the community with other organisations as well as within this Council.
- Never intimidating or attempting to intimidate, or bully any person.
- Never doing anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.
- Accepting that the failure to co-operate in trying to resolve a complaint; the investigation of a complaint; the pre-hearing and hearing process will be a breach of this Code of Conduct.
- The failure to comply with a sanction imposed by the Council, Standards Committee or a Hearing Panel, within the required time period, will in itself be a failure to comply with this Code of Conduct.
- Recognising that by failing to adhere to the Code, I could bring my office or Council into disrepute.

## Part B – Disclosable Pecuniary Interests

### 1 Notification of disclosable pecuniary interests

This part explains the requirements of the Localism Act 2011 (Sections 29-34) in relation to disclosable pecuniary interests. These are enforced by criminal sanction but would also be seen as a breach of the Code of Conduct by the Council.

Within 28 days of becoming a Member or co-opted Member, or becoming aware of any changes to your interests, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'.

A 'disclosable pecuniary interest' is an interest of yourself or your partner (which means spouse or civil partner, 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) within the following descriptions:

<b>Subject</b>	<b>Prescribed description</b>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the Warwick District Council) made or provided within the 12 months before your declaration of interests (or amendment to your declaration) 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.
Contracts	Any contract which is made between you or your partner (or a firm or body corporate in which you or your partner is a partner or a director, or in the securities of which you or your partner has a beneficial interest) <b>and</b> the District Council (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.

Land, which excludes an easement, servitude, interest or right in or over land which does not carry with it a right for you or your partner (alone or jointly with another) to occupy the land or to receive income	Any beneficial interest in land which is within the area of Warwick District Council.
Licences	Any licence (alone or jointly with others) to occupy land in the area of Warwick District Council for a month or longer.
Corporate tenancies	Any tenancy where (to your knowledge)— (a) the landlord is Warwick District Council; and (b) the tenant is a body in which you or your partner has a beneficial interest.
Securities which means, shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 <sup>(1)</sup> and other securities of any description, other than money deposited with a building society	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 Warwick District 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 relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

- “the Act” means the Localism Act 2011;
- “director” includes a member of the committee of management of an industrial and provident society;
- “member” includes a co-opted member;

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(1) 2000 c. 8.

## **2 Register of interests**

Any interests notified to the Monitoring Officer will be included in the register of interests.

A copy of the register will be available for public inspection, at Riverside House, Royal Leamington Spa and disclosable pecuniary interests will be published on the authority's website.

## **3 Sensitive interests**

Where you consider that disclosure of the details of a disclosable pecuniary interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a disclosable pecuniary interest, the details of which are withheld under Section 32(2) of the Act.

## **4 Non participation in the case of disclosable pecuniary interest**

- (1) If you are present at a meeting of the Council, Executive, or any committee, sub-committee, joint committee or joint sub-committee, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting, unless you have been granted a dispensation:
  - (a) You may not participate in any discussion of the matter at the meeting and must leave the room for the duration of this item
  - (b) You may not participate in any vote taken on the matter at the meeting.
  - (c) You must disclose the interest to the meeting.
  - (d) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

Note: Council Procedure rule 36 requires you to leave the room where the meeting is held while any discussion or voting takes place unless you have a dispensation

- (2) Where an Executive member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by them, the Executive member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

## **5 Dispensations**

The Council or the Standards Committee may grant you a dispensation, to consider specific matters for a time set at their discretion, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest. See Part C -7(2) for General Dispensations granted by Council.

## **6 Offences**

It is a criminal offence, under the Localism Act 2011 and The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 to:

- (1) Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election
- (2) Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register
- (3) Fail to notify the Monitoring Officer within 28 days, of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting
- (4) Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest without a dispensation
- (5) As an Executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest.
- (6) Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting (unless you have dispensation).

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

In addition to the above, this Council would also recognise that the following would amount to a breach of the Code of Conduct:

- Failure to notify the Monitoring officer of any changes to disclosable pecuniary interest within 28 days
- Failure to disclose a disclosable pecuniary interest at a meeting
- Failure to leave the meeting room when an item relating to a disclosable pecuniary interest is discussed

## **Part C- Other interests**

### **1 Notification of other interests**

- (1) Subject to paragraph 4 below, (Sensitive interests), you must, within 28 days of;—
  - (a) this Code being adopted by the Council;
  - (b) your election or appointment to office; or
  - (c) any changes occurring to the declared interest;

notify the Monitoring Officer in writing of the details of your personal interests, falling within Paragraph 2(2) (A) below, for inclusion in the register of interests.

- (2) You must, within 28 days of becoming aware of any new personal interest, notify the Monitoring Officer of the details of that new personal interest.

### **2 Disclosure of interests**

- (1) Where you have a personal interest in any business of the District Council, and where you are aware or ought reasonably to be aware of the existence of the personal interest, and you attend a meeting of the Council, Executive, any committees or sub-committees or joint committees or sub-committees at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2)
  - (A) You have a personal interest in any business of the District Council where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a *relevant person* to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward affected by the decision;
  - (B) In sub-paragraph (2) (A), a *relevant person* is yourself or your partner (which means spouse or civil partner, 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)
  - (C) You have a personal interest in any business of the District Council which relates to any disclosable pecuniary interest you are required to register
- (3) Where you have a personal interest in any business of the District Council which relates to or is likely to affect a relevant person, you need to disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (4) Where you have a personal interest in any business of the District Council regarding gifts and hospitality, you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (5) Where you have a personal interest but, by virtue of Paragraph 4, Sensitive interests, information relating to it is not registered in your Authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Where you have a personal interest in any business of the District Council and you have made an Executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

### **3 Register of other interests**

Any interests notified to the Monitoring Officer will be included in the register of interests.

A copy of the register will be available for public inspection at Riverside House. Members can ask for their other interests not to be published on the District Council's website.

Where a disclosable pecuniary interest is notified to the Monitoring Officer it need not be separately notified or separately registered as a personal interest.

#### **4 Sensitive interests**

Where you consider that disclosure of the details in an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.

#### **5 Non participation in case of prejudicial interests**

- (1) Where you have a personal interest in any business of the District Council that interest will also be a prejudicial interest if a member of the public with knowledge of the relevant facts would reasonably regard that interest as so significant that it is likely to prejudice your judgement of the public interest **and** that business —
  - (a) affects your financial position or the financial position of a relevant person; or
  - (b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or a relevant person.
- (2) Subject to sub-paragraph (3) and 7 (dispensations) , where you have a prejudicial interest in any business of the District Council—
  - (a) You may not participate in any discussion of the matter at the meeting;
  - (b) You may not participate in any vote taken on the matter at the meeting;
  - (c) If the interest is not registered, you must disclose the interest to the meeting; and
  - (d) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

Note: Council Procedure Rule 37 requires you to leave the room where the meeting is held while any discussion or voting takes place unless you have a dispensation.

- (3) Where you have a prejudicial interest in any business of the District Council, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.
- (4) Where, as a member of the Executive, you may discharge a function alone, and you become aware of a prejudicial interest in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring

Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

## **6 Interests arising in relation to overview and scrutiny committees**

In any business before an overview and scrutiny committee of the District Council (or of a sub-committee of such a committee) where—

- (a) that business relates to a decision made (whether implemented or not) or action taken by the Executive or another of the District Council's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the Executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken,

In this situation you may only attend a meeting of the overview and scrutiny committee for the purpose of answering questions or giving evidence relating to the business, and you must leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

## **7 Dispensations**

- (1) The Standards Committee may grant you a dispensation, to participate in full or in part where you have a prejudicial interest. A member must apply for dispensation, in writing to the Monitoring Officer, outlining their personal and prejudicial interest and the reasons why they feel dispensation should be granted.

These will only be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a prejudicial interest.

### **General Dispensations**

- (2) The Council has granted the following dispensation to all members and co-opted members of the Council in respect of both disclosable pecuniary interests and prejudicial interests

Provided you disclose the interest at the meeting you may attend a meeting and vote on a matter where you have a prejudicial or disclosable pecuniary interest that relates to the functions of the District Council in respect of—

- (i) housing, where you or your partner are a tenant of the District Council provided that those functions do not relate particularly to your or your partner's tenancy or lease;
- (ii) school meals or school transport and travelling expenses, where you or your partner are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
- (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you or your partner are in receipt of, or are entitled to the receipt of, such pay;
- (iv) an allowance, payment or indemnity given to members;

- (v) any ceremonial honour given to members; and
- (vi) setting council tax or a precept under the Local Government Finance Act 1992.

## **8 Gifts & Hospitality**

Within 28 days of receipt you must inform the Monitoring Officer of any gift or hospitality received equal to or greater than a value of £25.

This notification will include the details of what was received, what was done with the gift and the date it was received.

**Warwick District Council  
Complaint report and investigation approach**

<b>Complaint Number:</b>	
<b>Investigating Officer and Contact Details:</b>	
<b>Complainant Contact Details:</b>	
<b>Start Date:</b>	
<b>Completion Date:</b>	
<b>Hours taken to complete the Investigation:</b>	

### **Complaint**

Define the complaint wording which, when it is a complex case, should be agreed with the complainant.

### **How was the complainant affected?**

This should be taken from the complainant, either copied from the complaint form or asked for in first correspondence.

### **Proposed areas of the Code of Conduct broken**

This should outline the specific areas of the Code of Conduct that

- (a) The complainant feels are relevant;
- (b) The Monitoring Officer considered are relevant; and
- (c) The Investigating Officer considered are relevant.

### **Investigation**

The intention will be that any investigation should be concluded within 40 working days of appointment of the Investigating Officer.

The Investigating Officer will meet with the complainant to understand the nature of the complaint so that they can explain their understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer will normally write to the Councillor against whom the complaint is made and provide them with a copy of the complaint, and ask the Councillor to provide their explanation of events, and to identify what documents they need to see and who they need to interview. The Investigating Officer should meet with the Councillor at least once.

In exceptional cases, where it is appropriate to keep the complainant's identity confidential or where the disclosure of details of the complaint to the Councillor might prejudice the investigation, the Monitoring Officer can redact appropriate information from the papers given to the Councillor, or delay notifying the Councillor until the investigation has progressed sufficiently.

The investigation should be undertaken with an open mind and every possibility should be given for the complainant to put their case across.

The investigating officer will seek and consider all relevant information and contact all relevant witnesses. This should be through a face to face meeting or, if the individual prefers, by telephone conversation.

Where it is felt appropriate the investigation can be done via written correspondence.

Notes should be kept of any meetings by the Investigating Officer but these are not required to be formal witness statements and submitted to the Monitoring officer at the conclusion of the investigation.

### **Conclusion**

This should detail the conclusions to the investigation which should be referred back to paragraphs within the investigation section and state which parts of the Code of Conduct have been breached or not.

### Procedure for Hearings

This guidance is designed to help those who are involved in the determination of complaints that a Councillor may have breached the Code of Conduct.

Any reference in this guidance to a standards committee includes a reference to sub-committees established to consider a Monitoring Officer's investigation report and to consider determination hearings. Any reference to the "subject member" is a reference to the Councillor who is the subject of the complaint that the Code of Conduct may have been breached.

The main purpose of the hearing is to decide whether a member has breached the Code of Conduct and, if so, to decide if any sanctions should be applied and what form the sanction(s) should take.

#### **Timing of the standards committee hearing**

Normally a hearing should take place within three months of the date on which the Investigating Officer's report was completed but no earlier than 14 days after the Councillor has been sent a copy of the Investigating Officer's report.

The presumption will be that the hearing should take place in public.

#### **Scheduling a hearing**

Except in the most complicated cases, a hearing should be completed in one sitting or in consecutive sittings of no more than one working day in total.

When scheduling hearings, consideration will be given to the fact that late night and very lengthy hearings are not ideal for effective decision-making.

Equally, having long gaps between sittings can lead to important matters being forgotten.

#### **The pre-hearing process**

The purpose of the pre-hearing process is to allow matters at the hearing to be dealt with more fairly and economically. This is because it quickly alerts parties to possible areas of difficulty and, if possible, allows them to be resolved before the hearing itself.

The pre-hearing process will normally be carried out through an informal meeting between the Standards Committee Chairman, the Monitoring Officer, the legal officer for the Council, the Investigating Officer and the Councillor (and or their representative) that the complaint is about.

#### **Key points for the pre-hearing process**

The officer providing administrative support to the hearing will arrange a mutually convenient date.

If any party declines to be part of this process or is obstructive to it, it will be reported in the Monitoring Officer's report to the Hearing Panel.

Once a date is set for the pre-hearing the officer providing administrative support to the hearing should write to all the relevant parties confirming the time, date and venue and the purpose of the pre-hearing.

The purpose will be to:

- set a date for the hearing;
- confirm the main facts of the case that are agreed;
- confirm the main facts which are not agreed;
- confirm whether the subject member will attend the hearing and/or will be represented at the hearing ;
- confirm those witnesses, if any, who will be asked to give oral evidence, subject to the power of the Standards Committee to make a ruling on this at the hearing;
- confirm any additional written evidence/submissions to be presented and the timescale for their production;
- confirm the arrangements for handling any confidential or exempt information if relevant, and
- confirm the proposed procedure for the hearing.

(NB The subject member may be represented by another person of their choosing whether that person is legally qualified or not. Where the representative is not legally qualified there may be restrictions on the release of confidential or exempt information.)

The purpose of the pre-hearing is to focus the relevant parties' attention on isolating all relevant disputes of facts between them.

Attention to the factual issues will save valuable time later on in the determination process. It is for this reason the subject member makes clear what findings of fact in the report s/he disagrees with and why.

Any witnesses to be invited to attend the hearing will be invited by either the party who wishes them to attend i.e. the Councillor the complaint is against, the Investigating Officer or the Hearing Panel itself.

### **The hearing**

The hearing is not a Court and strict rules of procedure and evidence, do not apply. The hearing will be conducted more along the lines of an inquiry.

The hearing will generally proceed by way of representations on behalf of the, Monitoring Officer and the subject member based on the Investigating Officers report and any written evidence which has been submitted.

The hearing will only hear oral evidence from witnesses of fact where key factual matters are in dispute. Normally, the hearing will allow for up to two character witnesses to give oral evidence.

Evidence will not be given under oath, but the deliberate telling of untrue statements is not acceptable.

The Panel has power to govern its own procedure and may limit the number of witnesses to be called to that specified at the pre-hearing meeting.

Any statement, comment or question must be addressed through the Chair of the Panel. There will be no direct cross-examination by any person of any other person.

The Chair will exercise the right to intervene and interrupt any person if that person is providing evidence that is not relevant to the proceedings, or to the Code of Conduct.

If any person behaves in an unruly, abusive or disruptive manner, the Chair will exercise their right to adjourn the hearing in order to have that person removed from the room.

The order in which evidence is to be given to the Panel is as follows:-

- The Monitoring Officer will present their report to the meeting;
- The Investigating Officer will present their report and may comment on any representations which have been made;
- The Panel and the subject Member may ask questions of the Investigating Officer through the Chair;
- The Investigating Officer can then present any witnesses (which the subject Member and the Panel will have the opportunity to ask questions of through the Chair);
- The subject Member will then be allowed to make their representations to the Panel (the Panel and Investigating Officer will then be provided the opportunity to ask questions of them);
- The subject Member will then be allowed to present witnesses to the Panel (which the Panel and Investigating Officer will be permitted to question through the Chair);
- The Independent Person will then provide their view of the case;
- The Panel will then adjourn (with its Legal Advisor and Clerk to the Panel) and will determine the facts of the case and if there has been a breach of the Code of Conduct;
- The Panel will return and announce its findings and whether there has, been a breach of the Code of Conduct. If there is no breach the meeting closes, if there has been a breach it progresses as follows;
- The Investigating Officer will be asked to make representations on appropriate sanctions;
- The subject Member will be able to make representations regarding sanction and present any character witnesses;
- The Independent Person will make representations on their view of possible sanctions;
- The Panel will then adjourn (with its Legal Advisor and Clerk to the Panel) to determine what sanctions (if any) are appropriate;
- The Panel will return and announce the sanctions (if any) they consider appropriate .

The Panel will have read all the papers in advance of the hearing. All parties are asked to keep to relevant points and avoid unduly lengthy or repetitive statements when making their representations or presenting their evidence to the Panel.

Any person may withdraw any of their representations at this hearing.

The Panel members, may ask questions at any time in the procedure in order to clarify any matter.

The purpose of the Legal Advisor is to advise on law and interpretation and not to make any recommendation as to the determination to be given.

The determination will be formally written and sent by post to all the parties at the hearing, and any other relevant person..

### **Considering the sanction**

When deciding on sanction(s), the Hearing Panel should ensure that it is reasonable and proportionate to the subject member's behaviour. Before deciding what sanction to issue, the Hearing Panel will consider the following questions, along with any other relevant circumstances:

- What was the subject member's intention?
- Did the subject member know that they were failing to follow the Code of Conduct?
- Did the subject member get advice from officers before the incident? Was that advice acted on or ignored in good faith?
- Has there been a breach of trust?
- Has there been financial impropriety, for example improper expense claims or procedural irregularities?
- What was the result of failing to follow the Code of Conduct?
- What are the potential results of the failure to follow the Code of Conduct?
- How serious was the incident?
- Does the subject member accept they were at fault?
- Did the subject member apologise to the relevant people?
- Has the subject member previously been warned or reprimanded for similar misconduct?
- Has the subject member failed to follow the Code of Conduct before?
- Is the subject member likely to do the same thing again?
- How will the sanction be carried out? For example, who will provide the training or mediation?
- Are there any resource or funding implications? For example, if a subject member has repeatedly or blatantly misused the Authority's information technology resources, the standards committee may consider withdrawing those resources from the subject member
- If a sanction is to be applied what time limit should be placed upon the Councillor to carry out the required sanction.

### **Examples, but not an exhaustive list, of mitigating factors are:**

- An honestly held, although mistaken, view that the action concerned did not constitute a failure to follow the provisions of the Code of Conduct, particularly where such a view has been formed after taking appropriate advice.
- A member's previous record of good service.
- Substantiated evidence that the member's actions have been affected by ill-health.
- Recognition that there has been a failure to follow the Code; co-operation in rectifying the effects of that failure; an apology to affected persons where that is appropriate, self-reporting of the breach by the member.
- Compliance with the Code since the events giving rise to the determination.
- Some actions, which may have involved a breach of the Code, may nevertheless have had some beneficial effect for the public.

### **Examples, but again not an exhaustive list, of aggravating factors are:**

- Dishonesty.
- Continuing to deny the facts despite clear contrary evidence.
- Seeking unfairly to blame other people.
- Failing to heed appropriate advice or warnings or previous findings of a failure to follow the provisions of the Code.

- Persisting with a pattern of behaviour which involves repeatedly failing to abide by the provisions of the Code.
- Intimidation of the complainant or witnesses.

In deciding what action to take, the Panel should bear in mind the aim of upholding and improving the standard of conduct expected of members of the various bodies to which the Codes of Conduct apply, as part of the process of fostering public confidence in local democracy.

Thus, the action taken by the Panel should be designed both to discourage or prevent the particular subject Member from any future non-compliance and also to discourage similar action by others.

Panels should take account of the actual consequences which have followed as a result of the member's actions while at the same time bearing in mind what the possible consequences may have been even if they did not come about.

### **Policy for Handling 'unreasonable complainant behaviour' and 'unreasonably persistent complainants' in respect of Complaints about Councillors.**

Generally, dealing with a complaint is a straightforward process, but in a minority of cases people pursue their complaints in a way which can either impede the investigation of their complaint or can have significant resource issues for authorities. These actions can occur either while their complaint is being investigated, or once an authority has concluded the complaint investigation.

We use the terms 'unreasonable complainant behaviour' and 'unreasonably persistent complainants'.

For us, unreasonable complainant behaviour and unreasonably persistent complainants are those complainants who, because of the frequency or nature of their contacts with an authority, hinder the authority's consideration of their, or other people's, complaints.

#### **Actions and behaviours of unreasonable and unreasonably persistent complainants**

These are some of the actions and behaviours of unreasonable and unreasonably persistent complainants which authorities often find problematic. It is by no means an exhaustive list and local factors will vary, but they are examples that the Council consider relevant:

- Refusing to specify the grounds of a complaint, despite offers of assistance with this from the authority's staff.
- Refusing to co-operate with the complaints investigation process while still wishing their complaint to be resolved.
- Refusing to accept that issues are not within the remit of a complaints procedure despite having been provided with information about the procedure's scope.
- Insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice.
- Making what appear to be groundless complaints about the staff dealing with the complaints, and seeking to have them replaced.
- Changing the basis of the complaint as the investigation proceeds and/or denying statements he or she made at an earlier stage.
- Introducing trivial or irrelevant new information which the complainant expects to be taken into account and commented on, or raising large numbers of detailed but unimportant questions and insisting they are all fully answered.
- Electronically recording meetings and conversations without the prior knowledge and consent of the other persons involved.
- Adopting a 'scattergun' approach: pursuing a complaint or complaints with the authority and, at the same time, with a Member of Parliament/a Councillor/the authority's independent auditor/local police/solicitors/the Ombudsman.
- Making unnecessarily excessive demands on the time and resources of staff whilst a complaint is being looked into, by, for example, excessive telephoning or sending emails to numerous Council staff, writing lengthy complex letters every few days and expecting immediate responses.

- Submitting repeat complaints, after complaints processes have been completed, essentially about the same issues, with additions/variations which the complainant insists make these 'new' complaints which should be put through the full complaints procedure.
- Refusing to accept the decision – repeatedly arguing the point and complaining about the decision.
- Complaints that are instituted, without sufficient grounds, which intend to cause annoyance or embarrassment
- Complaints that are not serious or sensible in content, attitude or behaviour, and unworthy of serious sensible treatment.
- Complaint that has been previously considered and responded to through its complaints process and found not to be justified, unless sufficient new evidence can be provided.
- Combinations of some or all of these.

### **Who decides?**

If a complaint is considered by the Monitoring Officer to be either unreasonable complainant behaviour and/or unreasonably persistent, they will consult with the Independent Person on what action should be taken.

### **How is a decision taken?**

The Monitoring Officer will consider the aspects of the complaints in relation to the Policy. If it is considered there are aspects which fall within this Policy, they will consider what action should be taken.

If it is considered there are no aspects that fall within this policy no action will be taken and the complaints will progress through the normal channels.

### **What decisions can be taken**

The following decisions can be taken:

- Refuse to investigate the complaint;
- Refuse to investigate the complaint until the complainant provides further information;
- Explain that the process has to be followed and nominate a single point of contact within the Council for the complainant;
- How long any restrictions should apply to the complainant;
- To accept the complaint;
- To refer the complainant to the Citizen's Advice Bureau for assistance in formulating their complaint;
- To refuse to respond to further questions on a complaint already considered and refer the complainant to the LGO;
- How restrictions can be lifted, when they will be reviewed and by whom.

### **Who is informed?**

Any decision to take action under the policy will be communicated in writing to the complainant.

In addition to the complainant, the Chief Executive, relevant officers and Councillors, will be informed of the decision.

Only these people (detailed above), representatives on behalf of the complainants (once written consent is received) and the LGO will be entitled to receive the detailed information.

**How can a decision be appealed ?**

As the Monitoring Officer has taken the decision, if the complainant is unhappy with the decision they would need to submit their complaint along with their objection to the decision of the Monitoring Officer to the LGO.

**Record**

A record of all the decisions taken under this policy will be retained and reported annually to the Council's Standards Committee. This will be a summarised report which does not name individuals.

The details and reasoning behind any sanctions will be retained for five years after any sanctions have been lifted.

**Protocol between Warwick District Council Monitoring Officer and  
Warwickshire Police**

**Purpose** – to agree a protocol for the reporting of potential criminal offences arising from the failure to register or declare disclosable pecuniary interests or from speaking and voting where a Member has a disclosable pecuniary interest and has not first sought a dispensation

- 1) In the event that the Monitoring Officer receives a complaint regarding a potential DPI offence they will make immediate contact with the Police through the nominated single point of contact who is the District Commander for South Warwickshire.
- 2) If the Police receive a complaint from a member of the public they will inform the Monitoring Officer of the receipt of that complaint (each Authority will be responsible for providing up to date contact details of their appointed Monitoring Officer from time to time).
- 3) Warwickshire Police will register the complaint and will advise the Monitoring Officer if they wish to be involved at this stage. This will normally follow an initial assessment of the complaint by the Monitoring Officer and them being satisfied that there is prima facie evidence that a criminal offence may have been committed. In undertaking an initial assessment as to whether there is prima facie evidence of a criminal offence, the Monitoring Officer may conduct an interview with the complainant but will not approach the Member who is the subject of the complaint until the Police have been advised of the matter and have indicated how they wish to proceed. In the event of a complaint being received directly by the Police rather than through the Monitoring Officer, the Police will conduct an initial assessment of the complaint but may approach the Monitoring Officers for background information on the complaint.
- 4) If the Police decide not to prosecute in the public interest they will, where ever possible, pass the relevant evidence to the Monitoring Officer so that the question of whether a Code of Conduct breach is to be pursued can be considered. To facilitate this, the Warwick District Council Monitoring Officer and the Police will enter into a data sharing agreement. In the event that the District Council decides to pursue the matter further in terms of a Code of Conduct breach, they will inform the Police of their decision.

Monitoring Officer (Warwick District  
Council)  
Date:

Warwickshire Police Chief Constable  
Date:



# Complaint Form

This form should be used to make a formal complaint regarding the conduct of a Warwick District Councillor, or Parish/Town Councillor whose authority is within Warwick District.

## Your details

Please provide your name and contact details. Anonymous complaints will only be considered if there is independent evidence to substantiate the complaint.

<b>Title:</b>	
<b>First name:</b>	
<b>Last name:</b>	
<b>Address:</b>	
<b>Daytime telephone:</b>	
<b>Evening telephone:</b>	
<b>Mobile telephone:</b>	
<b>Email address:</b>	

Your address and contact details will not be released without prior discussion and approval by you. If you have a serious concern about your name and a summary, or details of your complaint, being released you must complete the relevant section of this form.

The Monitoring Officer will tell the following people that a complaint has been made together with the complainant's name and a summary of the complaint:

- the Councillor(s) who the complaint is about
- one of the Independent Persons for the Council
- the Parish or Town Clerk (if applicable)

When the complaint relates to a Warwick District Councillor the Monitoring Officer will notify the relevant Political Group Leader so they are aware of the matter.

The Monitoring Officer will provide them with your name and a summary of the complaint. The Monitoring Officer will give them full details of your complaint where necessary or appropriate to be able to deal with it. Your name will normally be in the public domain if the matter progresses to a public hearing. If you have serious concerns about your name and a summary, or details of your complaint being released, please complete the relevant section of this form.

Please tell us which complainant type best describes you:

- Member of the public
- An elected or co-opted member of an authority
- Council officer or authority employee

### **Making your complaint**

Please provide us with the name of the member(s) you believe has breached the Code of Conduct and the name of their authority:

Title	First name	Last name	Council or authority name

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 has done that you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account by the Monitoring Officer when they decide 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. 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 time frame.
- You should confirm whether there are any witnesses and provide their names and, if possible, contact details.
- You should provide relevant background information.
- If more than one month has elapsed since the incident or latest incident occurred please explain why the complaint has not been made earlier.

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

## **Confidentiality request by complainant**

### ***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 have good reason to believe that:

- You will be at risk of physical harm if their identity is disclosed;
- You are an officer who works closely with the Councillor concerned and will suffer a disadvantage to your employment or may lose your job if your identity is disclosed (officers should consult the Council's whistle-blowing procedure); or
- You suffer from a serious health condition leading to medical risks associated with your identity being disclosed.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The Monitoring Officer, in consultation with the Independent Person advising Warwick District Council, will consider the request alongside the substance of the complaint. The Monitoring Officer will then tell the complainant of the decision.

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

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**Signed**

**Date**

### **Additional Help**

Complaints must be submitted in writing. This includes fax and electronic submissions.

If you need any support in completing this form, please contact the Council's Monitoring Officer as soon as possible.

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.

### **What Happens now?**

On receipt of your complaint the Monitoring Officer will acknowledge receipt and confirm their understanding of your complaint with you. They will also provide you with an overview of the process for considering complaints about Councillors.

They will then discuss the matter with one of the Independent Persons for the Council. The aim of this discussion is to look at the complaint objectively and to try and find an early resolution in the process. The Monitoring Officer will inform you of the outcome of this discussion and the next steps they intend to take on this matter.

### **Where to send your complaint**

Your completed complaint form together with any additional information, should be sent to:

**The Monitoring Officer, Warwick District Council, Riverside House,  
Milverton Hill, Royal Leamington Spa CV32 5HZ**