



## Standards Committee

Date: 13 October 2015  
Time: 6.15 pm  
Venue: Committee Room 1  
District Council Offices, Queen Victoria Road, High Wycombe Bucks

### Membership

Chairman Councillor C Etholen  
Vice Chairman Councillor Mrs J A Adey

Councillors: S Broadbent, M Clarke, A R Green, Mrs G A Jones, R Raja, J A Savage and Ms J D Wassell

Independent Persons (Observers): G Houalla and M Pearce

Parish Council Observers: Parish Cllr Mrs V Smith and Parish Cllr Mr B Swain

### Standing Deputies

Councillors: K Ahmed, A D Collingwood, H L McCarthy, R J Scott and A Turner

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## Agenda

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1	<b>APOLOGIES</b> To receive any apologies for absence	
2	<b>MINUTES</b> To confirm the minutes of the previous meeting held on 9 June 2015	1 - 4
3	<b>DECLARATIONS OF INTEREST</b> To receive any disclosure of disclosable pecuniary interests by	

Members relating to items on the agenda. If any Member is uncertain as to whether an interest should be disclosed, he or she is asked if possible to contact the District Solicitor prior to the meeting.

Members are reminded that if they are declaring an interest, they should state the nature of that interest whether or not they are required to withdraw from the meeting.

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|---|---|---------|
| 4 | <b>DISPENSATIONS</b>  | 5 - 7   |
| 5 | <b>QUARTERLY UPDATE ON STANDARDS COMPLAINTS</b>   | 8 - 9   |
| 6 | <b>REVIEW OF CODE OF CONDUCT FOR MEMBERS &amp; STANDARDS COMPLAINTS ARRANGEMENTS</b>  | 10 - 30 |
| 7 | <b>INFORMATION SHEETS</b>   |         |
|   | Members are reminded to provide 48 hours` notice for any questions relating to information sheets to ensure that that an answer can be provided at the meeting. |         |
|   | 01/2015 Complaints/ Comments/ Compliments – Quarter 1   |         |
|   | 02/2015 Dispensations Procedure Guidance for Town and Parish Councils.  |         |
| 8 | <b>SUPPLEMENTARY ITEMS (IF ANY)</b>   |         |
| 9 | <b>URGENT ITEMS (IF ANY)</b>  |         |

**For further information, please contact Iram Malik 01494 421204, [committeeservices@wycombe.gov.uk](mailto:committeeservices@wycombe.gov.uk)**

## Standards Committee Minutes

Date: 9 June 2015

Time: 6.15 - 7.50 pm

**PRESENT:** Councillor C Etholen (in the Chair)

Councillor Mrs J A Adey, Councillor S Broadbent, Councillor A R Green, G Houalla, M Pearce, Councillor R Raja, Councillor J A Savage, Parish Cllr Mrs V Smith, Parish Cllr Mr B Swain and Councillor Ms J D Wassell, Councillor H L McCarthy

Apologies for absence were received from Councillor M Clarke and Councillor Mrs G A Jones

### 1 DECLARATIONS OF INTEREST

There were no declarations of interest.

### 2 MINUTES OF PREVIOUS MEETING

**RESOLVED:** That the minutes of the meeting held on 10 March 2015 be confirmed as a correct record and signed by the Chairman.

### 3 REVIEW OF CODE OF CONDUCT FOR MEMBERS AND STANDARDS COMPLAINTS ARRANGEMENTS

Following the decision at the meeting on 10 March 2015 that a further report be brought to the Committee to consider amendments to both the Code of Conduct and standards complaints arrangements, a report was presented which put forward more detailed measures to improve and strengthen the Council's standards regime. The District Solicitor and Monitoring Officer clarified that whilst the Council's current Code and complaints process were lawful and broadly in line with other authorities, the proposals were measures which had been highlighted through Hoey Ainscough's review which the committee could consider in order to further improve and reinforce the Council's Member standards and ethics provisions.

In debate it was highlighted that the membership of the Committee had changed following the recent elections, and that the new membership did not necessarily hold the same views as had been expressed by the Committee previously in relation to revising the Code. Some Members questioned the rationale for seeking to change the Code in light of the fact that it currently appeared to be working well and was lawful; the suggested changes seemed counter to the government's move towards a 'lighter touch' on standards issues; and some of the suggested changes seemed to require a more stringent approach than the legislation demanded.

In relation to the proposals to arrange quarterly meetings for the Monitoring Officer, Independent Persons, and Chairman and Vice-Chairman of Standards Committee

to review recent decisions in order to ensure consistency between cases, and to bring regular quarterly reports to Standards Committee on case numbers and types so as to highlight any emerging trends, some Members cautioned against sharing this information too widely, citing that some complaints may be malicious in intent, and complaints information could find its way into the public domain to be used for political gain.

In relation to the proposal to recommend to Council that a list should be published of Members who have agreed to abide by the Code of Conduct, the need for Members to be accountable to themselves and their own consciences was highlighted, and it was suggested that agreement to abide by the Code of Conduct should be assumed on the taking of office as part of the organisational culture without the need for a formal signature. However, the need for Members not only to avoid wrongdoing, but also the *appearance* of wrongdoing in the public perception was also stressed. Members also cautioned against making the Code overly-complicated.

All of the proposals contained within paragraphs 5 and 9 of the report were put to the vote and it was

**RESOLVED:**

- (i) That all proposals outlined in paragraphs 5 and 9 of the report be put forward for consultation with all Wycombe District Council Group Leaders, Buckinghamshire County Council, and all District Councils in Buckinghamshire, subject to an amendment to 9(iii) to remove the words '*....and who have not done so.*'
- (ii) That the Independent Persons be added to the consultees in (i) above.
- (iii) That a further report detailing the results of the consultation be brought to the Committee.

**4 COUNCIL TAX SETTING - DISPENSATIONS UNDER THE LOCALISM ACT**

The Committee considered a report which sought approval to delegate authority to the Monitoring Officer, under Section 33 of the Localism Act 2011, in consultation with one of the Independent Persons appointed by the Council, to grant dispensations to the District and Parish Council Members in relation to the setting of Council Tax, such dispensation to apply for the remainder of the Council term, i.e. until May 2019.

The Monitoring Officer clarified that it is a matter of interpretation as to whether Members have a Disclosable Pecuniary Interest (DPI) in the decision to set the Council Tax as a result of any beneficial interest they may have in land within the District, and the same issue arises for town and parish councillors in respect of setting the parish precept. The DPI Regulations issued by the government in June 2012 do not contain an express exemption for setting Council Tax or parish precepts, whereas this did exist under the old model Code of Conduct. Delegating authority to the Monitoring Officer, in consultation with one of the Independent

Persons, to grant dispensations represented a 'belt and braces' approach to safeguard Members against any possibility that they could be illegally voting on a matter in which they might be regarded as having a DPI.

It was noted that under the former legislation dispensations were granted by the Standards Committee. The Localism Act 2011 gave discretion for this power to be delegated either to the Standards Committee or a sub-committee, or to the Monitoring Officer, and in July 2012 Council had delegated the power to grant dispensations to the Standards Committee after consultation with the Independent Person. Standards Committee had agreed a similar delegation to the Monitoring Officer in 2013, which expired in May 2015.

**RESOLVED:** That authority be delegated to the Monitoring Officer under Section 33 of the Localism Act 2011, in consultation with one of the Independent Persons appointed by the Council, to grant dispensations to District and Parish Council Members in relation to the setting of Council Tax, such dispensations to apply for the remainder of the Council term, i.e. until May 2019.

## **5 UPDATE ON STANDARDS COMPLAINTS**

The Committee received a report which provided an overview of complaints about Member conduct since the last report to the Committee on this subject in March 2014.

The Committee heard that five complaints had been received in the period since March 2014, two of which had been considered jointly as they related to the same Member and had been made by the same complainant. None of the five complaints had been considered serious enough to warrant investigation.

The District Solicitor and Monitoring Officer informed the Committee that the relatively small number of complaints demonstrated that in general ethical standards are being taken seriously by both District and Town and Parish Council members, and indicated that the process for handling complaints was robust and working well. It was noted that further update reports would continue to be provided to the Committee on a regular basis.

**RESOLVED:** That the report be noted.

## **6 CHAIRMAN'S CLOSING REMARKS**

The Chairman reminded Members that Peter Keith-Lucas, a specialist adviser to local authorities on standards issues, would be giving a presentation on Monday 29 June at 7.00pm as part of the new member induction sessions. Members were encouraged to attend.

The Chairman reported that Natasha Howard, formerly a Parish Council observer on the Committee, was no longer eligible to serve having not stood for re-election. It was noted that a replacement parish council observer would be sought.

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Chairman

**The following officers were in attendance at the meeting:**

Emma Lund - Senior Democratic Services Officer  
Julie Openshaw - District Solicitor

# Agenda Item 4

## DISPENSATIONS

**Officer contact:** Julie Openshaw, District Solicitor and Monitoring Officer  
Tel: 01494 421252 e-mail: [julie.openshaw@wycombe.gov.uk](mailto:julie.openshaw@wycombe.gov.uk)

**Wards affected:** All

## PROPOSED DECISION

To delegate authority to the Monitoring Officer under Section 33 of the Localism Act 2011, to grant dispensations until 2 May 2019 where a Member makes application for a dispensation claiming that the following circumstances apply:

- (i) so many Members have Disclosable Pecuniary Interests (DPIs) that it would impede the transaction of the business; or
- (ii) without the dispensation, every member of Cabinet would have a Disclosable Pecuniary Interest prohibition from participating.

## Reason for Decision

To give consideration to whether further delegation should be put in place to streamline the consideration of applications for dispensations in the circumstances outlined in the report.

## Corporate Implications

1. Under Section 33 of the Localism Act 2011, dispensations may be granted by the Council, the Standards Committee, or by the Monitoring Officer.

## Executive Summary

2. There may be some circumstances in which it would be convenient to have more rapid processes in place to deal with applications for dispensations as they arise. This report discusses those circumstances and suggests delegated arrangements to deal with them.

## Sustainable Community Strategy/Council Priorities - Implications

3. Reducing the need to convene ad hoc Standards Committee meetings and/or to cancel other meetings which would be iniquate would support the Council's "Pounds" key corporate priority in the Corporate Plan, in delivering value for money. The Corporate Plan is due for review and will inevitably continue to include a focus on value for money.

## Background and Issues

4. Members will recall that in June 2015, a decision was made to grant delegated power to the Monitoring Officer to grant dispensations in relation to decisions on setting the Council Tax. Members are being reminded of the advisability of making an application for a dispensation for this purpose, and applications will be dealt with accordingly.
5. Meantime, recent Member training has highlighted that it may be convenient to consider the delegation of power to the Monitoring Officer to consider, and if appropriate grant, at short notice, dispensation applications in other circumstances.

6. The current legal grounds for granting dispensations are that:
  - (i) without the dispensation, so many members have DPIs that it would impede the transaction of the business (i.e. the meeting would be inquorate as a result); or
  - (ii) without the dispensation the strengths of political groups on the body would be so upset as to alter the likely outcome of any vote on the matter; or
  - (iii) without the dispensation, every member of Cabinet would have a DPI prohibition from participating; or
  - (iv) the grant of the dispensation would be in the interests of the inhabitants of the authority's area; or
  - (v) it is otherwise appropriate to grant the dispensation.
7. Standards Committee has power to grant a dispensation in any of these circumstances. However, in relation to grounds (i) and (iii), it is particularly likely that if and when these situations arise, they will require speedy consideration and decision. For example, it may not become apparent until very shortly before the commencement of the meeting that circumstances exist such that without dispensations, a committee or Cabinet would be inquorate, so members need to seek a dispensation. It would therefore be convenient to have an arrangement whereby the Monitoring Officer could consider these at short notice without the need to convene an urgent Standards Committee to consider them.
8. The other grounds are more subjective, as well as probably likely to be rarer, and are considered to be more appropriate to leave for the Standards Committee to determine where necessary, rather than being delegated.
9. Although in exercising the delegated power granted to the Monitoring Officer on Council Tax matters, the Monitoring Officer has to consult with an Independent Person before making a decision, in the current circumstances, a decision might be required so quickly that it might not be feasible to consult at such short notice. Therefore, although in practice reasonable efforts would be made to consult, it is not suggested that this delegation should be subject to this as a formal requirement. Consultation with an Independent Person is not a legal requirement.
10. It should be noted that as with any power which is delegated to an officer of the Council, the Monitoring Officer always retains the discretion to decline to exercise the delegated power, and to remit the matter back to Standards Committee to decide upon.

### **Options**

11. It is not obligatory to grant dispensations, nor to delegate power to do so. Therefore, Standards Committee need not agree to the recommended decision. However, providing delegated power in the circumstances set out would allow decisions to be made more quickly if such circumstances arise and require speedy handling, and would remove the need to convene special Standards Committee meetings and/or to cancel or remove items from scheduled meetings which might otherwise be rendered inquorate.



**Next Steps**

12. The Monitoring Officer may grant dispensations in appropriate circumstances.

**Background Papers**

The Localism Act 2011 and associated Government guidance.

# Agenda Item 5

## QUARTERLY UPDATE ON STANDARDS COMPLAINTS

**Officer contact:** Julie Openshaw, District Solicitor and Monitoring Officer  
01494 421252 [julie.openshaw@wycombe.gov.uk](mailto:julie.openshaw@wycombe.gov.uk)

**Wards affected:** All.

### ***PROPOSED DECISION***

To note the report.

### ***Reason for Decision***

To provide the Committee with an overview of complaints about Member conduct since June 2014.

### **Corporate Implications**

1. The Localism Act 2011, Sections 26 - 37 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 set out the current legislative framework relating to standards of conduct for elected members and arrangements for handling member standards complaints.
2. In order to enable Standards Committee to maintain an overview of complaints and any trends emerging, reports will be presented quarterly.

### **Executive Summary**

3. This report provides Standards Committee with an overview of recent complaint cases.

### **Sustainable Community Strategy/Council Priorities - Implications**

None.

### **Background and Issues**

4. Standards Committee is presented with quarterly updates on member conduct complaints.
5. Since the last committee on 9 June 2015, there have been no new complaints submitted. In June 2015, Standards Committee noted that there had been 25 complaints between July 2012 and March 2015, and 5 complaints between March 2015 and June 2015. All complaints had been completed by January 2015.
6. Standards Committee is invited to note that no further complaints have been submitted since June 2015 and that there are no current complaints being dealt with.

### **Options**

None; this report is for noting only.

### **Conclusions**

7. Although these reports merely present a snapshot of the current position as at the date of each Committee meeting, given that no new complaints have been made since June 2015, and the relatively small number of complaints which have been submitted and handled since July 2012, it appears that in general, ethical standards

are being taken seriously by both District and Town and Parish Council members and that Member training has been effective.

**Next Steps**

8. Further update reports will be provided to Standards Committee quarterly.

**Background Papers**

None

# Agenda Item 6

## REVIEW OF CODE OF CONDUCT FOR MEMBERS & STANDARDS COMPLAINTS ARRANGEMENTS

**Officer contact:** Julie Openshaw District Solicitor and Monitoring Officer  
Tel: 01494 425212 Email Julie\_openshaw@wycombe.gov.uk

**Wards affected:** All

### **PROPOSED RECOMMENDATION**

*That the recommendations in Paragraph 10 (a), (c), (f) and (g) below be adopted by Full Council and that the Head of Democratic Legal and Policy Services in consultation with the District Solicitor be authorised to make all necessary and consequent changes to the Constitution to give effect to this as from the date of adoption by Council.*

### **Reason for Decision**

To complete the current review of the Member Code and complaints process and make final recommendations to Full Council.

### **Corporate Implications**

1. The Localism Act 2011, Sections 26-37 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 set out the current legislative framework relating to standards of conduct for elected members and arrangements for handling member standards complaints. The Terms of Reference of Standards Committee are set out in the Council's Constitution.

### **Executive Summary**

2. Following earlier reports considered by Standards Committee in June 2015, March 2015 and January 2015, this report continues the Committee's ongoing work to review the Code and complaints process and makes further recommendations as to the way forward and to conclude the current review.

### **Sustainable Community Strategy/Council Priorities - Implications**

3. Continuing to monitor the current arrangement supports the Community Involvement theme of the Sustainable Community Strategy.

### **Background and Issues**

4. Standards Committee has now considered reports on this subject on 6 January 2015, 10 March 2015 and 9 June 2015. On 6 January, it was decided to undertake a review, and that an interim report should be submitted on potential amendments to both the Code and complaints arrangements, including a comparison of arrangements in other parts of the County.
5. A paper was commissioned from Hoey Ainscough Associates, commenting on national and local arrangements, and on 10 March 2015 this was considered. Since the composition of the Standards Committee has since changed, and for Members' convenience, the Hoey Ainscough paper can be found at Appendix B of this report. Whilst this concluded that WDC's arrangements were robust, legally compliant and largely commensurate with best practice and arrangements in other authorities, some relatively minor points were put forward for consideration and possible strengthening

of arrangements. On 9 June, Committee considered those issues, as well as some further suggested amendments made by the previous Standards Chairman.

6. After debate, Standards Committee decided at that stage not to set up a working group to consider further defining and exemplifying behaviour types as acceptable or unacceptable, and as debate highlighted some reservations with some of the suggestions, it was decided to consult widely with Group Leaders, the Independent Persons, and the County and other District Councils in Buckinghamshire on all of the points raised in the report.
7. Accordingly, all the relevant parties were consulted, and responses were requested by 17 July.
8. The seven issues which formed part of the consultation were:
  - (a) Making it compulsory under the Code for Members not only to declare, but also to withdraw from decision making, in circumstances where other “non-DPI” interests exist (so as to make the requirement the same as for where “DPI” – i.e. Disclosable Pecuniary Interests exist);
  - (b) Arranging quarterly meetings for the Monitoring Officer, Independent Persons, and Chairman and Vice-Chairman of Standards Committee to review recent decisions, in order to ensure consistency between cases;
  - (c) Presenting regular quarterly reports to Standards Committee to provide overview information on case numbers and types so as to highlight any emerging trends;
  - (d) Giving further consideration to the specific types of behaviour that are considered should fall foul of the Code, in such a way as to capture them in a clear way which both Members and the public can understand and measure them;
  - (e) Adding a requirement into the second stage of the complaints handling procedure that when the Monitoring Officer and Independent Person are about to consider a complaint, the Chairman and Vice-Chairman will be provided with a copy of the complaint, and will also be informed of the proposed decision of the Monitoring Officer prior to the decision being released to the Complainant and Subject Member (save for cases where the complaint is against one of those Members);
  - (f) Adding into the Code information about the criminal offence and sanctions which the law provides for breaches of the Code centred upon declaration of interests;
  - (g) Whilst noting that there is no longer a legal duty for members to sign a declaration that they agree to abide by the Code which is for the time being in force, for the Council to nonetheless resolve that it expects and encourages all its Members to do so, and will publish a list of Members who have voluntarily agreed to do so.
9. The responses which have been received are summarised in Appendix A.
10. Overall, and taking into account all the comments and the legal framework, the following recommendations are put forward.

- a. Making it compulsory under the Code for Members not only to declare, but also to withdraw from decision making, in circumstances where other “non-DPI” interests exist (so as to make the requirement the same as for where “DPI” – i.e. Disclosable Pecuniary Interests exist);

**RECOMMENDED.**

Reasons: This would bring WDC’s Code into line with other authorities, which was a major reason for its suggestion in the first place, and would remove the propensity for any confusion as to the best and correct way to act when a non-DPI arises. Currently, Members with a non-DPI would still be recommended to not take part in the decision because of the risk of challenge based on perceived bias, but making this obligatory as a Code requirement would reinforce the message and aid consistency.

- b. Arranging quarterly meetings for the Monitoring Officer, Independent Persons, and Chairman and Vice-Chairman of Standards Committee to review recent decisions, in order to ensure consistency between cases;

**NOT RECOMMENDED.**

Reasons: Although this could assist the members in their understanding of consistency, it is difficult to judge consistency, and having any formal arrangement for this, outside Committee itself, could be interpreted as political interference which might undermine confidence in the integrity of the complaints system.

- c. Presenting regular quarterly reports to Standards Committee to provide overview information on case numbers and types so as to highlight any emerging trends;

**RECOMMENDED.**

Reasons: Most if not all Standards Committees have a similar arrangement enabling Committee to publicly examine trends without needing to publicise sensitive case details.

- d. Giving further consideration to the specific types of behaviour that are considered should fall foul of the Code, in such a way as to capture them in a clear way which both Members and the public can understand and measure them;

**RECOMMENDED TO RECONSIDER IN OCTOBER 2016**

Reasons: It is a difficult task to arrive at just the right level of specification of types of acceptable and unacceptable behaviour, and few if any authorities have so far attempted this, particularly taking into account the more broad brush approach which was taken in the replacement of the Standards regime in 2012. Committee on 9 June showed little enthusiasm for setting up a working group for this purpose. However, it may be worthwhile giving this possibility further consideration in the future, and 12 months is suggested.

- e. Adding a requirement into the second stage of the complaints handling procedure that when the Monitoring Officer and Independent Person are about to consider a complaint, the Chairman and Vice-Chairman will be provided with a copy of the complaint, and will also be informed of the proposed decision of the Monitoring

Officer prior to the decision being released to the Complainant and Subject Member (save for cases where the complaint is against one of those Members);

**NOT RECOMMENDED.**

Reasons: As outlined in (b) above, this arrangement might give rise to suspicions of political interference, and even if this was not the case, it could adversely affect confidence in the integrity of the system.

However, and to address both this and (b), it is considered that merely notifying the Chairman and Vice-Chairman of the existence of a complaint, including the parties, and the decision, after the decision is made, would reduce the risk of such interpretation, and would be of assistance to them in their role as they would have additional background knowledge to matters reported more broadly to Standards Committee. In the event that the decision was to investigate a complaint, they would be forewarned that a matter would in due course be reported to the Standards Committee. There would be no process for the Chairman and Vice-Chairman to comment on, be involved in, or support or object to the decision as notification to them would be made after the decision. As such, no change would need to be made to the complaints process to accommodate this and this should strike an appropriate balance between keeping members informed on a need to know basis, yet avoiding allegations of undue influence and any issues which might preclude participation in a future decision.

- f. Adding into the Code information about the criminal offence and sanctions which the law provides for breaches of the Code centred upon declaration of interests;

**RECOMMENDED.**

Reasons: This is not a legal requirement and it would not add or remove any obligation from the Code. However, it would enable readers of the Code, both Members and the general public, to be informed and/or reminded, as part of the Code document itself, of the sanctions for certain actions.

- g. Whilst noting that there is no longer a legal duty for members to sign a declaration that they agree to abide by the Code which is for the time being in force, for the Council to nonetheless resolve that it expects and encourages all its Members to do so, and will publish a list of Members who have voluntarily agreed to do so.

**RECOMMENDED.**

Reasons: Whilst the obligation which existed with the pre-2012 legislation for each Member to sign a written declaration to abide by the Code was abolished by the Localism Act, acknowledging the aim to secure compliance with a Code can be viewed as a public “pledge” to engage in ethical behaviour, and thereby as a personal and corporate encouragement of good conduct. Though this would not necessarily preclude the possibility of unacceptable behaviour, it would be a public acknowledgement of a desire to adhere to good standards of conduct, and could be arranged in a “light touch” way so as to minimise additional administration as intended by the spirit of the Localism Act, such as by members simply confirming by email or otherwise in writing their commitment to abide by the Code, and their website entry confirming whether or not this has been done. Whilst there are arguments both for and against this proposal, on balance this is recommended.

**Options**

All the proposals in this report are optional and there is no obligation to resolve to take any of them forward; the current Code and process are already lawful. However, those recommended are intended to improve the Council's Member standards and ethics provisions.

**Next Steps**

Approval by full Council and amendment to the Constitution.

**Background Papers**

Previous reports to Standards Committee.



## **APPENDIX A**

### **Conservative Group Leader**

No particular comments.

### **Labour Group Leader**

The Labour Group believes that the code of conduct should be clear and unambiguous so that all members know exactly where they stand.

Secondly, it should contain proper guidance as to what constitutes a DPI and what doesn't.

Thirdly, rather than reinventing the wheel we should accept the good guidance available from other councils.

As for the further measures proposed by the previous chairman 9(i) (ii) seem fine, but the wording of number (iii) can be improved and in my opinion the final two lines after the words "do so" should be substituted with and such declarations should be registered, or deleted altogether.<sup>1</sup>

We want a code of conduct which is robust enough to stop unethical behaviour from members so that WDC does not fall into disrepute but on the other hand members deserve to be treated with respect and dignity without questioning their integrity, unless there is evidence of wrongdoing.

### **Independent Group leader**

- (a) should not be compulsory, but on a case by case basis under advice from a legal officer of the Council, as currently happens.

Generally - the Government turned the whole process into something quite toothless; not overly impressed with how we are able to deal with unacceptable behaviour.

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<sup>1</sup> N.B. 9 (i) (ii) and (iii) are referenced 7 (e) (f) and (g) in this report.

### **East Wycombe Independent Group Leader**

Happy with all proposed amendments.

### **Independent Person - Gilbert Houalla**

The proposals are suitable and proportionate.

### **Independent Person - Michael Pearce**

- a) I am in agreement that members should declare and withdraw from decision making from both DPI and non DPIs. From the discussions on Tuesday<sup>2</sup> there seemed to be some confusion among some members concerning non DPI's. I presume the training to be undertaken will clarify this.
- b) Twenty years serving as a Magistrate has taught me that there is no such thing as consistency between cases. Each one has its own characteristics, e.g. circumstances, aggravating and mitigating factors and past behaviour. I believe that this proposal should be dropped.
- c) Quarterly reports to the Standards Committee should only provide details concerning the number of cases and the outcomes.
- d) I think that this is a perfectly reasonable suggestion which I support.
- e) The Chairman and Vice Chairman can have no influence on the Monitoring Officer and the Independent Person's decision. I therefore see no advantage in providing them with information at an early stage.
- f) I am content that this proposal should be added to the Code.
- g) This to me is nonsensical. All members have to abide by the Code of Conduct. To ask them to sign an agreement to comply with something that they have, by law, to agree to is pointless. It also has the potential to be decisive if for some reason some people do not sign. My instinct is that this proposal should not be pursued.

### **Buckinghamshire County Council Monitoring Officer**

There are a number of key differences between our arrangements at the County Council and the proposals at Wycombe. In particular, we don't have a Standards Committee and disciplinary issues are normally dealt with in conjunction with the relevant Group Leader. I have commented below based on our arrangements and hope this is of some use.

- (a) We are currently proposing an amendment to our declaration of interests form to allow for the declaration of non-DPI interests, but making clear this is on a voluntary basis.
- (b) We would find this too frequent in terms of the number of cases we deal with – I will be meeting with the Independent Persons on an annual basis but with a focus on keeping them up to date with developments. We don't have a Standards Committee, but our Regulatory & Audit Committee keeps an overview of policy.

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<sup>2</sup> At Standards Committee in June.

- (c) We present an overview report to our Regulatory & Audit Committee but on an annual basis, which is sufficient for our needs.
- (d) Our Code of Conduct sets out the standards which Members are expected to uphold and this is our benchmark. Group Leaders are expected to play a key role in the discipline of Group Members and any issues are raised with Group Leaders at the earliest possible opportunity.
- (e) In these circumstances, I would advise the relevant Group Leader, rather than a Committee Chairman.
- (f) Our Code explains that non-disclosure of DPI is a criminal offence and could lead to investigation by police and referral to the DPP.
- (g) We will be incorporating this into our revised declaration of interests that each Member is expected to sign. These will be published on our website.

#### **Aylesbury Vale District Council Monitoring Officer**

- (a) That is a very sensible idea where there is a “non-DPI” interest that is “significant” or “prejudicial” depending on which definition you want to go by. In circumstances where someone with full knowledge of the facts would come to the conclusion that the member was not able to act in the public interest they should withdraw.
- (b) It would very much depend on how many cases you have. In any case at AVDC the initial assessment is carried out by the MO, Chair or Vice Chair together with an IP.
- (c) Again very much dependent on the number of complaints you have. I basically just give an update at every Standards Committee on the type of case and a little bit of the background; more of a verbal update, in that way you can discuss more of the case without worrying about the details being put on the net as part of what is a public meeting.
- (d) That really is a point to put more detailed examples of what kind of behaviour is associated with each of the code of conduct headings e.g. Leadership – examples of what would constitute a lack of leadership - bullying and harassment – with examples.
- (e) AVDC already has the requirement that the chair or vice chair are involved at that stage in the decision itself – the decision though is for the MO to make in consultation with the others.
- (f) No observation made.
- (g) It’s probably a good idea as it reminds members of what they are specifically agreeing to so that there are no disagreements. My own view is that they agree to abide by the law and the law says have a code of conduct.

#### **Chiltern District Council Monitoring Officer**

No comment received.

#### **South Bucks District Council Monitoring Officer**

No comment received.

## APPENDIX B

# Hoey Ainscough Associates Ltd

Supporting Local Governance

## **A REPORT FOR WYCOMBE DISTRICT COUNCIL ON LOCAL STANDARDS ARRANGEMENTS**

### **Purpose of paper**

1. We have been asked by Wycombe DC to give them some background information from a national perspective on Codes of Conduct and arrangements for case handling to help them with their review of their local arrangements.

### **About us**

2. Hoey Ainscough Associates Ltd was set up in April 2012 to support local authorities in managing their arrangements for handling councillor conduct issues. The company was co-founded by Paul Hoey, who had been director of strategy at Standards for England from 2001 until its closure in 2012, and Natalie Ainscough who had worked as his deputy.
3. We have now worked with over 250 authorities in one form or another through reviews of local arrangements, provision of training, investigative support and wider governance advice. We also run a support helpline and website for subscribing authorities and run national and regional conferences on standards issues. We also advise the Committee on Standards in Public Life on local government issues and provide expert advice on local standards issues to a range of national bodies.
4. We have divided this paper into two sections. The first will look at the Code of Conduct, giving some national context, highlighting trends and examples of good and bad practice to help Wycombe in its considerations; and the second will do likewise for case handling procedures.

## A. THE CODE OF CONDUCT

### Types of Codes

5. Prior to the Localism Act 2011, all councils had to adopt a national Code of Conduct. Although councils were in theory allowed to make local additions, in practice none did. The Localism Act abolished this national Code and, although it retained a requirement for councils to have a code, what was to be included in this code was left to local discretion, provided it included statutory requirements relating to Disclosable Pecuniary Interests (DPIs) and was consistent with the seven principles of public life (the so-called Nolan principles).
6. To help councils develop their own codes, both the LGA and DCLG produced model codes which councils could adopt. These were very similar to each other but very different from the previous national Code and can be classed as 'principles-based' rather than 'rules-based' codes (see below). The National Association of Local Councils (which represents the parish council sector) also produced a model code which was based more on the old national Code.
7. In our experience councils have therefore gone down one of three routes. They have either adopted more-or-less wholesale the LGA or DCLG model code; they have rejected that model and adopted something very similar to the old Code/NALC model; or have adopted a locally-written hybrid which takes elements of the old Code and the LGA-type model.
8. This third hybrid approach is probably the most common and seems from our reading to be the approach taken by Wycombe. The second most common route would be a code which is largely based on the old Code; and simply adopting the LGA/DCLG model largely unamended is in our experience the least common option. It is hard to make generalisations without having done a rigorous survey but the LGA/DCLG model seems to be more common at County Council level than elsewhere and at certain London boroughs; while districts have tended to go more for an 'old Code' or hybrid approach. At County-level in particular this may reflect the different role of a County Council. The LGA/DCLG model is much lighter on declarations of interest, whereas districts tend to include more interests than the statutory minimum required, which may reflect their role as a planning and licensing authority.
9. It is also our experience that generally people have sought to have consistency across a geographical area such as a county or across the districts in a county. This is a sensible approach. Where there have been different codes at different tiers it can cause confusion for members sitting on more than one level as well as confusion for the public. It can also make the

matter of dealing with a case locally more complex – for example we were recently asked to investigate a parish case, where the Monitoring Officer/standards committee had not realised that the parish had adopted a different code from the district and this led to some confusion as to what actual breach of the code was being alleged.

10. Our search of council websites has shown that the district councils in Buckinghamshire are broadly working to similar codes (though there is some divergence in wording around interests which we will highlight below) and we believe this is a sensible approach to be encouraged. However, the County Council appears to have adopted the DCLG model without amendment. We have not looked at the parishes within the area due to resource constraints but we would suggest that a common approach with the parishes should be agreed where possible if it is not already. We would therefore recommend that, if Wycombe does propose changes to their code they should ensure that parishes in the area are aware of these changes (and ideally invited to comment on them). From work we have done, we believe there is a common approach across both Cumbria and Cornwall, for example, at all levels of local government including parishes and this has made guidance, training and enforcement a lot simpler. On the other hand, we also did some work with Gloucestershire where there was significant divergence between the local parish code, district codes and county code, particularly around the approach to declarations of interest and this meant duplication of training etc. particularly for members on more than one authority as well as confusion for members as to what interests they needed to declare at which council they sat on.

### **Issues arising from local codes**

11. In this section, we want to highlight some of the issues we have seen in local codes and some of the matters we think a council needs to consider when reviewing its own code. For the purposes of this paper we are splitting codes into two separate parts – behaviours (the way people behave, interact and work on a day-to-day basis) and interests (the rules for registering and declaring interests) as they are two distinct elements of any code and are better considered separately.

### **Behaviours**

12. Traditionally, codes of conduct tend to set out a series of 'do's' and 'don't's' as setting the standards for conduct – for example – do treat people with respect, do not disclose confidential information etc. This applies to codes across most professions and workplaces and was true of the old national Code. While some of these terms can be difficult to measure (for example, what constitutes disrespectful language) they tend to have some concrete standard against which one can judge an action – for example, there will be some clear understanding of what is and is not confidential information, what is and is not permissible use of council resources etc. These are usually reinforced by further guidance to members with examples.

13. The LGA/DCLG model codes moved away from this approach towards a more 'principles based' approach, based to some extent on the Code which applies to MPs. These tend to give statements of principles about the way one should behave rather than measurable standards – for example, you should act in the public interest, you should be accountable for your decisions etc. These tend to be more subjective measures – one person's view of what is in the public interest may be different from somebody else's for example – but are designed to give an indication of the type of behaviour that should be modelled.
14. Our experience, both from training members and overseeing investigations into complaints is that a rules-based approach is simpler to understand and enforce. A principles-based approach can both lead to greater argument as to whether a particular behaviour about which somebody has complained can be judged against a particular principle; and also that, paradoxically, they can be so broad that complaints which are actually about service delivery or a particular decision can be made by complainants as breaches of the code.
15. As examples of this, if there is no explicit reference in certain codes to 'treating others with respect' or something equivalent, it can be difficult to judge certain offensive comments or bullying behaviour as coming within the scope of the code – instead it becomes an argument about, for example, whether the behaviour amounted to a failure to demonstrate leadership, which is much harder to define through examples or guidance. A particular glaring gap in the LGA/DCLG code we have identified is the failure to say anything about the need to respect confidentiality, which has led to councillors not being bound under the code to any duty not to disclose confidential information.
16. On the other hand, we have seen complaints made by people who have felt aggrieved because a councillor has failed to support them in supporting or opposing particular applications (often on contentious local matters) and are thus accused of not 'taking decisions in the public interest' or 'not representing the views of their constituents' and it can be difficult to explain to complainants why the code of conduct is not an appropriate mechanism to deal with such issues.
17. Those who have supported this principles-based approach and wanted to see a move away from the old Code's more defined rules argue, however, that having narrow rules constrains councillors and can be used to gag them or generate complaints against them. For example, provisions relating to disrespect or bringing the authority into disrepute were seen as being so broad as to generate too many complaints and be used for vexatious or politically-motivated complaints that any criticism by a member of another person would lead to an accusation of disrespectful behaviour. Where councils have kept some but not all of the rules from the old Code, the ones most commonly dropped have been these broad ones relating to disrepute and disrespect.

18. The Wycombe code seems to strike an appropriate balance between keeping the old rules-based approach while importing some of the more general principles-based statements. We think this seems a reasonable position to have and would not recommend the need for any changes, though if the Council does wish to review the provisions in greater detail, we always recommend it should consider the types of behaviour it believes should fall foul of the code and then see whether they are in fact captured by a particular provision in a clear way which members and the public alike could understand and measure.

## Interests

19. It is first worth reiterating the principle behind why those taking public decisions need a mechanism for registering and declaring interests and, where appropriate, recusing themselves from decision-making. As guardians of the public purse they must be seen to be taking decisions based on merit and in the public interest and be seen to avoid biased decisions (whether actual or perceived) because they or somebody close to them has a stake in the outcome of a decision. While broad statements of principle as above – such as decisions must be taken on merit or in the public interest – articulate these principles clearly, they do not lay down rules as to what an individual is expected to do when such a conflict may occur. In our experience members do not find this helpful and tend to want more detailed guidance about what to do in a given circumstance. For example, is it acceptable simply to register the conflict in some way, are they allowed to contribute to any debate, are they allowed actually to be involved in the final decision? With only statements of principles rather than rules, different members can (for good or bad reasons) make their own decisions on when and when not to participate. This can lead to inconsistency within the same authority, confusion for the public and can generate more complaints because of the lack of clarity over the rules.

20. Rules to guide members were therefore developed through codes over many years to seek to define what constitutes an interest and what a member should do when they have one. These rules can broadly be categorised as what interests need to be registered, which also need to be declared at a meeting and which are so significant that they should limit or prohibit participation in decision-making.

21. An interest may arise because of an interest the member themselves might have (for example, the decision is about their own property or a business they run) or an interest of somebody close to them (for example a son's or best friend's planning application) or an interest of an organisation that they sit on (for example an awarding of a contract to a housing trust on whose board they sit).

22. The old Code set out detailed provisions designed to cover these various scenarios. Some felt the rules were over-complex and difficult to understand. The Localism Act sought to simplify these rules and slim down the categories



of interests caught. Thus the Localism Act interests – DPIs – only cover the interests of a councillor and their spouse (rather than, for example, other family members). These DPIs have to be put on a public register and automatically prohibit participation in decision-making (rather than, for example, taking a graduated approach depending on the closeness of the interest). These are the only interests which councils have to include in their code, though there is no restriction on including other types of interests.

23. Although the DCLG/LGA code only included DPIs with no explicit procedures set out for registering or declaring any other interests, very few councils have stuck solely to DPIs. Most have extended interests both to include a few other categories which need to be registered – typically membership of outside bodies; and have extended the need to declare interests to matters relating to a wider group of people than simply the member and their spouse – other family members and close associates for example.
24. Where councils have only included DPIs and we have done member training, members have universally expressed surprise when we have pointed out as an example that under their code there would be no explicit requirement to declare an interest in a son's planning application. Indeed we have found in those councils that members have in fact been declaring these interests and withdrawing anyway. While such codes do contain general statements about balancing public and private interests they do not set out how a member should strike such a balance and therefore leave it open to each member to take a different approach. We would therefore always recommend that councils include interests other than DPIs in their code, as they are such narrow interests and do not cover the bulk of conflicts of interest that arise. Nearly all councillors, regardless of their code, continue to declare these wider interests but there is always a risk that a rogue member will not declare the interest because they are not explicitly obliged to, thereby risking a challenge of bias against a decision and damaging public confidence in the council's decision-making processes.
25. Wycombe, in common with the other Bucks districts, has extended its code to cover other interests. This is true for the vast majority of councils. The County only includes DPIs.
26. What we find from those councils that have included other interests, however, is wide variation on what these interests are called (which is of course entirely a matter for local discretion and convenience, though we occasionally see codes where the same interest are given different names in different parts of the code because of inconsistent drafting). And of greater significance, variation as to what the effect of having such an interest has on a member's participation in decision-making.
27. Councils seem roughly split into two fairly even camps. Those who have stuck closely to the old Code tests – that is broadly, that you need to declare an interest if a matter relates to or affects an interest of a family member or close associate, and then if it affects them more than the majority of people in the area would be affected, you do not take part in the decision-making. The

second camp simply requires the member to declare the interest but then participate fully. Thus, in the case of consideration of a son's planning application the first camp would require the member to withdraw from the consideration; the second camp would require the member to declare the interest but they are then allowed to participate in the decision.

28. From our reading, the Wycombe code falls into this second camp while the other Bucks districts all fall into the first camp. We would recommend that you consider whether Wycombe's interests provisions should be brought into line with the other districts to restrict participation in certain circumstances where other interests are engaged.
29. There are two other points we would wish to make with regard to registration and declaration of interests which the Council may wish to consider. The first relates to what actually gives rise to a DPI. The legislation simply states that where a member 'has a DPI in any matter to be considered' they must not take part in the decision. However, this wording does not make clear what type of matter would give rise to a DPI. As an example, does it have to be a matter which directly relates to the interest (e.g. a planning application made by the member on their own property) or something which relates to or affects the interest (e.g. a planning application next door to the member's property).
30. Common consensus seems to be that it has directly to relate to the interest, rather than simply affecting it. However, interpretation of this does vary from authority to authority (and even within one area a dual or triple-hatted member may receive a different interpretation from each authority). Most authorities have simply replicated the wording of the legislation and then advise members on a case-to-case basis. The Wycombe Code has interpreted the legislation (at 3.4) as an item of business which affects or relates to the subject matter of that interest. Until such time as any case law develops (and there is currently a prosecution pending for non-declaration of a DPI in Dorset) what a DPI actually is will remain for local interpretation, but you may wish to ensure that there is a consistent approach to interpretation across the County to aid both members and the public.
31. Our final point in this section relates to the register of gifts and hospitality. Under the old national Code members had to register any gifts or hospitality received above the value of £25. There is no longer any statutory requirement to register gifts and hospitality, though again the vast majority of councils (though not all) have retained a requirement. Some have left the limit at £25, most seem to have raised the limit either to £50 (like Wycombe) or else to £100.

## **B. CASE HANDLING PROCESS**

32. Under the Localism Act, councils must have in place arrangements under which allegations can be investigated, and arrangements under which decisions on allegations can be made. However, what the details of these

arrangements are a matter entirely for local choice. In addition, each council must appoint at least one Independent Person as part of the process.

33. In practice, all councils have to have arrangements to cover the same steps. Those are: to make an initial decision about whether any action is needed on an allegation; if so to investigate it or dispose of it in some other way; if necessary to make arrangements to hold a hearing following an investigation; and if necessary to impose some form of sanction. We will therefore examine each of those steps in turn to see where Wycombe's arrangements sit in comparison to experiences elsewhere and some of the issues to be considered.

### **Initial assessment**

34. All councils have to have an arrangement in place to make an initial decision on an allegation. There are in reality only two possible ways of doing this in common with most non-executive council functions – having a committee make the decision; or delegating the decision to an officer.
35. Although a few councils have retained a committee to make all such decisions, the vast majority of councils have, like Wycombe, delegated the decision to the Monitoring Officer. A very small handful of councils pass complaints to the group leaders collectively to decide how they should be disposed of.
36. While in theory delegating the decision to an officer could lead to (real or perceived) political pressure being put on an officer to take a particular decision, in reality this tends not to be a problem. Most authorities do retain a power for the MO to refer the matter to a committee if, for example, it is a politically high-profile case. Wycombe's process does not seem to contain such a provision although a number of authorities have found it a useful long-stop to include, for example should it be a case where the Chief Executive has made a formal complaint or it is a complaint against one of the Group Leaders. We believe in general, however, that delegation to an officer is by far the most efficient way of making this initial decision. Matters referred to a committee are often subject to delay due to the need to convene a committee and can risk becoming (or being perceived as) more politicised and we have seen no evidence that the outcome of the decision differs from those authorities where it has been delegated to the MO.
37. Once a complaint has been received most authorities will notify a member that a complaint has been received and will invite comments, as Wycombe does. A few will not notify a member at this stage. Some of the reasons why councils have chosen not to notify a member may be that they fear that this can unnecessarily escalate the significance of the matter (for example, by risking a tit-for-tat complaint being made) or pressure being put on the officer

to come to a particular decision. However, not doing so can limit the scope for a very early resolution (as envisaged at Stage One of Wycombe's assessment process) or else run the risk of a member learning about a complaint via the media which can also risk unnecessarily escalating the situation. We therefore think on balance it is better that a member is notified up front as Wycombe does.

38. Like Wycombe, most authorities (though not all) say that the MO should seek the advice of the Independent Person (IP) before reaching a decision (Stage Two of Wycombe's process). A recent survey we did of IPs attending regional workshops we ran showed that around 90% of IPs were consulted at this stage and we think this is entirely appropriate that there is some independent guarantee that the MO has made a reasonable decision and has not been subject to undue influence.
39. Again like Wycombe, nearly all authorities envisage three outcomes at this stage – no further action, an investigation or some attempt at more informal resolution. Only a handful do not include informal resolution at this early stage but simply decide whether or not something merits further investigation. We would always encourage early informal resolution where possible and appropriate.
40. Some councils say that informal resolution will only be an option if the complainant is satisfied with that as an outcome. We do not believe that is appropriate as it can mean that money is spent on unnecessary investigations, when the outcome (due to the range of sanctions) is likely anyway to be the same or similar – that is an apology will be requested.
41. A minority of councils allow an appeal by the complainant against an MO's decision not to take any further action – typically to a committee of members. This again seems an unnecessary delay to us, given the need for proportionality and we have not seen an example of an appeal being upheld. One council we have worked with, for example, had an appeals mechanism in place and had received appeals by complainants against the majority of non-referral decisions made by the MO which meant that its appeals sub-committee had been meeting frequently. However, it had not upheld a single appeal as in each case it concluded the MO had made the right decision. It has therefore recently removed the right of appeal as a delay, as it was building up false expectations and because it was actually making complainants feel more aggrieved that the council was simply 'closing ranks' to support its officer. We would therefore recommend that Wycombe continue not to allow appeal at stage two.
42. However, the committee does need to reassure itself that the MO is broadly making the right decisions – that is, investigating matters the committee believes merit investigation and not taking forward matters the committee believes would not warrant an investigation. We suggest to councils (depending on the volume of cases locally) that the committee, or the chair

and deputy, meet with the MO and IP once every six months or annually to review those decisions (anonymised if appropriate) not to overturn individual cases but to satisfy itself that the line is consistently being drawn in the right place.

## **Investigations**

43. Where a matter is referred for an investigation, the process tends to be the same in all authorities – that is, the MO either investigates the matter or has the power to delegate or outsource it. The biggest issue with investigations tends to be the length of time taken to investigate a matter. This can be because it is given a low priority because of other pressures on officer time, but more often because of a lack of cooperation with the investigator from the councillor (or occasionally complainant). There is therefore an increasing trend to be explicit in processes that an investigation will be completed within a fixed timescale unless the MO (sometimes in consultation with the IP) grants an extension in exceptional defined circumstances. In some authorities, the IP is invited to comment on the draft report as a further way of giving independent validation that the report appears fair and proportionate.
44. Once an investigation has been completed, most councils (like Wycombe) allow the MO to decide how the matter should be disposed of – that is, whether the file should be closed (because there is no breach or it is insufficiently serious) or should go for a hearing. Again like Wycombe most authorities again allow the option of some form of informal resolution as an alternative to a hearing at this stage, and again like Wycombe, the IP is usually involved in that consideration. The Wycombe process does seem to allow the complainant to say that an informal resolution is inadequate, in which case the MO must refer the matter for a hearing. This is common, although others leave the discretion with the MO if he or she believes that a hearing is unlikely to impose a different solution (for example, the informal resolution has been the offer of an apology and the MO judges that the committee is also likely to ask for an apology). We would recommend that the MO is given discretion to take on board the view of the complainant but not to allow the complainant a veto, as a way of managing expectations as to final outcome and avoiding necessary costs of having to convene a hearing.
45. In some councils, where an MO concludes that there has been no breach, an appeal to the standards committee is allowed. The same considerations apply as to whether this is a necessary step as to an earlier appeal against a decision to take no action on a complaint.

## **Hearings**

46. Wycombe's process for hearings seems typical of most authorities. There are some points to note for consideration. Wycombe is clear that the composition of the panel will consist of members from at least two different groups. Some councils do not do this. The standards committee (and any sub-committee) is,

by law, treated as an 'ordinary' committee of the authority and as such subject to political proportionality rules (unless these have been waived by the council). Some authorities therefore have committees which reflect the political balance of the council, and this can lead to a large proportion of ruling group members. That has caused some difficulties in terms of media and public perception, so attempts to have a more cross-party committee are to be welcomed.

47. While by law only elected members of the authority can vote on the committee, some authorities have been concerned that they will seem too partisan in the eyes of the public so have co-opted lay members on to their panels who, while not voting, are able to take part in deliberations. These tend to be separate individuals from the IP who has a more formal role to give independent views to the committee. Wycombe may wish to consider the relationship between their committee and the role of the Independent Person to ensure the roles are distinct.
48. Similarly some councils, like Wycombe, have co-opted non-voting parish councillors to assist them in deliberations on parish council cases. We think this is to be encouraged, though this is in our experience the case only in a minority of councils.

## **Sanctions**

49. The Localism Act does not set out which sanctions the council can impose where a member has been found in breach of the code but simply leaves it to the council to decide what action to take. In practice, however, the council can only take sanctions which it has a legal power to impose. Thus it cannot suspend a member for a period or disqualify a member from office. These powers had existed under the former framework and had been set out explicitly in legislation but those provisions were repealed and without that statutory basis, the council therefore no longer has those powers. The range of sanctions set out in Wycombe's proposals therefore seem very similar to those set out in most other councils' procedures and reflect those sanctions which it seems clear the council can lawfully impose without unnecessarily interfering with a member's rights, as an elected representative, to carry out their role on behalf of their electorate.
50. We have seen an increasing trend in the formal standards process and sanctions operating in parallel with internal party discipline where members are members of a political party or group – usually the withdrawal of the whip or expulsion from the party. The standards committee may therefore wish to be aware what actions have already been taken and may want to have discussions with group leaders about any appropriate action they would expect to be taken by a party, bearing in mind of course that some councillors will not be members of a group, particularly at parish level.
51. Given that the main emphasis placed by the Government is on councillors being held to account for their actions through the ballot box (hence the removal of suspension and disqualification powers) it is important that the public are able to make an informed choice where there has been a finding of

misconduct. The council should therefore consider how it publicises any findings of misconduct. For example, would a media statement be made, or would the findings be clear on the Council website should somebody be looking for information about their local councillor.

## **Independent Persons**

52. By law the council must appoint one or more Independent Person to assist them through this process. In our experience, most authorities have appointed two, some have simply appointed one, and a handful of authorities have appointed more than one. Two seems reasonable to allow for conflicts of interest, absences etc. More than two would only seem necessary where there might be a particularly large workload (for example some councils will have several hundred parish councils to oversee).
53. An IP has two statutory duties – the council must seek, and take account of, their views, on matters under investigation before reaching a decision; and the councillor who is the subject of the complaint may also seek their views. Nothing precludes the council from giving an IP additional roles, as Wycombe has done, however, for example in giving views to the MO at the assessment stage.
54. Where a council has more than one IP, they could either use one IP throughout the progression of a case or else divide different roles between the IPs – for example, one to advise the MO, one to give views to the committee and one to give views to the subject member. Most authorities seem to go down the route of one IP per case (around 80% in our survey) though a minority do give these differentiated roles. We think the one IP per case approach is the more sensible and manageable one as it allows a consistent check and balance throughout the process and avoids IPs being seen as ‘advocates’ for one side or another.
55. A few councils have said that the complainant may also seek the views of the IP along with the subject member. This is not necessary but has proved useful in a small number of cases to help understand some underlying issues. We would always advise that, if you consider this, it should only be where the IP or MO feels it would be beneficial to understanding of the case rather than an absolute right. In any case, we believe it is important that there is some written protocol between the IP and the council as to what they are expected to do and not do and what resources they are able to call on, for example, to help them in their role.

## **Conclusions**

56. We would therefore summarise our key conclusions as follows:

- i) In terms of regulation of behaviour, the Wycombe code seems to cover the appropriate areas and is in line with the majority of codes around the country.
- ii) In terms of interests, Wycombe should review those circumstances where they think members should be allowed to participate in decisions and where they should withdraw where they have an interest other than a DPI.
- iii) With regard to case handling, the Wycombe process seems proportionate and in line with practice elsewhere. We would not recommend the need for any appeals, but the committee should consider how it wishes to 'quality assure' judgements made.
- iv) The range of sanctions seems in line with accepted practice elsewhere and represents the agreed range currently available to councils, but the committee may wish to discuss with the political groups the role of party discipline in supporting the standards process.
- v) The Wycombe approach to the role of the IP seems in line with best practice.

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