

30 June 2015

Dear Sir/Madam,

Appeals and Standards Committee

A meeting of the Appeals and Standards Committee will be held in Committee Room One, Council Offices, Lodge Road, Daventry on Tuesday, 07 July 2015 at 18:15

Members are reminded to sign the Attendance Register on entering the Committee Room.

This meeting will be recorded in accordance with the Council's Constitution.

Please ensure that mobile devices are switched to silent mode.

Under national legislation visual recordings of meetings may also be made by the public and press, when they are not lawfully excluded. Your attendance at the meeting signifies your acceptance that you may be recorded.

Yours faithfully,



Chief Executive

AGENDA

1. Minutes.

To sign the Minutes of the meeting of the Committee held on 3rd July 2014 (copy attached). *(Please note queries relating to the accuracy of the Minutes must be submitted in writing to the Monitoring Officer by Noon on Monday 6th July 2015 - Constitutional requirement - Part 6I, Section 3.3).*

Appeals & Standards Committee Minutes 3rd July 2014

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2. Apologies for absence.

3. Declarations of Members' Interests.

To receive declarations of Members' disclosable interests and the nature of such interests in any of the following agenda items.

4. **Annual Review of Standards of Conduct and Complaints Handling.**
To consider the report of the Monitoring Officer to update members on events during 2014/15.
Annual Review (copy attached, report reference SC.070715/1) 11 - 26
 5. **Record of Complaints and Record of Daventry District Council Dispensations.**
To consider a schedule of complaints alleging breaches of Codes of Conduct by Parish and District Councillors in the district, and also detailing decisions in respect of dispensations granted to District Councillors.
Record of Complaints (copy attached, report reference SC.070715/2) 27 - 30
 6. **Urgent Business.**
To consider any other item, which the Chairman decides is urgent, notice of which has been given in writing to the Chief Executive prior to the commencement of the meeting.
- * Item open to public participation. Please contact Wendy Craven (01327 302407) by 12 noon on the day of the meeting if you wish to speak.

If you have any special communication needs please contact the above as soon as possible. Every effort will be made to provide extracts from the Agenda in a suitable form or help with communication at the Committee meeting.

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The Council Chamber is equipped with a Deaf Aid Loop System.

FIRE/EMERGENCY EVACUATION

PLEASE read the Fire/Emergency Evacuation Instructions **BEFORE** the meeting starts. These are displayed by the entrance to the Committee Room One.

TO ALL MEMBERS OF THE Appeals and Standards Committee

For information to the remaining members of the Council.

Membership List:

Cllr Diana Osborne - Chair
Cllr Amy Howard
Cllr Chris Long
Cllr Sean Connors

Dr. Nick Boutle (Independent Co-opted Member)
Stephen Loades (Independent Co-opted Member)
Roger Lowe (Parish Representative)
Terry Regan (Parish Representative)

Appeals and Standards Committee – 3rd July 2014

Minutes of the **Appeals and Standards Committee** held in The Council Chamber Council Offices, Lodge Road, Daventry on Thursday 3rd July 2014 at 6.15 p.m. (Concluded at 6.55pm.)

PRESENT:	
Councillor Chris Long	Acting Chairman
Councillor Sean Connors	
Officers:	
Simon Bovey	Monitoring Officer
Wendy Craven	Scrutiny & Appeals & Standards Support Officer
Also in attendance:	
Dr. Nick Boutle	Independent Co-opted Member
Stephen Loades	Independent Co-opted Member
Andrew Foster	Independent Person

NOMINATION OF VICE CHAIRMAN

Councillor Sean Connors nominated Councillor Long as Vice Chair of the Appeals & Standards Committee, it was seconded by Dr. Nick Boutle.

In the absence of the Chairman, Councillor Diana Osborne, Councillor Long took the Chair, he requested that, on behalf of the committee a letter be sent to Councillor Diana Osborne expressing good wishes and good speed to return to the committee as soon as possible. He went onto welcome Councillor Connors as new member to the committee.

SC.01/14 MINUTES**RESOLVED:**

That the minutes of the meeting of the Appeals and Standards Committee held on 2nd July 2013 be approved and signed as a correct record.

SC.02/14 APOLOGIES FOR ABSENCE

Councillor Diana Osborne

Roger Lowe

Appeals and Standards Committee – 3rd July 2014

SC.03/14 DECLARATIONS OF MEMBERS INTERESTS

Councillor Sean Connors expressed an interest in Item 4 appendix B on the agenda, the subject of the complaint is a member of the same political party.

SC.04/14 ANNUAL REVIEW OF STANDARDS OF CONDUCT AND COMPLAINTS HANDLING

Consideration was given to the report of the Monitoring Officer to update members a further year on from the adoption of the new Code of Conduct in July 2012 (previously circulated, report reference SC.030714/1 page nos. 7- 28.

The Monitoring Officer introduced the report and provided an overview of the key issues since the previous annual report in July 2013. He advised that there had been no change nationally and the number of complaints remained relatively low at ten, with two outstanding yet to be fully assessed.

He went on to highlight relevant points under each heading in the report.

Promotion of High Standards

The Monitoring Officer informed he had continued to take a preventative approach offering advice to Members various enquiries especially about disclosable interests. New Members elected in June 2014 had had induction sessions that included guidance on the various codes of conduct. Further training is scheduled for 4.00pm on 16th July 2014.

Parish & Town Councils had also been given advice it had been acknowledged that sometimes clerks had difficulty in obtaining assistance from an experienced source. The Chief Executive of NCALC had agreed to assist in the promotion of high standards and some Parish Councils had already been signposted to obtain advice on complaint dealing as well as best practice and training.

He went on to illustrate an article he had read in the Dorset Echo about a Member who had breached the Code of Conduct for not declaring an interest when he should have done. Although sanctions were very limited the main one was to shame.

Codes of Conduct

He reported that all District Council Members had signed up to the Code and 49 of the 53 Parish Councils had also signed up to the Daventry District Council Code, he would continue to pursue those three that had no code.

Mystery shopping

It had been agreed at the previous meeting in July 2013 that either a parish/independent representative to act as a Mystery Shopper and to occasionally visit and observe Parish & Town Council meetings. A visit had been to a parish council in October 2013 the feedback although positive had also raised some issues of concern around a 'disclosure of an interest' and 'lack of respect for other colleagues'. It was agreed this was a useful exercise and should continue if considered necessary by the Monitoring Officer.

Appeals and Standards Committee – 3rd July 2014

Complaints Handling

The Monitoring Officer summarised the number and nature of the complaints received, no complaints were made about District Councillors. Two of complaints were escalated and resulted in an investigation; in both cases it was about the failure to 'disclose an interest' and resulted in formal hearings. Members were reminded that DDC would issue a decision notice, but it could only make recommendations to the parish and town councils, it is at their discretion whether to act on them or not. Members noted that one Parish Council had acted upon the recommendations the other had noted them. Members noted that the minutes of both hearings were attached and now included in the formal records of the council.

In regard to the actual hearing process, generally it worked well, but the suggested amendment to retire only once after stage 3, this would enable to process to run smoothly and be more time efficient. The Chairman endorsed the proposal to change to avoid duplication and also to align to the process followed by the Licensing Committee.

DDC Appeals & Standards Committee Hearing Panels

The Monitoring Officer advised Members that the Hearing Panel was made up from Members of the Committee the chair of the panel plays a crucial role setting the pace and ensuring that everyone followed the laydown procedure. He suggested that it would be good experience for all members to rotate the hearing panel chair. He informed that the Chair Councillor Diana Osborne had some reservations about this proposal in terms of expertise gained through experience. Following a discussion it was agreed this was about sharing good practice with all members of the committee, and once again to align with the Licensing Panel procedure. In future all members of the Committee and the Independent Persons would be sent a copy of the Hearing Panels Decision Notice.

Independent Persons

The Monitoring Officer outlined the experience that the Independent Persons had gained in respect of hearings and the feedback they had given following a regional training event they had attended. He noted that all the Independent Persons were keen to do a good job, he emphasised the role was voluntary. He proposed that in complex cases at consultation stage to provide the Independent Person with a summary of the issues involved. He would also take up the suggestion to issue an annual newsletter to parish and town councils citing the lessons learned over the year.

Referring to the advice it was

RESOLVED that:

1. The annual review of standards of conduct and the handling of complaints is noted as a generally positive record
2. The practice of occasionally using Members of the Committee as "mystery shoppers" continues.
3. NCALC be invited to programme learning and development sessions on 'disclosing interests' for parish and town councillors.

Appeals and Standards Committee – 3rd July 2014

4. For hearings regarding Members, Panels retire to consider representations in private normally after only stage 3 of the Hearing Procedure rather than after both stage 2 (findings of fact) and stage 3 (findings of failure, or not, to comply with Code of Conduct.)
5. For all hearings, the chairmanship of Panels rotates between Members of the Committee.
6. The Monitoring Officer issues copies of decision notices of hearings to all Members of the Committee and all Independent Persons for information.
7. For complex complaints, a briefing note is provided for the Independent Person being consulted by the Monitoring Officer if so requested
8. An annual summary of key messages be supplied to parish and town councils, based on experience of the past year.

SC.05/14 RECORD OF COMPLAINTS AND RECORD OF DAVENTRY DISTRICT COUNCIL DISPENSATIONS

Consideration was given to the record of complaints and record of Daventry District Council dispensations (previously circulated, report reference SC.030714/2, page nos. 29 - 32).

The Monitoring Officer advised this was a register and summary of all the complaints/ dispensations received and/or currently being worked on. He confirmed that this had provided background to the review of the past year and the Advice on the previous item. He would issue a revised updated version of the register for the purpose of the minutes.

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Chairman

Appeals and Standards Committee – 3rd July 2014

Record of Complaints alleging breaches of Codes of Conduct and Record of Daventry District Council Dispensations (updated as at 17.6.14)

1. Record of Complaints

(a) Complaints awaiting Assessment

Date of correspondence	Nature of complaint	Who Against	-	-
5.6.14	Failure to treat others with respect and not to bully	Parish Councillor		
16.6.14	Failure to treat others with respect and not to bully	Parish Councillor		

(b) Complaints decided/resolved

Date of correspondence	Nature of complaint (with case number)	Who Against	Decision	Comments
5.7.12 & 5.11.12	Alleged failure to declare interests. (LC.31 and 35/12)	Town Councillor	Following investigation. Hearing held 17 th January 2014. Found in breach of Code of Conduct on two counts by failure to disclose an interest. No failure on two other counts.	Hearing. Decision notice with recommendations issued
15.4.13	Alleged failure to declare an interest. (LC.04/13)	Parish Councillor	Following investigation. Hearing held 9 th December 2013. Found in breach of Code of Conduct by failure to disclose an interest	Hearing. Decision notice with recommendations issued
6.6.13	Alleged failure to disclose an interest. (LC.06/13)	Town Councillor	Inadmissible as basic issues already being addressed, by another	

Appeals and Standards Committee – 3rd July 2014

Date of correspondence	Nature of complaint (with case number)	Who Against	Decision	Comments
			investigation (LC31 and 35/12). Case subsequently closed	
20.1.14	Alleged failure to treat others with respect and rude, bullying behaviour. (LC.01/14)	Parish Councillor	No further action. Case closed.	Monitoring Officer decision. Complaint does not warrant further investigation given information provided.
20.1.14	Alleged misrepresentation of the village residents and Parish Council. (LC.02/14)	Parish Councillor	No further action. Case closed	Monitoring Officer decision. Recommended that Parish Council update register of interests and general points for Parish Council to consider and rectify at next meeting.
30.1.14	Alleged bullying, persistent rude and intimidating behaviour. (LC.03/14)	Town Councillor	No further action. Case closed.	Monitoring Officer decision. Breaches of Code not likely or able to be verified. Complaint does not warrant investigation but other suggestions made to subject councillor.
12.3.14	Alleged failure to declare an interest (LC.04/14)	Parish Councillor	No further action case closed	Monitoring Officer decision. No actual interest to declare, no evidence to substantiate allegations

Appeals and Standards Committee – 3rd July 2014

Date of correspondence	Nature of complaint (with case number)	Who Against	Decision	Comments
19.3.14	Alleged failure to treat a fellow Councillor with respect (LC. 05/14)	Town Councillor	No further action case closed	Monitoring Officer decision. It was the Town Councillors gift to lead the panel and the complaint was not of significance to warrant further investigation.
2.6.14	Alleged failure to treat a fellow Councillor with respect, bringing office into disrepute and using position improperly (LC06/14)	Parish Councillor	No further action case closed	Monitoring Officer decision. Local issues with little evidence & not of significant concern under the Code of Conduct to warrant further investigation. Suggest the Parish heeds NCALC's advice on procedure.

(c) Complaints awaiting Decision (following referral from Assessment)

Date of correspondence	Nature of complaint (with case number, where allocated)	Who Against	Decision	Comments

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(d) Record of Dispensations (District Councillors only)

Date of Correspondence	Nature of Dispensation requested	Decision	Comments
27.1.14	Dispensation to apply to discussion on matters affecting the interests of a company (established via the Council).	Dispensation granted for four years	

Wards affected:

General

Appeals and Standards Committee – 7th July 2015

Annual Review of Standards of Conduct and Complaints Handling

Report of the Monitoring Officer

1. Purpose of Report

To review experience of the conduct of Members of DDC, town and parish councils in 2014/15, the handling of complaints against them and of appeals submitted by DDC employees, with a view to identifying future improvements.

2. Advice

That it be RESOLVED that:	<ol style="list-style-type: none">1. The annual review of standards of conduct and the handling of complaints is noted as a generally positive record.2. Occasional use of Members of the Committee as “mystery shoppers” continues.3. Northamptonshire County Association of Local Councils is invited to arrange learning and development sessions, particularly on Disclosable Interests and on Dispensations, for parish and town Members and Clerks.4. The Monitoring Officer arranges a learning and development session, particularly on Disclosable Interests and on Predisposition/Predetermination, for all DDC Members.5. A 2014/15 summary of key messages is supplied by the Monitoring Officer to parish and town councils, based on experience of the past year.
That it be RECOMMENDED that:	<ol style="list-style-type: none">6. The DDC Local Code of Conduct for Members (July 2015) is adopted.

3. Introduction

This report is designed to serve as the Committee's (third) annual report to Council on its workings and performance, as required under DDC's Constitution. It covers the period from 25th June 2014 to 26th June 2015 inclusive.

The Committee's deliberations and decisions contribute to the Council's promotion and maintenance of high standards of conduct, a duty required of it by the Localism Act 2011. The Monitoring Officer's work is similar in intent.

This legal duty is in respect of the conduct of Members (including any co-opted Members) of the District Council. Via DDC's Constitution rather than the Act, the Committee is also required to promote good conduct generally by reviewing experience with parish and town council Members and their councils.

The Monitoring Officer and the Committee have certain roles in respect of the registration of Members' interests and the handling of complaints about their conduct.

Under the Committee's terms of reference, Hearing Panels are able to be established for investigated complaints about Members and for appeals by Council employees.

A key purpose of the annual review is to determine the need for any development activities and any procedural changes, particularly in respect of the various Codes of Conduct for Members or of the complaint handling arrangements.

NB Parish Meetings are not subject to the Localism Act's requirements on standards.

4. Information

Nationally, there have not been any changes to the standards regime in 2014/15, although the Committee on Standards in Public Life continues to monitor the situation as it is concerned about the limited sanctions available where breaches of codes of conduct have occurred.

Under the Localism Act 2011, each individual county, district, parish and town council was able to adopt its own individual Code of Conduct. However, it is reassuring that some 95% of town/parish councils (49 out of 53) have adopted a Code that is the same as the DDC Local Code of Conduct for Members – up by three in the past year. 4 parish councils have a Code based on a version by the National Association of Local Councils (NALC).

4.1 Promotion of High Standards

Over the past year, the Monitoring Officer's approach continued to be preventative with Members, Officers and Clerks invited to check any matters of concern during 2014/15. The Monitoring Officer has received various enquiries – mainly from council Members and Clerks but sometimes from members of the public. As in previous years, most sought advice on disclosure of interests or on what constitutes pre-disposition and pre-determination (particularly from Members who also sit on other bodies). It is positive that such queries are raised in

advance, for example before a Member attends a meeting with relevant business, as it allows for more considered advice to be given.

Of the DDC Members newly elected in May 2015, most attended induction sessions with the Monitoring Officer, receiving guidance on the various Codes of Conduct and particularly on interests, pre-determination and bias. It is particularly important that brand new Members get such initial grounding to ensure that the good standards at DDC can continue; all of these have attended induction.

Advice has been given to various parish and town councillors, and, more than before, to council Clerks. Whilst under the Act it is for those individual councils to promote standards rather than DDC, this Council and the Monitoring Officer have consistently sought to positively assist its parish and town councils. This is partly because it is understandably difficult for Clerks, and to some extent NCALC, to be sufficiently equipped to advise. Again, it helps all parties (Members, Clerks and Monitoring Officer) to prevent difficulties arising after the event. It is worth highlighting that there has been particular engagement with two parish councils.

The Monitoring Officer and the Chief Executive of NCALC continue to work together in promotion of high standards. NCALC has offered its own training sessions and the potential for combined events is explored on occasions. In making recommendations to parish and town councils following complaints, NCALC is able to be signposted by DDC as a source of advice on good practice and for training sessions. With all councils in the district being members of NCALC, this continues to be a beneficial route.

As regards learning and development for DDC Members, the 2014 Committee supported delivery of a session on the Code of Conduct, particularly on interests, by the Monitoring Officer and a solicitor from District Law. This was duly held and well received by Members present. A similar session for all DDC Members is deemed appropriate for 2015/16, probably in September. That session would promote high standards and particularly confirm expectations on disclosing interests and avoiding pre-determination - Committee is asked to support this. It is always helpful to illustrate the theory of standards and conduct to Members with practical examples.

At the 2014 Members Development session, reference was made to a police investigation for non-disclosure of a pecuniary interest in Dorset, which was reported on the front page of the Dorset Echo newspaper. This illustrated the risks to Members' reputations. As update, suffice to say that the outcome again made headlines as the Member was found guilty for failing to disclose an interest and received a conditional discharge – and further unwanted media coverage.

Such examples are few and far between but help reinforce the need for care, as the onus is on the Member to comply with their Code of Conduct and the Act.

The Appeals and Standards Committee meeting on 3rd July 2014 agreed that its parish and independent representatives could continue to act as 'mystery shoppers'. This involves occasional attendance at parish council meetings to observe proceedings, particularly where there have been a number of complaints or the Monitoring Officer is alert to issues.

Report Reference: SC.070715/1

On 23rd and 22nd January 2015 'mystery shops' took place in light of information received. Two Parish Council meetings were attended, primarily to observe Member behaviour and adherence to their Codes of Conduct. The Parish Councils need not be identified. The purpose of visiting was to help inform the Monitoring Officer of need for particular targeted address or advice. Feedback from the mystery shoppers proved interesting, as recounted below:-

The first 'shop' illustrated the passion in planning that can lead to complaints about Member conduct. The observed Parish Council meeting was an angry affair. Derogatory comments were made about a Member from the public gallery, seemingly reflecting a general view that the Member's integrity was in question. This public part of the meeting became a little like a 'free for all' which the Chairman brought abruptly to a close, but who maintained order and handled the situation well. Later, the Member in question was asked to leave the meeting and there was a full discussion about two complaints relating to him. The meeting decided to appoint a neutral chairperson to oversee any meeting relating to these allegations. Whether or not the Member's integrity was right to be questioned was not able to be deduced from the visit, so there was no obvious need for the Monitoring Officer to provide subsequent advice.

At the second 'shop', a meeting of a different Parish Council was visited, again with public in attendance. The meeting was very relaxed and open. The Chairman seemed to know all the Members well and throughout the meeting treated them with respect allowing them to speak openly or ask questions as they wished. The Clerk appeared efficient and provided documents as required. The relationship appeared business-like, but friendly. (Members of the public did not see minutes or documents, but they all appeared to be in order and comprehended by Members). One Member declared an interest in a planning matter as he was a neighbour. When this was discussed he got up to go out of the room, but discussion was so short he didn't get all the way out – which ought to have been facilitated, as technically it became a breach of the Code of Conduct.

During the public participation section of the second shop, there was a presentation and Q&A session with a company. Members were interested and there was a wide range of questions and comments from all, with the Chairman allowing this to be open and discursive. The same approach pervaded other items of business. Notwithstanding the breach, it felt to the mystery shopper that the meeting was well run, with the Chairman respected and treated courteously and without any personality clashes. This overall experience contrasted with some of the alleged behaviours of participants reported to the Monitoring Officer.

Whilst DDC is not directly responsible for promoting high standards at parish and town councils, the handling of complaints about them is. It is helpful therefore to test anecdotal information, so that the Monitoring Officer can check whether any informal or formal advice should be given to the council concerned (whether by the Monitoring Officer or NCALC) in order to prevent inappropriate behaviour.

Understanding context in this way does help to target assistance for the good of local government as a whole. Mystery shopping proved to be a useful exercise and is recommended to be repeated in the forthcoming year - for councils judged appropriate by the Monitoring Officer.

With all promotional work, the overriding objective is to ensure high standards of conduct across all councils so that the public can sustain confidence in local government.

4.2 Codes of Conduct

In December 2014, an update to the DDC Local Code of Conduct for Members was noted by full Council and subsequently relayed to all town and parish councils - the update being that the Code only applies when a Member is acting in their official capacity as a Member.

An update has also been made to the definition of “relevant authority” by deletion of reference to the now defunct “police authority”. The Code will now refer to “police and crime panel” instead, as highlighted in the ‘Appendix - DDC Local Code of Conduct for Members (July 2015)’

With no new national requirements in the past year and few local lessons, there is no absolute obligation to revisit the substance of the Code. However, one matter is given further consideration below.

The section relating to disclosure of interests at meetings has been reviewed, following a query relating to a parish council’s like Code (para 8.1 (b) (i) in the Code, as per the ‘Appendix - DDC Local Code of Conduct for Members (July 2015)’). The query related to whether the normal ban on a Member participating in any discussion on a matter relating to their disclosable interest can legitimately be set aside for the purpose of “making representations, giving evidence or answering questions” (quoting from the Code).

Such provision in the DDC Code appears, in a narrow reading, to be at odds with the Localism Act’s normal ban (unless a ‘dispensation’ has been granted). To confirm, the Act’s normal ban is in respect of ‘disclosable pecuniary interests’. However, the local Code’s provision is particularly expected to be applicable, albeit rarely, in matters relating to ‘other disclosable interests’.

One obvious example of application is at a standards hearing so that a Member can defend themselves into an alleged breach of their Code of Conduct! Whilst a hearing into the allegations does not relate to one of the specified disclosable pecuniary interests, it does relate to their personal wellbeing and is likely to affect their judgement of the public interest – part of the definition of ‘other disclosable interests’. Notwithstanding potential overriding rules of natural justice, the Member should not have to depend on the Monitoring Officer granting a dispensation to be able to participate in such a matter otherwise this would seem to be against their right to a fair hearing.

For clarity, therefore, it is recommended that the wording of the Code be amended to insert the words - in respect of an “other disclosable interest” - as highlighted in the Appendix. This should leave little room for misinterpretation.

The Code as amended will be known as the ‘July 2015’ version, given the date of full Council (30 July). On adoption by full Council, it would be recommended for adoption by those parish and town councils using DDC’s Code.

DDC also has supplementary Codes for Planning, Licensing, Housing, and Gifts and Hospitality. Practice and experience does not indicate need for their revision.

4.3 Key Topic - Interests

As mentioned earlier, there have been various enquiries of the Monitoring Officer relating to interests. That is not unusual for any authority.

It is a legal requirement that a newly elected Member must notify the Monitoring officer of their 'disclosable pecuniary interests' within 28 days of their election, which are then to be put in a register by the Monitoring Officer. The same legal provision applies to re-elected Members in respect of disclosable pecuniary interests not already so registered. Failure to so notify is a criminal offence. DDC's Local Code of Conduct also requires notification of 'other disclosable interests' and 'non-disclosable interests' within those 28 days.

Following elections in district wards on 7th May 2015, the Monitoring Officer has received due notification from all newly elected DDC Members. As before, the early issue of guidance via the Members Induction process proved helpful. Parish and town council Clerks were also contacted before the election to remind of the need and, via this same administratively convenient channel, similar notification has been received in respect of new parish council Members. Full coverage has still to be confirmed but, in any event, the onus is on each Member to ensure that the Monitoring Officer has been duly notified of their interests.

Two of the newly elected DDC Members requested the withholding of information in respect of one category on the Register of Interests, as being 'sensitive interests' as defined in the Localism Act. In judging whether to agree such a request, the Monitoring Officer applies a specific test with a high threshold. In each case, the justification was evident and overrode the normal public expectation of openness and transparency. Both requests were therefore agreed by the Monitoring Officer. The Monitoring Officer can only recall one such request in previous years - which was not agreed.

As regards DDC Members in general, there have been various examples of updating of the register to reflect new or ceased interests. Notwithstanding the onus is on a Member to self-disclose, these various examples can be taken as reassurance that Members continue to be aware of their obligations.

Three entries were made by DDC Members in the same register (for one-stop purposes) in respect of received gifts or hospitality - which were of relatively low value. Arguably, in two cases the Members need not have so notified but this reflects the good tradition of declaration in the interest of public transparency.

Pursuant to the Localism Act and as captured in the Code of Conduct, a 'dispensation' can be sought by a Member in respect of a disclosable interest of theirs (allowing presence, participation and voting on a matter at a meeting related to that interest). At DDC, the decision to grant a dispensation or not is made by the Monitoring Officer. Parish and town councils are legally obliged to have their own arrangements for handling dispensation requests. (A granted dispensation doesn't necessarily prevent a potentially justifiable allegation later, as one Clerk was duly reminded).

The Monitoring Officer received two formal requests for 'dispensations' from DDC Members in the past year. Dispensation was granted in each case to allow the Member to participate in and vote on business relating to The Daventry Estate Company Limited – which is a DDC established company and to which they had been newly appointed by Council. Entries were duly made alongside the public Register of Interests.

As regards dispensations granted at town and parish council level, there have been a few notifications to the Monitoring Officer to similarly enable entries to be made alongside the Register. In one parish case, however, this was not reported directly and instead came to light via a related planning application. A reminder was sent to all parish Clerks, as there may be other cases and it is in the public interest to record them. It is informative to point out that, if it had been in the Monitoring Officer's jurisdiction, dispensation would not have been granted in that case. This reinforces the need for continued development to be offered to Clerks as well as Members.

4.4 Complaints Handling

The Council has adopted complaints handling arrangements in respect of Members of all councils alleged to have breached their Local Code of Conduct for Members.

In 2014/15, nineteen complaints were submitted and assessed by the Monitoring Officer. Fifteen had a decision of 'No Further Action', two were referred for formal investigation (in June 2015), one was determined as inadmissible and one is awaiting assessment. In one of the fifteen 'No Further Action' cases, a request was made of the Parish Council to ensure a correct public understanding of events.

Four of the complaints were made about DDC Members, while fifteen were/are about parish council Members. The limited number of complaints about Members of district, parish and town councils probably indicates that there is a good standard of conduct, generally speaking.

One of the key features of complaints is to assess whether the subject Member was acting in their official capacity at the time, as per the current Code. This can be difficult to establish.

With complaints, some could lead to a criminal prosecution. To that end, previous Committees have been informed of the desire to establish a joint Monitoring Officer and Police Protocol and that this had been drafted by the Monitoring Officer and supplied to the Police for their consideration. The Protocol aims to clarify the involvement of the Police at the assessment and investigation stages of complaints. Unfortunately, the Police have not yet been able to formally consider this but have recently indicated again that they still would like to do so.

For submitting complaints, the Council's complaint form was signposted to enquirers and was normally used. The inclusion of a section in the form for the complainant to indicate their proposed remedy has proved helpful. For example, several complainants indicate that will not be satisfied with an apology or similar and so informal resolution can be ruled out if that otherwise might have been

judged appropriate. Also, several complainants want a Member's dismissal from office which is also undeliverable and that can be addressed in decision notices.

The allegations made in complaints mainly centred on the topics of bias; non-disclosure of interests; bullying; treating others with respect; and/or, bringing of their office into disrepute. Reasons for the Monitoring Officer not taking further action were various including lack of evidence, limited prospect of proving a breach and public expenditure on an investigation not justified.

On completion of assessment for each case, the Monitoring Officer writes a formal decision notice that is sent to the relevant parties. Whilst there is no statutory requirement to do this, it is considered that all parties deserve to see (and hopefully acknowledge) the reasoning behind assessments. Such notices can also help improve the recipients' understanding of their Code of Conduct and its operation.

Also in constructive spirit, some decision notices contain suggestions for the Parish Council or Clerk to take on board with regard to procedures or practices to help achieve compliance with their Codes of Conduct.

In view of a decision in Northumberland by the Information Commissioner's Office, consideration was given by the Monitoring Officer to amending the decision notices. The case involved the desire of a complainant to have copies of the Member's response to a complaint - which had led to a decision of 'no further action' - via a Freedom of Information request and supposedly in the interests of transparency. The Commissioner decided that to provide such information in such a case would have been unfair to the Member.

Consequently, the decision notice sent by the Monitoring Officer to the relevant parties (normally subject Member, complainant and Clerk of the council) has the addition of text and a 'Confidential' watermark clearly demonstrating that the information is confidential and must not be shared without the express consent of the Monitoring Officer. It was also decided to update the wording of the complaint form to re-affirm that information may be publicly released, depending on the progress of the case.

Batched copies of decision notices, suitably redacted so as not to identify subjects or their council areas, were supplied to Committee Members and Independent Persons for the first time in 2014 and will continue in 2015. This fuller information helps give a deeper sense of trends and issues than can be conveniently conveyed in this Committee report.

It is interesting to report that two complainants dissatisfied with the Monitoring officer's handling of their complaints sought redress via the Local Government Ombudsman. In each case, the Ombudsman decided that she would not investigate.

The most dissatisfying aspect of the complaints regime for complainants is the limited 'sanctions' available for breaches of the Code, particularly as only recommendations can be made to parish and town councils. However, in all cases it is reputation impact that probably hits hardest. It has been pointed out that the national Committee for Standards in Public Life continues to monitor

concerns about the limited sanctions, but it is not anticipated that the legal position will change anytime soon.

Completely separately, and reflecting the Committee's dual remit, there have not been any appeals by employees in the past year.

4.5 DDC Appeals and Standards Committee and its Hearing Panels

The Committee is one of the Council's main vehicles for promoting and applying the Code of Conduct, meeting once a year to review matters. Within this report, there are indications of the role of the Committee in promoting certain topics or activities – which are captured in the Advice.

Given the complaints summary above, there has not had to be the establishment of a hearing panel so there is no learning about that part of the process available for this report. That said, the hearing panel process has worked well in previous years. It is impossible to predict how many hearing panels will be required in any given year but, ideally, there would be none as ideally there would not be any justifiable complaints.

4.6 Independent Persons

It is a legal requirement that the Council appoints at least one 'Independent Person' – which is distinct from Independent Members of the Committee – and the Council has three such voluntary positions. In December 2014, following public recruitment, Council appointed two new people to the role to add to the existing appointee.

The role of an Independent Person is largely set via local rather than national requirements, but there is a defined consultee role as prescribed by the relevant Act; namely that the views of the Independent Person must be sought and taken into account by the Council before the Council makes its decision on an allegation that it has decided to investigate.

As allowed by the Act and included in the Council's complaint handling arrangements, the views of the Independent Person may be sought by the Member or co-opted Member subject of an allegation and the Monitoring Officer must consult with the Independent Person if informal resolution of a complaint is proposed to be sought.

In line with the general lack of investigated cases, the past year has been relatively quiet for the Independent Persons but there was one case where, following initial assessment, the Independent Person was engaged by the Monitoring Officer to assess the prospect of informal resolution. That said, with two complaints still under investigation, the current Independent Persons have recently been assigned roles for those cases.

Aside from formal roles, the incumbent Independent Person drafted a Frequently Asked Questions note to aid the public recruitment of new Independent Persons. This was helpful and four good candidates were interviewed, two selected. The Monitoring Officer has met with the Independent Persons to brief them on the role and to supply a handbook for their benefit.

A Northamptonshire-wide meeting for Independent Persons was held on 24th November 2014 and proved of some use to the two who attended from Daventry. The Independent Persons helpfully provided the Monitoring Officer with a summary of the discussions. The intention is to continue with such meetings.

Last year, the Committee endorsed the Independent Persons' suggested supply of an annual newsletter to parish and town councils citing lessons learned over the year. This was done and a 2014/15 version is recommended, incorporating appropriate messages, once the Committee has considered this report and offered its views.

5. Implications

5.1 Financial – Costs of the operation of the standards regime are currently met within existing budget. Additional costs are involved when an investigation is required but costs can be minimised sometimes by using an internal investigator depending on the nature and complexity of the case. Demand has not been excessive in the year concerned.

5.2 Personnel – No new implications.

5.3 Legal/Constitutional – Under the Localism Act 2011 the Council is required to promote high standards of conduct amongst its Members. This report serves to discharge the DDC Constitution requirement for an annual report of the Committee's activities.

5.4 Environmental – No implications.

5.5 Policy – Minor amendments to the Local Code of Conduct for Members are appropriate.

5.6 ICT – No implications.

5.7 Crime and Disorder – No implications.

5.8 Human Rights – No implications.

5.9 Equalities – No implications.

6. Conclusions

For DDC, all aspects of the standards regime introduced by the Localism Act 2011 were complied with in the past year. This report particularly helps towards promotion of high standards of conduct, one of the Act's imposed duties, thus informing the need for any further development. Experience over the past year has been generally positive, with a limited number of complaints.

There continues to be contact from Members of DDC and of parish and town councils seeking advice of the Monitoring Officer. At town and parish council level particularly, this part arises from need for increased understanding of what are, and when to disclose, interests. An allied topic is the granting of dispensations by

parishes. Learning and development sessions are recommended, via both the Monitoring Officer and NCALC.

Complaints about district, town and parish council Members are running at similar levels as before and on similar topics. The Act's regime has not dissuaded complainants despite the limitation on sanctions possibly because a more critical consequence is adverse reputation impact; in several other council areas, some cases have been played out in the media.

The local complaint handling process is working well. As in previous years, there has been the ability to conclude complaints promptly which is helpful for all concerned particularly the subject Member.

The Independent Persons' arrangements worked well. Whilst the role is not fully defined in law, it has been exercised pragmatically.

Simon Bovey
Monitoring Officer

Background papers:
None.

Previous minutes:
Appeals & Standards Committee 3rd July 2014
Council 4th December 2014

Contact Officer: Simon Bovey
Extension 2570

'Appendix - DDC Local Code of Conduct for Members (July 2015)'

LOCAL CODE OF CONDUCT FOR MEMBERS

PART 1 – GENERAL PROVISIONS

1. Introduction and interpretation

- 1.1 This Code applies to all Members of Daventry District Council.
- 1.2 It is the responsibility of each Member to comply with the provisions of this Code, for which they will give a written undertaking.

1.3 In this Code –

“meeting” means any meeting of

- (a) the Council;
- (b) any of its committees, sub-committees, joint committees, joint sub-committees, or area committees; any panels or working groups.

“Member” (“M”) means elected and co-opted Members.

“relevant authority” has the meaning given to it in Section 27(6) of the Localism Act 2011 (including county council, district council, parish council, **police and crime panel**, fire and rescue authority).

“relevant person” means the Member or any other person referred to in Section 30(3)(b) of the Localism Act 2011. (i.e. their spouse or civil partner; a person with whom they are living as husband and wife, or a person with whom they are living as if they were civil partners).

2. Scope

- 2.1 A Member must comply with this Code whenever they act in their official capacity as a Member of the Council.
- 2.2 Where a Member acts as a representative of the Council -
- (a) on another relevant authority, they must, when acting for that other authority, comply with that other authority’s code of conduct; or
 - (b) on any other body, they must, when acting for that other body, comply with this Code, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

PART 2 – GENERAL OBLIGATIONS

3. General obligations

- 3.1 A Member must treat others with respect.
- 3.2 A Member must not -
- (a) bully any person;

Report Reference: SC.070715/1

- (b) intimidate or attempt to intimidate any person who is or is likely to be –
 - (i) a complainant;
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings.
- (c) do anything which compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, the Council.

3.3 A Member must not –

- (a) disclose information given to them in confidence by anyone, or information acquired by them which they believe, or ought reasonably to be aware, is of a confidential nature, except where –
 - (i) they have the consent of a person authorised to give it;
 - (ii) they are required by law to do so;
 - (iii) 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
 - (iv) the disclosure is –
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the Council; or
- (b) prevent another person from gaining access to information to which that person is entitled by law.

3.4 A Member must not conduct themselves in a manner which could reasonably be regarded as bringing their office of the Council into disrepute.

3.5 A Member –

- (a) must not use or attempt to use their position as a Member improperly to confer on or secure for themselves or any other person, an advantage or disadvantage; and
- (b) must, when using or authorising the use by others of the resources of the Council –
 - (i) act in accordance with the Council's reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

PART 3 - INTERESTS

4. “Disclosable Pecuniary Interests”

4.1 A Member will have a “disclosable pecuniary interest” in any business of the Council if it is of a description specified in the second column of the appended Schedule as issued by the Secretary of State and either –

- (a) it is an interest of the Member, or
- (b) it is an interest of –
 - (i) their spouse or civil partner;
 - (ii) a person with whom they are living as husband and wife, or
 - (iii) a person with whom they are living as if they were civil partners.

and they are aware that that other person has the interest.

5. “Other Disclosable Interests”

5.1 A Member will have an “other disclosable interest” in any business of the Council where –

- (a) a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of the Member or their family, or a person with whom they have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward for which they have been elected, or
- (b) it relates to, or is likely to affect, any of the interests listed in the appended Schedule in respect of a member of their family (other than a ‘relevant person’) or a person with whom they have a close association.

and that interest is not a disclosable pecuniary interest.

and a member of the public with knowledge of the relevant facts would reasonably regard the interest as so significant that it is likely to prejudice the Member’s judgement of the public interest.

and the Member is aware that the other person has the interest.

6. “Non-disclosable Interests”

6.1 A Member will have a “non-disclosable interest” in any business of the Council where either it relates to –

- (a) any body of which they are a member or in a position of general control or management and to which they are appointed or nominated by the Council; or
- (b) any body –

Report Reference: SC.070715/1

- (i) exercising functions of a public nature;
 - (ii) directed to charitable purposes; or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which they are a member or in a position of general control or management, or
- (c) the interests of any person from whom they have received a gift or hospitality with an estimated value of at least £25.

and that interest is not a disclosable pecuniary interest or other disclosable interest.

7.2 An interest in this category need not be disclosed at meetings.

7. Registration of interests

7.1 Subject to paragraph 9 (sensitive interests), a Member must, within 28 days of –

- (a) this Code being adopted by the Council; or
- (b) their election or appointment to office (where that is later),

notify the Council's Monitoring Officer in writing of any disclosable pecuniary interests, other disclosable interests and/or non-disclosable interests at that time for entry into a register.

7.2 Subject to paragraph 9 (sensitive interests) a Member must, within 28 days of becoming aware of any new interest or change to any interest, notify the Council's Monitoring Officer in writing of that new interest or change.

8. Disclosable interest in matters considered at a meeting or by a single Member

8.1 Subject to paragraph 9 (sensitive interests) where the Member has, and is aware that they have, a disclosable interest in any business of the Council, and they attend a meeting at which the business is to be considered, or is being considered;

- (a) the Member must disclose to the meeting the fact that they have a disclosable interest in that matter. If they have not already done so, they must notify the Council's Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure, and
- (b) whether the interest is entered in the Council's Register of Members' Interests or not, they must not – unless they have obtained a dispensation from the Council's Monitoring Officer –
 - (i) participate, or participate further, in any discussion of the matter at the meeting - apart from making representations, giving evidence or answering questions, prior to the commencement of the debate on that matter, in accordance with other procedure rules **in respect of an "other disclosable interest"**; or
 - (ii) remain in the meeting room whilst the matter is being debated or participate in any vote taken on the matter at the meeting.

- 8.2 Non-disclosable interests do not need to be disclosed at meetings.
- 8.3 If a Member is empowered to discharge functions of the Council acting alone, and has and is aware that they have a disclosable interest in any matter dealt with, or being dealt with, by the Member in the course of discharging that function, they must not take any steps, or any further steps, in relation to the matter (except for the purposes of enabling the matter to be dealt with otherwise than by them).

9. Sensitive interests

- 9.1 Where a Member considers (and where the Council's Monitoring Officer agrees) that disclosure of the details of a registered interest could lead to harm or intimidation of the Member or a person connected with the Member –
- (a) such details will be excluded from public versions of the register.
 - (b) such details will not need to be disclosed to a meeting, or when a Member is empowered to act alone, although the fact that the Member has a sensitive interest must be disclosed (in accordance with section 8).

**Record of Complaints alleging breaches of Codes of Conduct and Record of Daventry District Council Dispensations
 (Updated as at June 15)**

1. Record of Complaints

(a) Complaints awaiting Assessment

Date of correspondence	Nature of complaint	Who Against	Decision	Comments
23.6.15	Alleged bias against complainant (LC.10/15).	Parish Councillor	N/A	N/A

(b) Complaints Decided/Resolved

Date of correspondence	Nature of complaint (with case number)	Who Against	Decision	Comments
5.6.14	Alleged failure to treat fellow Councillors with respect and bringing of Parish Council into disrepute (LC.07/14).	Parish Councillors	No further action. Case closed.	Monitoring Officer decision. Based on information provided, little prospect of demonstrating failure to comply with Code. However, guidance provided for Parish Councillors' future practice.
16.6.14	Alleged failure to treat complainant with respect, bullying and bringing of office into disrepute (LC.08/14).	Parish Councillor	No further action. Case closed.	Monitoring Officer decision. Based on information provided, unlikely to amount to failure to comply with Code.
22.7.14	Alleged inappropriate actions by not declaring previous involvement with an objector (LC.09/14).	Parish Councillors	No further action. Case closed.	Monitoring Officer decision. Based on information provided, little prospect of demonstrating failure to comply with Code.
4.9.14	Alleged bias, bullying of complainant and other councillors, disruptive behaviour and disdain for Parish Council procedures and decisions (LC.10/14).	Parish Councillor	No further action. Case closed.	Monitoring Officer decision. No particular prospect of proving breach of Code. However guidance provided for Parish Council's future practice.

Date of correspondence	Nature of complaint (with case number)	Who Against	Decision	Comments
5.9.14	Alleged failure to treat complainant with respect and improper use of position resulting in disadvantage for complainant (LC.11/14).	Parish Council	No further action. Case closed.	Monitoring Officer decision. No likelihood of substantiating allegations, nor likely to amount to breach of Code.
28.10.14	Alleged disrespect by, and poor conduct, of Parish Council (LC.12/14).	Parish Councillor	Inadmissible complaint.	Monitoring Officer decision. Complaint was clearly about the Parish Council as a body, particularly its procedures, thus not within scope of Code, so inadmissible.
17.12.14	Alleged lack of openness, objectivity, accountability, honesty and selflessness; failure to treat complainant with respect; threatening and aggressive behaviour towards complainant; misleading of Parish Council and failure to prevent publication of reports; trespass (LC.13/14).	Parish Councillor	No further action. Case closed.	Monitoring Officer decision. Based on information provided, unlikely to amount to or prove failure to comply with Code, plus some unreasonable dated incidents. No wider public interest to justify investigation. Some allegations not within scope of Code.
22.12.14	Alleged failure to treat complainant and Monitoring Officer with respect; compromising the impartiality and bringing of Parish Council into disrepute; improper acquisition and use of information, breaching confidentiality; bullying and preventing access to information (LC.14/14).	Parish Councillor	No further action. Case closed.	Monitoring Officer decision. Based on information provided, unlikely to amount to or prove failure to comply with Code.
22.12.14	Alleged failure to act in public interest; failure to treat complainant with respect; bullying; bias; compromising impartiality; withholding information; bringing Parish Council into disrepute (LC.15/14).	Parish Councillor	No further action. Case closed.	Monitoring Officer decision. Based on information provided, unlikely to amount to or prove failure to comply with Code.

Date of correspondence	Nature of complaint (with case number)	Who Against	Decision	Comments
27.12.14	Alleged dismissive behaviour, bullying of a councillor, bias and misleading of complainants. (LC.01/15).	Parish Councillors	No further action. Case closed.	Monitoring Officer decision. Based on evidence, unlikely to amount to or prove failure to comply with Code.
13.2.15	Alleged bias (LC.02/15).	District Councillor	No further action. Case closed.	Monitoring Officer decision. Based on information provided, unlikely to amount to failure to comply with Code.
18.2.15	Alleged bringing of District Council into disrepute (LC.03/15).	District Councillor	No further action. Case closed.	Monitoring Officer decision. Not worth pursuing investigation or informal resolution as councillor subsequently left office. Parish Council asked to enter statement on the matter in its official records.
18.2.15	Alleged disrespect and misleading of a Committee (LC.04/15).	District Councillor	No further action. Case closed.	Monitoring Officer decision. Based on information available and on evidence, unlikely to amount to failure to comply with Code.
26.2.15	Alleged inappropriate behaviour and compromising of decision making (LC.05/15).	District Councillors	No further action. Case closed.	Monitoring Officer decision. Based on information available, unlikely to amount to failure to comply with Code.
25.3.15	Alleged failure to treat complainant with respect and bringing of office into disrepute. (LC.06/15).	Parish Councillor	No further action. Case closed.	Monitoring Officer decision. Based on information available, unable to determine if councillor was acting in that capacity and unable to prove failure to comply with Code.
8.5.15	Alleged inappropriate comments (LC.08/15).	Parish Councillor	No further action. Case closed.	Monitoring Officer decision. Not worth pursuing investigation or informal resolution as councillor subsequently left office.

(c) Complaints awaiting Decision (following referral from Assessment)

Date of correspondence	Nature of complaint (with case number, where allocated)	Who Against	Decision	Comments
8.5.15	Alleged aggressive behaviour towards and intimidation of complainant's relative and a councillor (LC.07/15).	Parish Councillor	Formal investigation instigated.	Monitoring Officer referral. Investigation underway.
9.6.15	Alleged aggressive behaviour towards complainant. (LC.09/15).	Parish Councillor	Formal investigation instigated.	Monitoring Officer referral. Investigation underway (combined with LC.07/15).

2. Record of Dispensations (District Councillors only)

Date of Correspondence	Nature of Dispensation requested	Decision	Comments
26.5.15	Dispensation to apply to discussion on matters affecting the interests of a company (established via the Council).	Granted.	Dispensation granted for councillor's current term of office.
26.5.15	Dispensation to apply to discussion on matters affecting the interests of a company (established via the Council).	Granted.	Dispensation granted for councillor's current term of office.