

## **BRECKLAND COUNCIL**

**Report of: Assistant Director - Democratic Services**

**To: COUNCIL – 5 JULY 2012**

**(Author: Vicky Thomson, Assistant Director - Democratic Services**

**Subject: The Localism Act – The Amended Standards regime**

**Purpose: To approve the arrangements for Standards as required by the Localism Act 2011**

### **Recommendations:**

It is recommended to council that:

- a) Members approve the arrangements for Standards (Appendix 1) as detailed within this report to be implemented with effect from 5 July 2012.
- b) Members delegate authority to the Monitoring Officer and the Audit Committee as detailed in the arrangements (Appendix 1).
- c) Members delegate authority to the Monitoring Officer any further procedural decisions on implementing the arrangements detailed within this report.
- d) Members delegate authority to the Monitoring Officer to amend the constitution to reflect the approved arrangements as agreed by Council and any further amendments agreed in future by Council as necessary.
- e) The Standards Committee is disbanded with immediate effect as set out in the Regulations to the Localism Act 2011.
- f) Members approve the Terms of Reference for the Audit Committee as detailed in Appendix 2 and delegate powers accordingly.
- g) The following amendments to Standing Orders be approved:  
  
Standing Order 43 – Item 2 and Item 5(a) replace prejudicial interest with Disclosable Pecuniary Interest.  
  
Standing Order 43 – Item 5(b) replace Standards Committee with Hearings Panels of Audit Committee and replace General Purposes Committee with Appeals Committee.

Standing Order No 46 – amend wording to read:

‘The Council’s Code of Conduct adopted under the Localism Act 2011 or any re-enactment thereof will apply where a member has a Disclosable Pecuniary Interest and the term ‘Disclosable Pecuniary Interest’ in these Standing Orders has the same meaning as defined in regulations.

Where a member has a Disclosable Pecuniary Interest the member must declare the interest to the meeting, and leave the room without participating in any discussion or making a statement on the item, except where a member is permitted to remain as a result of the grant of a dispensation.’

Standing Order 52 – Item 2 replace prejudicial interest with Disclosable Pecuniary Interest

## **1. BACKGROUND**

### **1.1 The Localism Act 2011**

The Localism Act 2011 (Chapter 20, Part 1, Chapter 7) makes fundamental changes to the system of regulation of standards of conduct for elected and co-opted Councillors. The date for implementation of these changes is 1 July 2012, however due to the late publication of the Regulations to the Localism Act 2011, it was not possible to bring this report before full Council until this meeting.

A report was brought before Council at its meeting on 24 May 2012 detailing issues and recommendations for the future standards regime in the light of the Localism Act 2011. The recommendations of the report were approved in full. However at the time of the meeting, the Regulations to the Localism Act 2011 had not been published and so the definition of Disclosable Pecuniary Interests (DPI’s) was not known. The definition of DPI’s were required in order to finalise the Code of Conduct and the arrangements documents for the future handling of complaints.

## **2. THE CODE OF CONDUCT**

- 2.1 The draft Code of Conduct was approved by full Council at its meeting on 24 May 2012 and is based on a model provided by the Local Government Association (LGA). It was agreed at the meeting that when the Disclosable Pecuniary Interests Regulations were published, a further report was to be brought back to Council for approval with the updated Code of Conduct as part of the ‘arrangements’.

2.2 The proposed updated Code of Conduct can be found as part of the arrangements document in Appendix 1.

### **3. DEALING WITH COMPLAINTS AGAINST COUNCILLORS UNDER THE CODE OF CONDUCT**

3.1 The Act requires that the Council adopt “arrangements” for dealing with complaints of failure to comply with the relevant Code of Conduct both by District Council members and by Town / Parish Council members, and complaints can only be dealt with in accordance with such arrangements. So the arrangements must set out in some detail the process for dealing with complaints of misconduct and the actions which may be taken against a member who is found to have failed to comply with the relevant Code of Conduct.

3.2 The advantage is that the Act repeals the requirements for separate Referrals, Review and Hearings Sub-Committees, and enables the Council to establish its own process, which can include delegation of decisions on complaints. Indeed, as the statutory provisions no longer give the Standards Committee or Monitoring Officer special powers to deal with complaints, it is necessary for Council to delegate appropriate powers to any Committee or Panel and to the Monitoring Officer.

3.3 The proposed ‘arrangements’ document which can be found in Appendix 1 to this report is based on the decisions made at the meeting of full Council on 24 May 2012 with any relevant updates in the light of the publication of the Regulations.

#### **4. THE REGISTER OF MEMBERS' INTERESTS**

- 4.1 The Localism Act abolishes the concepts of personal and prejudicial interests. Instead, regulations define Disclosable Pecuniary Interests (DPIs).
- 4.2 The Monitoring Officer is required to maintain a register of interests, which must be available for inspection and available on the Council's website. The Monitoring Officer is also responsible for maintaining the register for Town / Parish Councils, which also have to be open for inspection at the District Council offices, on the District Council's website and where the Town / Parish Council has a website, provide the Town / Parish Council with the information required to enable the Town / Parish Council to put the current register on its own website.
- 4.3 The Act extends the requirement for registration to cover not just the member's own interests, but also those of the member's spouse or civil partner, or someone living with the member in a similar capacity.

#### **5 OFFENCES**

- 5.1 Under the Localism Act 2011, the following become an offence;
- failure to notify the authority of a DPI within the prescribed timescales
  - participation in any discussion or vote relating to a matter in which a member has a DPI
  - the Member providing information that is false or misleading
  - the Member acting recklessly as to whether the information is true and not misleading
- 5.2 A person found guilty of an offence relating to a DPI without reasonable excuse, is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- 5.3 A court dealing with a person for an offence of this nature may (in addition to any other power exercisable on the person's case) by order disqualify the person for a period not exceeding five years, from being or becoming a member or co-opted member of the relevant authority in question or any other relevant authority.
- 5.4 Proceeding for an offence in relation to a DPI may be brought within 12 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant proceedings came to the prosecutor's knowledge. But, no such proceedings may be brought more than three years after the commission of the offence or in the case of a continuous contravention, after the last date in which the offence was committed.

- 5.5 The arrangements detailed within this report state that any complaint received by the Monitoring Officer that relates to a DPI, will be referred direct to the Police.

## **6 TRANSITIONAL ARRANGEMENTS**

- 6.1 Regulations to the Act set out the transitional arrangements relating to the Standards Committee and any current complaints that are being dealt with under the old regime.
- 6.2 Until 1 July 2012, any complaints arising in the authority will be dealt with by the local elements of the old regime, except that an authority's Standards Committee will not have any power of suspension. If not resolved by 1 July 2012, the complaint will be resolved using the new arrangements. The possibility also remains until 1 July 2012, for a Standards Committee to refer the case to the First-tier Tribunal, and the Order preserves the right to appeal a decision of a Standards Committee after 1 July 2012.
- 6.3 The current Standards Committee will no longer have any powers after 1 July 2012, it is therefore recommended to council that the Standards Committee is disbanded with immediate effect.

## **7 AUDIT COMMITTEE**

- 7.1 At the Council meeting held on 24 May 2012, it was agreed to delegate authority to the Audit Committee to monitor arrangements for standards and to consider any complaints where it would be inappropriate for the Monitoring Officer to deal with personally. The Audit Committee would also convene a Hearing Panel when required in accordance with the arrangements as detailed in this report.
- 7.2 It is required for Council to delegate the relevant powers to the Audit Committee and this is detailed within the Terms of Reference shown in Appendix 2 of this report.

## **8 OPTIONS**

- 8.1 The Localism Act 2011 states that the Principal Authority (Breckland Council) must have in place arrangements for dealing with complaints against Councillors by 1 July 2012. Options therefore available to Members are:
- 8.1.1 To approve the recommendations as detailed within this report.
- 8.1.2 To adopt an alternative set of arrangements.

## 9 REASONS FOR RECOMMENDATIONS

- 9.1 Breckland Council is bound by the Localism Act 2011 to have in place a set of arrangements for dealing with complaints against Councillors. The recommendations contained within this report are based on the report that was brought to Council on 24 May 2012 with the first stage of recommendations and with updates in line with the Regulations as published by the Secretary of State on 8<sup>th</sup> June 2012.
- 9.1 Efforts have been made to ensure that the arrangements are proportionate, minimise bureaucracy and maintain fairness.

## 10 IMPLICATIONS

- 10.1 **Legal:** The Localism Act 2011 received Royal Assent on 15 November 2011. Part 1, Chapter 7 sets out the law on Standards. The Act introduces Disclosable Pecuniary Interests (DPI's) and failure to declare a DPI will now be classed as an offence and therefore a Police matter.
- 10.2 **Constitution:** Approval of the arrangements must be made by full Council. Any amendments to legislation or the approved arrangements must be brought back to a meeting of full Council for approval.
- 10.3 **Risks:** The impact of changes to the Standards regime cannot be determined at this stage and it is therefore impossible to judge what effect the arrangements will have on Members or on staff workloads. As a new Act, it is likely to be tested nationally and therefore may require updates in the future as cases come through.
- 10.4 **Financial:**
- 10.4.1 Savings will be achieved through dissolution of the Standards Committee and the anticipated reduction in the number of complaints progressing through to investigation.
- 10.4.2 The cost implications of the arrangements include:
- The allowance for the Independent Person
  - The costs of investigations
  - The costs of providing training
- 10.5 **Timescales:** The arrangements should be approved by Council and in place for 1 July 2012, however it was not possible to bring this report to council until this meeting due to the late publication of the Regulations.
- 10.6 **Equality and Diversity:** There are no direct implications

- 10.7 **Stakeholders:** Liaison has taken place with County partners and the Norfolk Association of Local Councils where relevant. Training will be offered to Town / Parish Councils within the district.
- 10.8 **Contracts:** There are no direct implications
- 10.9 **Section 17, Crime and Disorder Act 1998:** There are no direct implications:

## 11 ALIGNMENT TO COUNCIL PRIORITIES

This report does not relate directly to any Council priority:

## 12 WARDS/COMMUNITIES AFFECTED

All wards within the District are affected by this report.

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### Background Papers:

The Localism Act 2011

<http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted>

Regulations 2012 No. 1464 - Definition of DPIs

<http://www.legislation.gov.uk/uksi/2012/1464/contents/made>

Regulations 2012 No 1463 (C.56) – Transitional arrangements

<http://www.legislation.gov.uk/uksi/2012/1463/contents/made>

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### Appendices attached to this report:

- |            |   |
|------------|---|
| Appendix 1 | Arrangements for dealing with complaints against Councillors under the Code of Conduct. |
| Appendix 2 | Terms of Reference – Audit Committee.   |



## Breckland Council

### Arrangements for dealing with standards allegations under the Localism Act 2011

#### **1 Context**

These “Arrangements” set out how to make a complaint that an elected or co-opted member of this authority [or of a town / parish council within the district of Breckland] has failed to comply with the relevant Code of Conduct, and sets out how Breckland Council will deal with allegations of a failure to comply with that Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a member or co-opted member of the authority [or of a town / parish council within the authority’s area], or of a Committee or Sub-Committee of the authority, has failed to comply with that authority’s Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the authority to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a member [or a member or co-opted member of a town / parish council] against whom an allegation as been made.

These arrangements came into effect from 5 July 2012 and were adopted by a meeting of full Council on 5 July 2012.

#### **2 The Code of Conduct**

Breckland Council has adopted a Code of Conduct for its members, which is attached as *Appendix A* to these arrangements and available for inspection on the authority’s website and on request from Reception at the Council Offices.

Each town / parish council is also required to adopt a Code of Conduct. If anyone wishes to inspect a town / parish council’s Code of Conduct, they should visit any

website operated by the town / parish council or request the town / parish clerk to allow inspection of the relevant Code of Conduct.

### **3 Definitions**

The following definitions are used throughout these arrangements:

Complainant	The person who has raised the complaint. This might be a member of the public, an officer or another member.
Subject member(s)	The member against whom the complaint has been made.
Independent Person	The person appointed by Breckland Council whose views must be sought by the authority before making a decision on an allegation.
Monitoring Officer	A senior officer of the authority who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of member misconduct.
Sanctions	The range of actions that can be taken against a member where it is concluded that they have failed to comply with the Code of Conduct.

### **4 Making a complaint**

Anyone wishing to make a complaint should write to:

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

The Monitoring Officer  
Breckland Council  
Elizabeth House  
Walpole Loke  
Dereham,  
Norfolk  
NR19 1EE

or email: [standards@breckland.gov.uk](mailto:standards@breckland.gov.uk)

In order to ensure that the Monitoring Officer has all the information which is needed to be able to process a complaint, the correct complaint form should be completed. The form can be downloaded from the authority's website ([www.breckland.gov.uk/content/what-code-conduct](http://www.breckland.gov.uk/content/what-code-conduct)) and is available on request from Reception at the Council Offices.

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

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

Only in exceptional circumstances, would a complainants request for their identity to be kept confidential would be accepted. However, if a complainant would like to request that their name and address is kept confidential, this must be indicated in the space provided on the complaint form, in which case the Monitoring Officer will consider whether or not to disclose this information to the member against whom the complaint was made. The complainant will be notified of the decision before the complaint is progressed and will have the option to withdraw their complaint if confidentiality can not be offered.

The Monitoring Officer will acknowledge receipt of a complaint within 10 working days of receiving it, and the complainant will be kept informed of the progress of the complaint.

## **5 What will happen to the complaint?**

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

Opportunities are provided throughout these arrangements to enable local resolution between the complainant and the subject member. Such informal resolution may involve the subject member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority.

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

### **Stage 1 – Initial consideration of complaint**

The Monitoring Officer will review every complaint received and will confirm which Code of Conduct applies and inform the subject member and in the case of a complaint against a town / parish councillor, the Clerk to the town / parish council.

The Monitoring Officer will always seek local resolution in the first instance. If this resolves the matter, the Monitoring Officer will formally write to the complainant, the subject member and the relevant town / parish council to confirm that the matter is closed.

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

## **Stage 2 – Formal consideration of complaint**

If local resolution is not achieved the Monitoring Officer will consult with the Independent Person before progressing with the complaint.

The Monitoring Officer will then take a decision as to whether it merits further consideration. If for any reason it proves inappropriate for the Monitoring Officer to make this decision, it will be referred to Audit Committee of Breckland Council.

This decision will normally be taken within 40 working days of receipt of a complaint. When the Monitoring Officer has taken a decision, he/she will inform the complainant of his/her decision and the reasons for that decision. The subject member, and the town / parish council, will also be notified in writing of the Monitoring Officer's decision.

Where the Monitoring Officer requires additional information in order to come to a decision, he/she may go back to the complainant for such information, and may request information from the subject member. Where the complaint relates to a town / parish Councillor, the Monitoring Officer may also seek the views of the town / parish council before deciding whether the complaint merits formal investigation.

The Monitoring Officer may again seek to resolve the complaint informally, without the need for a formal investigation. If this resolves the matter, the Monitoring Officer will formally write to the complainant, the subject member and the relevant town / parish council to confirm that the matter is closed.

Where the member of the authority makes a reasonable offer of local resolution, but the complainant is not willing to accept that offer, the Monitoring Officer, in consultation with the Independent Person, will take account of this in deciding whether the complaint merits formal investigation.

## **Stage 3 - Investigation**

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

### Investigating Officer

If the Monitoring Officer, in consultation with the Independent Person, decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Monitoring Officer may also write to the town / parish council and ask them to produce a statement report providing supporting evidence, statements, information and copies of relevant documentation.

### The investigation process

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

The Investigating Officer would normally write to the subject member again and provide him/her with a copy of the complaint, and ask the member to provide his/her explanation of events, to identify what documents the Investigating Officer needs to see and who he/she needs to interview.

In exceptional cases, where it is appropriate to keep the complainants identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete their name and address from the papers given to the subject member, or delay notifying the subject member until the investigation has progressed sufficiently.

### The investigation report

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to the complainant and to the subject member, to give both an opportunity to identify any matter in that draft report which they disagree with or which they consider requires more consideration. Having received and taken account of any comments which they may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

The Monitoring Officer will review the Investigating Officer's report and, if he/she is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to the complainant, the subject member and where relevant, to the town / parish council and the Audit Committee and give all a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer to reconsider his/her report.

### Conclusion – no failure to comply

If the report concludes that there has been no failure to comply, and the Monitoring Officer is satisfied with the content of the report, then all relevant parties (the complainant, subject member, Independent Person, Audit Committee and where relevant, the Clerk to the Town / Parish Council) will be notified in writing and the matter will be closed.

### Conclusion – failure to comply

If the report concludes that there has been a failure to comply with the Code of Conduct, the Monitoring Officer will review the Investigating Officer's report and will then consult with the Independent Person. The Monitoring Officer will again seek informal resolution, however if this does not resolve the matter, it will be sent for local hearing before the Hearing Panel.

## Informal Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with the complainant and seek agreement on what is considered to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Audit Committee or the town / parish council for information, but will take no further action. The Monitoring Officer's decision is final.

## **Stage 4 – Hearing Panel**

If the report concludes that there has been a failure to comply and the Monitoring Officer considers that informal resolution is not appropriate or that informal resolution has failed to resolve the matter the a Hearing Panel will be convened. The Monitoring Officer will report the Investigating Officer's report to the Hearing Panel which will conduct a local hearing before deciding whether the subject member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

### The Hearing Panel

The Hearing Panel is a Sub-Committee of the Council's Audit Committee. The Hearing Panel will comprise of 3 members of the Audit Committee as selected by the Monitoring Officer, based on political balance and avoidance of conflict of interests. No member will be selected to sit on the Hearing Panel if they are a resident of the same town / parish / ward as the subject member or they have a close association.

The Independent Person is invited to attend all meetings of the Hearings Panel and his/her views are sought and taken into consideration before the Hearings Panel takes any decision on whether the member's conduct constitutes a failure to comply with the Code of Conduct and as to any recommended action to be taken following a finding of failure to comply with the Code of Conduct.

### Procedures for Hearings

Essentially, the Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Hearing Panel may issue directions as to the manner in which the hearing will be conducted.

At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask the complainant to attend and give evidence to the Hearing Panel. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearing

Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

#### Conclusion – no failure to comply

The Hearing Panel, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint.

#### Conclusion – failure to comply

If the Hearing Panel concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the subject member of this finding and the Hearing Panel will then consider what action, if any, the Hearing Panel should take as a result of the subject member's failure to comply with the Code of Conduct.

In doing this, the Hearing Panel will give the subject member an opportunity to make representations to the Panel and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

At the end of the hearing, the Chair will state the decision of the Hearing Panel as to whether the subject member failed to comply with the Code of Conduct and as to any actions which the Hearing Panel resolves to recommend. As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearing Panel, and send a copy to the complainant, to the subject member and to the town / parish council where applicable. The Decision Notice will be made available for public inspection through the Council website.

## **6 Sanctions**

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

- 1 Publish its findings in respect of the subject member's conduct;
- 2 Report its findings to Council [or to the town / parish council] for information;
- 3 Recommend to the subject member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 4 Recommend to the Leader of the Council that the subject member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 5 Instruct the Monitoring Officer to [or recommend that the town / parish council] arrange training for the subject member;

- 6 Remove [or recommend to the town / parish council that the subject member be removed] from any or all outside appointments to which he/she has been appointed or nominated by the authority [or by the town / parish Council].

## **7 Who is the Independent Person?**

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

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

## **8 Complaints against 'Dual Hatted' Members**

A 'dual hatted' member is a member of an authority and who is also a member of another authority within the County. The member could be a serving County Councillor, Police Authority Councillor, District Councillor and Town / Parish Councillor.

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

- The complaint relates to a 'dual hatted' member;
- The complaint clearly relates to incidents or circumstances which have occurred solely in that member's capacity as a councillor of the Authority;
- That no other countywide authority is involved; and
- That the conduct or actions complained of relate to possible failure to comply with the Member Code of Conduct.

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

Where the complaint relates to:

- A 'dual hatted' member;
- In the view of the Monitoring Officer the complaint may impact on the capacity of the member as a member of another authority;
- The complaint may relate to incidents or circumstances which have occurred in the member's capacity as a councillor of the authority and of another authority;
- The conduct or actions complained of relate to a possible failure to comply with the Member Code of Conduct; and / or
- The complaint or a similar complaint may also have been received by another authority.

The Monitoring Officer shall refer the complainant to any additional authority that could process the complaint and continue to deal with the relevant aspects of the case to be dealt with under the arrangements adopted by Breckland Council.

## **9 Revision of these arrangements**

The Council may by resolution agree to amend these arrangements.

## **10 Appeals**

There is no right of appeal either as the complainant or the subject member against a decision of the Monitoring Officer or of the Hearings Panel.

If it is felt that the authority has failed to deal with the complaint in accordance with these arrangements, a complaint can be made through the Corporate Complaints ([www.breckland.gov.uk](http://www.breckland.gov.uk)) procedure or the Local Government Ombudsman ([www.lgo.org.uk](http://www.lgo.org.uk)).

# Breckland Council

## Code of Conduct



### 1. Expected behaviours

1.1 Breckland Council have adopted this Code setting out the expected behaviours required of its members or co-opted members, acknowledging that they each have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

1.2 In accordance with the Localism Act provisions, when acting in this capacity all Councillors must be committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this Authority.

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

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

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

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

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

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

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

1.3 As a Member of Breckland Council, your conduct will in particular address the statutory principles of the code of conduct by:

- I. Championing the needs of residents – the whole community and in a special way your constituents, including those who did not vote for you - and putting their interests first.
- II. Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- III. Not allowing other pressures, including the financial interests of yourself or others connected to you, to deter you from pursuing constituents' casework, the interests of the Breckland area or the good governance of the Authority in a proper manner.
- IV. Exercising independent judgement and not compromising your position by placing yourself under obligations to outside individuals or organisations who might seek to influence the way you perform your duties as a member/co-opted member of this Authority.
- V. Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- VI. Being accountable for your decisions and co-operating when scrutinised internally and externally, including by local residents.
- VII. Contributing to making this Authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding you and other members to account but restricting access to information when the wider public interest or the law requires it
- VIII. Behaving in accordance with all your legal obligations, alongside any requirements contained within this Authority's policies, protocols and procedures, including on the use of the Authority's resources.
- IX. Valuing your colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between you that is essential to good local government.
- X. Always treating people with respect, including the organisations and public you engage with and those you work alongside.
- XI. Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this Authority.

## 2. Declaration of Interests

2.1 The Localism Act 2011 provides for registration and disclosure of interests and in Breckland Council this will be done as follows:

- On taking up office a member or co-opted member must, within 28 days of becoming such, notify the Monitoring Officer of any 'disclosable pecuniary interests', as prescribed by the Secretary of State.
- On re-election or re-appointments, a member or co-opted member must, within 28 days, notify the Monitoring Officer of any 'disclosable pecuniary interests not already included in his or her register of interests.
- If a member or co-opted member is aware that they have a 'disclosable pecuniary interest' in a matter they must not participate in any discussion or vote on the matter at a meeting.
- If a member or co-opted member is aware of a 'disclosable pecuniary interest' in a matter under consideration at a meeting but such interest is not already on the Council's register of interests or in the process of entry onto the register having been notified to the Monitoring Officer, the member or co-opted member must disclose the 'disclosable pecuniary interest' to the meeting and register it within 28 days of the meeting at which it is first disclosed.

### 2.2 Disclosable Pecuniary Interests

The duties to register, disclose, not to participate and withdraw from the meeting room for the entire consideration of the matter, in respect of any matter in which a member has a disclosable pecuniary interest are set out in Chapter 7 of the Localism Act 2011.

Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Personal Interests) Regulations 2012 No.1464 as follows:

<b>Subject</b>	<b>Prescribed description</b>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by the member in carrying out duties as a member, or towards the election expenses of the member.  This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(1).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority—  (a) under which goods or services are to be provided or works are to be executed; and

	(b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to the member's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to the member's knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

### 2.3 Gifts and Hospitality

- 2.3.1 You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £100 which you have accepted as a member from any person or body other than the Authority.
- 2.3.2 The Monitoring Officer will place your notification on a public register of gifts and hospitality.
- 2.3.3 This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the Authority for this purpose

## Appendix 2

	<b>COMMITTEE</b>		<b>DELEGATION</b>
10.	Audit Committee  (6 members & 2 substitutes – politically balanced.)  Plus 2 non voting Lay Advisors (appointed by the Committee)  Delegations 16 – 19 do not apply to the Lay Advisors	1-15	<i>All existing powers detailed within the constitution</i>
		16	The promotion and maintenance of high standards of conduct within the Council.
		17	To advise the Council on the adoption or revision of its Code of Conduct and its arrangements for dealing with complaints against Members.
		18	To monitor and advise the council and the operation of its Code of Conduct in the light of best practice or changes in legislation.
		19	Functions relating to standards of conduct of members under the adopted arrangements.  To form a Hearing Panel consisting of 3 members of the Audit Committee as called by the Monitoring Officer, to deal with functions in relation to hearings relating to standards of conduct of Members under the arrangements as adopted by full Council.