

# Code of Conduct for Members and Guidance

## 1. Introduction

Horwich Town Council is determined to provide excellent local government for the people of the Parish. It promotes and maintains high standards of conduct by Members and Co-opted Members and has adopted a Code of Conduct for Members, in line with its obligations under section 27(2) of the Localism Act 2011. To help Members understand their conduct responsibilities, they should make sure they read and understand the General Principles (pages 1 to 2]) and Guidance on the Code (pages 2 to 7]).

## 2. General Principles of Conduct for Members and Co-opted Members

The Code and the Guidance are based on the following General Principles.

### 2.1 General Principles

Members and co-opted Members must behave according to the highest standards of personal conduct in everything they do as a Member. In particular they must observe the following principles of conduct, some of which are set out in law.

### 2.2 Selflessness

Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

### 2.3 Honesty and Integrity

Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

### 2.4 Objectivity

Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

### 2.5 Accountability

Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

### 2.6 Openness

Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

### 2.7 Personal Judgement

Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

### 2.8 Respect for Others

Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

### 2.9 Duty to Uphold the Law

Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

### 2.10 Stewardship

Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

## 2.11 Leadership

Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

## 3. Training

- 3.1 Each Member should participate in training on the Code of Conduct/ethical standards, in addition to any current requirements to receive training for specific Committees, for example Planning Committee.
- 3.2 Records of attendance will be maintained by the Town Clerk and any apparent failure to attend training will be notified in the first place to the Member concerned and if not rectified at the next available session, will be referred to the Standards Committee for further action.

## THE CODE OF CONDUCT

### Part 1 General provisions

#### 1. Introduction and interpretation

- 1.1 This Code applies to you as a Member of Horwch Town Council (the Council).
- 1.2 It is your responsibility to comply with this Code. Failure to do so may result in a sanction being applied by the Council. Failure to take appropriate action in respect of a Disclosable Pecuniary Interest may result in a criminal conviction and a fine of up to £5,000 and /or disqualification from office for a period of up to 5 years.
- 1.3 In this Code “meeting” means any meeting of:
  - (a) the Council;
  - (b) any of the Council’s committees or sub-committees.and  
“Member” includes a co-opted member and an appointed member of the Council.

#### 2. Scope

- 2.1 Subject to paragraphs 2.2 and 2.3, you must comply with this Code whenever you are acting as a Member and references to your official capacity are construed accordingly.
- 2.2 this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- 2.3 Where you act as a representative of the Council—
  - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority’s code of conduct; or
  - (b) on any other body, you 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.

#### 3. General obligations

- 3.1 You must treat others with respect.
- 3.2 You must not:
  - (a) do anything which may knowingly cause your authority to breach the Equality Act 2010;
  - (b) bully or be abusive to any person;
  - (c) 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, in relation to an allegation that a Member (including yourself) has failed to comply with his or her authority’s code of conduct; or
  - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

4. You must not:
  - (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
    - (i) you have the consent of a person authorised to give it;
    - (ii) you are required by law to do so;
    - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
    - (iv) the disclosure is:
      - (a) reasonable and in the public interest; and
      - (b) made in good faith and in compliance with the reasonable requirements of the Council; or
  - (b) prevent another person from gaining access to information to which that person is entitled by law.
  
5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.
  
6. You:
  - (a) must not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
  - (b) must, when using or authorising the use by others of the resources of this council:
    - (i) act in accordance with the Council's reasonable requirements; and
    - (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.
  
7.
  - (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by
    - (a) The Town Clerk
 where that officer is acting pursuant to his or her personal statutory duties.
  - (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

## **Part 2            DISCLOSABLE PECUNIARY INTERESTS**

### **8.        Registering and declaring Disclosable Pecuniary Interests**

- 8.1 You must, within 28 days of your election or appointment to office as a Member notify the Town Clerk of any Disclosable Pecuniary Interests you have (see paragraph 9 below).
- 8.2 You must, notify the Town Clerk within 28 days of becoming aware of any changes to a Disclosable Pecuniary Interest previously notified or of any new Disclosable Pecuniary Interest not previously notified.
- 8.3 If a Disclosable Pecuniary Interest, has not been entered onto the Council's register of interests, then the Member must disclose the interest to any meeting of the Council at which they are present, where they have a Disclosable Pecuniary Interest and where the matter is not a "Sensitive Interest"(see paragraph 10 below).
- 8.4 Following disclosure of a Disclosable Pecuniary Interest not on the Council's register or the subject of pending notification, you must notify the Town Clerk of the interest within 28 days beginning with the date of disclosure.
- 8.5 Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a Disclosable Pecuniary Interest.

- 8.6 Any interests notified to the Town Clerk will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the Council's website.
9. A Disclosable Pecuniary Interest is an interest which you or your Associated Person has within the following descriptions:

<b>Subject</b>	<b>Prescribed description</b>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from this council) made or provided for up to 1 year after you have given a notification of a Disclosable Personal Interest to the Town Clerk in respect of any expenses incurred by a Member in carrying out duties as a Member, or towards the election expenses of a Member. This includes any payment or financial benefit from a trade union within the meaning of the <a href="#">Trade Union and Labour Relations (Consolidation) Act 1992</a> .
Contracts	Any contract which is made between a Member or his/her Associated Person (or a body in which a Member or his/her Associated Person is a partner, a director ( a director includes a member of the committee of management of an industrial and provident society) or has an interest in securities) and the Council— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the parish of Horwich. The definition of land excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the member or his/her Associated Person (alone or jointly with another) to occupy the land or to receive income;
Licences	Any licence (alone or jointly with others) to occupy land in the parish of Horwich for a month or longer.
Corporate tenancies	Any tenancy where (to a member's knowledge)— (a) the landlord is this council; and (b) the tenant is a body in which the member or his/her associated 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 parish of Horwich; 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 member or his/her

Associated Person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

“Associated Person” means:

- a member’s spouse or civil partner
- a person a member is living with as husband and wife, and,
- a person a member is living with as if they were civil partners.

“Securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

## **10. Sensitive Interests**

Where you consider that disclosure of the details of a Disclosable Pecuniary Interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Town Clerk and Monitoring Officer agree, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a Disclosable Pecuniary Interest, the details of which are withheld under section 32(2) of the Localism Act 2011

## **11. Effect of Disclosable Pecuniary Interests on Participation**

11.1 If you are present at a meeting of the authority and you have a Disclosable Pecuniary Interest in any matter to be considered or being considered at the meeting:

- (a) You may not participate in any discussion of the matter at the meeting.
- (b) You may not participate in any vote taken on the matter at the meeting.
- (c) If the interest is not registered, you must disclose the interest to the meeting.
- (d) If the interest is not registered and is not the subject matter of a pending notification, you must notify the Town Clerk of the interest within 28 days.

Note: If paragraph 11.1 applies you are required to leave the room where the meeting is held while any discussion or voting takes place.

11.2 Where a Councillor discharging a function alone becomes aware of a Disclosable Pecuniary Interest in a matter being dealt with or to be dealt with by him/her, then s/he must notify the Town Clerk of that interest and must not take any steps or further steps in the matter.

## **12. Dispensations**

The Council may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter on which you have a Disclosable Pecuniary Interest.

## **13. Offences**

It is a criminal offence to:

- Fail to notify the Town Clerk of any Disclosable Pecuniary Interest within 28 days of election;
- Fail to disclose a Disclosable Pecuniary Interest at a meeting if it is not on the register;
- Fail to notify the Town Clerk within 28 days of a Disclosable Pecuniary Interest that is not on the register that you have disclosed to a meeting;
- Participate in any discussion or vote on a matter in which you have a Disclosable Pecuniary Interest;
- As a Councillor discharging a function, acting alone, and having a Disclosable Pecuniary Interest in such a matter, having failed to notify the Town Clerk within 28 days of the interest, or,

- Knowingly or recklessly providing information that is false or misleading in notifying the Town Clerk of a Disclosable Pecuniary Interest or in disclosing such interest to a meeting.

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

### **Part 3 OTHER INTERESTS**

#### **14. Notification of Other Interests**

- 14.1 In addition to Disclosable Pecuniary Interests you must, within 28 days of your election or appointment to office as a Member notify the Town Clerk in writing of details of your interests within the following categories, for inclusion in the register of interests:
- (a) Details of any body of which you are a member or in a position of general control or management to which you are appointed or nominated by this council;
  - (b) Details of any body exercising functions of a public nature, any body directed to charitable purposes or any body one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
  - (c) Details of any gift or hospitality with an estimated value of at least £25 that you have received in connection with your role as a Member and details of the donor
- 14.2 You must, within 28 days of becoming aware of any new interest or change to any interest registered under this paragraph notify the Town Clerk of the details of that new interest or change.
- 14.3 Any interests notified to the Town Clerk will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the Council's website.
- 14.4 Where a Disclosable Pecuniary Interest is notified to the Town Clerk under Part 2, paragraph 8 above it need not be separately notified or separately registered again as an interest under this Part 3 of the Code.

#### **15. Disclosure of Other Interests**

- 15.1 Subject to 15.2 to 15.5, where you have an interest described in paragraph 14 above or in 15.2 below in any business of the Council, and where you are aware or ought reasonably to be aware of the existence of that interest, and you attend a meeting of the Council at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- 15.2 You have an interest in any business of the Council where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a member of your family or any person with whom you have a close association.
- 15.3 Where you have an interest in any business of the Council of the type mentioned in paragraph 14.1(c) you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- 15.4 Where you have an interest by virtue of paragraph 14 but, by virtue of paragraph 17 below, (Sensitive Interests) relating to it is not registered in the register of members' interests, you must indicate to the meeting that you have an interest, but need not disclose the sensitive information to the meeting.
- 15.5 Where you have an interest in any business of the Council by virtue of paragraph 14 or 15.2, and you have made an executive decision (as defined in section 22 Local Government Act 2000) in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

#### **16. Non participation in case of certain other interests**

- 16.1 Where you have an interest in any business of the Council by virtue of paragraph 14 or 15.2 and the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgment of the public interest and where that business:
- (a) affects your financial position or the financial position of a Relevant Person through whom the interest arises; or
  - (b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or a Relevant Person
- you may not participate in any discussion of the matter at the meeting, and you may not participate in any vote taken on the matter at the meeting.

“Relevant Person” means

- (i) a member of your family;
- (ii) any person with whom you have a close association;
- (iii) an employer of any a person described in (i) and/or (ii) above;
- (iv) a firm in which a person described in (i) and/or (ii) above is a partner;
- (v) a company in which a person described in (i) and/or (ii) above is a director, and,
- (vi) a body as described in paragraph 14.1(a) and (b) above.

Note: If paragraph 16.1 applies you are required to leave the room where the meeting is held while any discussion or voting takes place.

- 16.2 Where you have an interest in any business of the Council to which paragraph 16.1 applies, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise, and provided that you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.
- 16.3 Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have an interest under paragraph 16.1 that relates to the functions of the Council in respect of:
- (a) housing, where you are a tenant of this council provided that those functions do not relate particularly to your tenancy or lease;
  - (b) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
  - (c) an allowance, payment or indemnity given to members;
  - (d) any ceremonial honour given to members, and,
  - (e) setting council tax or a precept under the Local Government Finance Act 1992.
- 16.4 Where, as a Councillor, you may discharge a function alone, and you become aware of an interest under paragraph 16.1 in a matter being dealt with, or to be dealt with by you, you must notify the Town Clerk of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

## 17 Sensitive Interests

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



# **BOLTON BOROUGH COUNCIL**

## **Arrangements for dealing with complaints about the Code of Conduct for Members**

### **1. Introduction**

- 1.1 This procedure applies when a complaint is received that a Member, Co-opted Member or Town Council Member has or may have failed to comply with the Code of Conduct for Members.
- 1.2 The person making the complaint will be referred to as “the complainant” and the person against whom the complaint is made will be referred to as the “Subject Member”.
- 1.3 No member or officer will participate in any stage of the arrangements if he or she has, or may have, any personal conflict of interest in the matter.

### **2. Making a complaint**

- 2.1 A complaint must be made in writing either by post or e-mail to; The Monitoring Officer, Chief Executive’s Department, 1st Floor, Town Hall, Bolton BL1 1RU or [helen.gorman@bolton.gov.uk](mailto:helen.gorman@bolton.gov.uk).
- 2.2 The Monitoring Officer will acknowledge receipt of the complaint within five working days of receiving it and, at the same time, write to the Subject Member (and in the case of a complaint about a Town Councillor to the Clerk of the Town Council also) with details of the allegations (subject to any representations from the complainant on confidentiality, which are accepted as valid by the Monitoring Officer). The Subject Member may, within five working days of receipt, make written representations to the Monitoring Officer which must be taken into account when deciding how the complaint should be dealt with. Representations received after this time may be taken into account, at the discretion of the Monitoring Officer, but will in any event not be considered after the Monitoring Officer has issued the initial assessment of the complaint.

### **3. Initial Assessment of Complaint**

- 3.1 The Monitoring Officer will review the complaint and take a decision (initial assessment) as to whether it merits investigation, or another course of action. This decision will normally be taken within 20 working days of receipt of a complaint.  
If the complaint fails in one or more of the following tests it will be rejected;
  - The complaint is not against one or more named Members or co-opted Members of the Council or a Town Council within its district;
  - The Subject Member was not in office at the time of the alleged conduct and a Code of Conduct was in force at the time.
  - The complaint, if proven, would not be a breach of the Code of Conduct under which the Subject Member was operating at the time of the alleged misconduct.
- 3.2 If appropriate the Monitoring Officer will then go on to apply the following criteria in deciding whether a complaint should be accepted for investigation, dealt with informally, or rejected:
  - Whether a substantially similar allegation has previously been made by the complainant to Standards for England, or the Standards Committee, or the complaint has been the subject of an investigation by another regulatory authority;

- Whether the complaint is about something that happened so long ago that those involved are unlikely to remember it clearly enough to provide credible evidence, or where the lapse of time means there would be little benefit or point in taking action now;
- Whether the allegation is anonymous;
- Whether the allegation discloses a potential breach of the Code of Conduct, but the complaint is not serious enough to merit any action and
  - i. The resources needed to investigate and determine the complaint are wholly disproportionate to the allegations and
  - ii. Whether in all the circumstances there is no overriding public benefit in carrying out an investigation.
- Whether the complaint appears to be malicious, vexatious, politically motivated or tit for tat;
- Whether the complaint suggests that there is a wider problem throughout the Authority;
- Whether it is apparent that the subject of the allegation is relatively inexperienced as a Member or has admitted making an error and the matter would not warrant a more serious sanction;
- Whether training or conciliation would be the appropriate response.

#### **4. Additional Information**

- 4.1 The Monitoring Officer may require additional information to come to a decision and may request information from the Subject Member. Where the complaint relates to a Town Councillor, the Monitoring Officer may also inform the Clerk of the Town Council of the complaint and seek the views of the Clerk of the Town Council before deciding whether the complaint merits formal investigation or other action. In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for an investigation. Such informal resolution may involve the Subject Member accepting that his/her conduct was unacceptable and offering an apology, or taking other steps. Where the Subject Member or the Council (in appropriate cases) makes a reasonable offer of local resolution, but it is rejected by the complainant, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.
- 4.2 If the complaint identifies criminal conduct or breach of other regulations by any person, the Monitoring Officer is authorised to report this to the Police or other prosecuting or regulatory authority, in addition to any action taken pursuant to the Code.

#### **5. Confidentiality**

- 5.1 If a complainant has asked for their identity to be withheld, this request will be considered by the Monitoring Officer at the initial assessment stage.
- 5.2 As a matter of fairness and natural justice the Subject Member should usually be told who has complained about them and receive details of the complaint. However, in exceptional circumstances, the Monitoring Officer may withhold the complainant's identity if on request from the complainant, or otherwise, they are satisfied that the complainant has reasonable grounds for believing that they or any witness relevant to the complaint may be at risk of physical harm, or his or her employment may be

jeopardised if their identity is disclosed, or where there are medical risks (supported by medical evidence) associated with the complainant's identity being disclosed.

- 5.3 If the Monitoring Officer decides to refuse a request by a complainant for confidentiality, they will offer the complainant the option to withdraw the complaint, rather than proceed with his or her identity being disclosed. The Monitoring Officer will balance whether the public interest in taking action on a complaint will outweigh the complainant's wish to have his or her identity withheld from the Subject Member.

## **6. Investigation**

- 6.1 The Monitoring Officer will appoint an investigating officer where a complaint merits formal investigation. The Investigating Officer may be a Council officer, an officer from another Council, or an external investigator.
- 6.2 The Investigating Officer will follow guidance issued by the Monitoring Officer on the investigation of complaints. The guidance will follow the principles of proportionality and the cost effective use of Council resources and shall be interpreted in line with these principles.
- 6.3 The Investigating Officer will ensure that the Subject Member receives a copy of the complaint – subject to the Monitoring Officer decision on confidentiality.
- 6.4 At the end of their investigation, the Investigating Officer will produce a draft report and will send copies of that draft report to the Complainant and to the Subject Member, for comments. The Investigating Officer will take such comments into account before issuing their final report to the Monitoring Officer.

## **7. Investigating Officer finding of sufficient evidence of failure to comply with the Code of Conduct**

- 7.1 The Monitoring Office will review the Investigating Officer's report and if satisfied, will confirm the finding of no failure to comply with the Code of Conduct.
- 7.2 The Monitoring Officer will write to the complainant and the Subject Member (and to the Clerk of the Town Council, where the complaint relates to a Town Councillor), with a copy of the decision and the Investigating Officer's report.
- 7.3 If the Monitoring Officer is not satisfied that the investigation has been conducted thoroughly, the Investigating Officer may be asked to reconsider the report and the conclusions.
- 7.4 Where the Investigating Officer's report does not find that the Subject Member has failed to comply with the Code of Conduct, the Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the hearings panel.

## **8. Local Resolution**

If the Monitoring Officer considers that the matter can reasonably be resolved without the need for a hearing, they will consult with the independent person and the complainant and seek to agree a fair resolution. Such resolution may include the Member accepting that their conduct was unacceptable and offering an apology, and/or other remedial action. If the Member accepts the suggested resolution, the Monitoring Officer will report the outcome to the Standards Committee and the Clerk to the Town Council (if appropriate) for information, but will take no further action. If the complainant or the subject Member refuses local resolution in principle or to engage with the agreed outcome, the Monitoring Officer will refer the matter for a local hearing without further reference to the complainant or the Subject Member.

## **9. Local Hearing**

Where, in the opinion of the Monitoring Officer, local resolution is not appropriate or the complainant and/or Subject Member refuses to co-operate, then the Monitoring Officer will report the Investigating Officer's findings to the hearing panel which will conduct a local hearing before deciding whether the Member has failed to comply with a Code of Conduct and, if so, what action (if any) to take in respect of the Member.

## **10. Constitution of the Hearing's Panel**

The Hearing Panel is a sub-committee of the Council's Standards Committee. The Council have decided that it will comprise of at least one of the independent Members co-opted to the Standards Committee and two members of the Council drawn from at least two different political parties. Where the complaint is about a Town Council Member, the hearings panel will include at least one of the Town Council Members co-opted to the Standards Committee.

The independent person is invited to attend all meetings of the Hearings Panel and their views must be sought and taken into consideration before the hearings panel takes any decision on whether the Subject Member's conduct constitutes a failure to comply with the code of conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

## **11. The Independent Person**

The independent person must be a person who has applied for the post following advertisements of a vacancy for the post, and appointed by a positive vote from a majority of all the Members of the Council at a meeting of the full Council.

A person is not eligible for appointment if they:

- are, or have been within the past five years a Member, co-opted Member or officer of the Council;
- are, or have been within the past five years a Member, co-opted Member or officer of a Town Council within the Borough; or
- are a relative or close friend of a person within bullet points 1 or 2 above.

For this purpose, "relative" means that:

- Spouse or civil partner;
- Living with the other person as husband and wife or as if they were civil partners;
- Grandparents of the other person;
- A lineal descendant of a grandparent of the other person;
- A parent, sibling or child of the person within the above bullet points;
- A spouse or civil partner of a person within the above bullet points; or
- Living with a person within the above bullet points or as husband and wife or as if they were civil partners.

## **12. Action**

Where a hearings panel finds that a Member has failed to comply with the Code of Conduct, the Council has delegated to the hearings panel such of its powers to take action in respect of Members as may be necessary to promote and maintain high standards of conduct. Accordingly, the hearings panel may –

- Publish its findings in respect of the Member's conduct;
- Report its finding to Council (or to the Town Council) for information;
- Recommend to Council that the Member be censured;
- Recommend to the Members group leader (or in the case of ungrouped members) recommend to Council) that he/she be removed from any or all committees or sub committees of the Council;
- Recommend to the Leader of the Council that the Member be removed from the Cabinet, or removed from their portfolio responsibilities;
- Instruct the Monitoring Officer to (or recommend that the Town Council) arrange training for the Member;
- Recommend to Council (or recommend to the Town Council that the Member be removed) from all outside bodies, appointments to which they have been appointed or nominated by the Council (or by the Town Council);
- Withdraw (or recommend to the Town Council that it withdraws (facilities provided to the Member by the Council such as a computer, website and/or e-mail and internet access); or
- Exclude (or recommend that the Town Council exclude) the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and sub-Committee meetings.

**13. Revision of these Arrangements**

The Council may by resolution or delegation to the Monitoring Officer agree to amend these arrangements and has delegated to the Chair of the hearings panel the right to depart from these arrangements where they consider that it is expedient to do so in order to secure the effective threat and fair consideration of any matters.

**14. Appeals**

Subject to judicial review or a decision of a local ombudsman, there is no right of appeal against the decision of a Monitoring Officer or of the hearing panel.