



**Standards Committee**

**Tuesday, 17 July 2012 at 2.00 p.m.  
The Board Room - Municipal Building,  
Widnes**



**Chief Executive**

**COMMITTEE MEMBERSHIP**

<b>Councillor Peter Lloyd Jones (Chairman)</b>	<b>Labour</b>
<b>Councillor Marjorie Bradshaw</b>	<b>Conservative</b>
<b>Councillor Arthur Cole</b>	<b>Labour</b>
<b>Councillor John Gerrard</b>	<b>Labour</b>
<b>Councillor Joan Lowe</b>	<b>Labour</b>
<b>Councillor Tony McDermott</b>	<b>Labour</b>
<b>Councillor Stan Parker</b>	<b>Labour</b>
<b>Councillor Kevan Wainwright</b>	<b>Labour</b>
<b>Councillor Bill Woolfall</b>	<b>Labour</b>

*Please contact Angela Scott on 0151 511 8670 or  
angela.scott@halton.gov.uk for further information.  
The next meeting of the Committee is on Wednesday, 5 September 2012*

**ITEMS TO BE DEALT WITH  
IN THE PRESENCE OF THE PRESS AND PUBLIC**

**Part I**

<b>Item No.</b>	<b>Page No.</b>
<b>1. MINUTES</b>	<b>1 - 2</b>
<b>2. DECLARATIONS OF INTERESTS</b>	
Members are reminded of their responsibility to declare any personal or personal and prejudicial interest which they have in any item of business on the agenda no later than when that item is reached and, with personal and prejudicial interests (subject to certain exceptions in the Code of Conduct for Members), to leave the meeting prior to discussion and voting on the item.	
<b>3. STANDARDS COMMITTEE ANNUAL REPORT</b>	<b>3 - 5</b>
<b>4. LOCALISM ACT 2011 - NEW CODE OF CONDUCT</b>	<b>6 - 16</b>
<b>5. DECLARATION OF INTERESTS OF MEMBERS</b>	<b>17 - 19</b>
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***In accordance with the Health and Safety at Work Act the Council is required to notify those attending meetings of the fire evacuation procedures. A copy has previously been circulated to Members and instructions are located in all rooms within the Civic block.***

**STANDARDS COMMITTEE**

*At a meeting of the Standards Committee Wednesday, 22 February 2012 Committee Room 1, Runcorn Town Hall*

Present: Mr A. Luxton (Vice Chairman) Mr R. Garner, Mrs A. Morris, and  
Councillors: Browne, Parker, Redhead and Wainwright

Apologies for Absence: Mr B. Badrock, Councillor Swain and Parish Councillors  
Mr B. Allen, Canon D. Felix

Absence declared on Council business: None

Officers present: M. Reaney and A. Scott

Also in attendance: None

**ITEMS DEALT WITH  
UNDER DUTIES  
EXERCISABLE BY THE COMMITTEE**

STC11 MINUTES

The minutes of the meeting held on 7 September 2011, having been printed and circulated, were signed as a correct record.

STC12 LOCALISM ACT 2011- IMPLICATIONS FOR STANDARDS

The Monitoring Officer gave a presentation on the future of Standards under the Localism Act 2011.

The Localism Act 2011 included new provisions on Standards and the issue of pre-determination by Elected Members. Each authority had a duty to promote and maintain high standards of conduct by its Members and co-opted Members of the Authority, which included Parish Councils. It was noted that each Authority must adopt a Code dealing with the conduct expected of its Members and co-opted Members when they were acting in that capacity.

The Code must embrace a set of seven principles, referred to as:

*Action*

- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Selflessness
- Leadership

and must provide for the registration and disclosure of both pecuniary and non pecuniary interests as well as a new category of disclosable pecuniary interests. Further Regulations and Guidance were awaited before the implementation date of 1 July 2012.

Members were advised that, although no longer a statutory function, Halton Borough Council was likely to delegate Standards functions to a Standards Committee, which would be a Committee of the local authority and the recommendation was likely to be that it be made up of nine Elected Members and up to 4 non voting co-optees – two Independent and two Parish Council Members.

The Act also required advertisement for and appointment of a new category of Independent Person to be involved in the consideration of complaints.

Members had the opportunity to discuss the proposals and to ask questions.

RESOLVED: That the verbal presentation be noted.

#### STC13 VOTE OF THANKS

The Vice Chairman noted that there were no further meetings scheduled for the Committee and wished to place on record his thanks to all Members for their past contribution and work of the Committee.

It was agreed that a letter of thanks be sent on the Chairman's behalf to all Members involved.

Monitoring Officer

*Meeting ended at 4.20 p.m.*

<b>REPORT TO:</b>	Standards Committee
<b>DATE:</b>	17 <sup>th</sup> July 2012
<b>REPORTING OFFICER:</b>	Operational Director Legal and Democratic Services/Monitoring Officer
<b>SUBJECT:</b>	Standards Committee Annual Report
<b>WARDS</b>	Borough Wide

### **1.0 PURPOSE OF THE REPORT**

- 1.1 To summarise the work of the Committee in the last municipal year and to recommend Members to invite Council to note the Report.

### **2.0 RECOMMENDATION: That the report be noted and be referred to Council for information.**

### **3.0 SUPPORTING INFORMATION**

- 3.1 During the municipal year the Standards Committee was made up of eleven Members, comprising of four independent Members, two Parish Councillors, and five Members of Halton Borough Council. The membership during the year was Mr. Bill Badrock (Chairman) Mr. Tony Luxton (Vice Chairman) Mr. Robert Garner, Mrs. Anita Morris, Parish Councillor Bernie Allen, Parish Councillor Canon David Felix, Councillor Peter Browne, Councillor Stan Parker, Councillor Linda Redhead, Councillor John Swain and Councillor Kevan Wainwright. The Committee met on three occasions throughout the municipal year.
- 3.2 The role of the Standards Committee is to:
- Help Councillor and Co-opted Members to observe the Members Code of Conduct
  - Promote and maintain high standards of conduct by Councillors, Co-opted Members, and Church and Parent Governor Representatives
  - Advise the Council on the Adoption or Revision of the Members Code of Conduct
  - Monitor the operation of the Members Code of Conduct
  - Provide training to Councillors and Co-opted Members on matters relating to the Members Code of Conduct
  - Deal with complaints against Councillors and Parish Councillors
  - Deal with matters concerning politically restricted posts
  - Deal with dispensations relating to Declarations of Interest.

- 3.3 At the May meeting, Members received a Report outlining the application of systems for Declaration of Interests by Members. The Committee was reminded that the integrity in Local Government was essential. Personal and personal and prejudicial interests were defined, and the Report contained details of Halton's Best Practice. The Register of Members Interests was held by the Principal Committee Services Officer who also maintained a register of gifts and hospitality, in which Members were required to register any such gifts of hospitality worth £25 or more received in connection with official duties as a Member. It was clear that both registers were being used appropriately.
- 3.4 Much of the workload during the year was taken up with the changing landscape of the Standards Regime. This culminated in a detailed presentation by the Monitoring Officer at the February meeting dealing with the Localism Act and what it meant to the Standards framework.
- 3.5 One complaint had been received during the year from a member of the public, which was considered by the Assessment Sub- Committee in July. It was concluded the matters contained in the complaint did not amount to a breach of the Code of Conduct, and no further action was taken.
- 3.6 As the Localism Act involved the abolition of Standards for England and the former Standards Regime, the result was that that the Statutory role of Independent Members of the Committee and the Parish Council Members would cease to have effect. As such, those Members would stand down from the Committee at the end of the municipal year. The Committee placed on record its thanks to them for their invaluable contribution to Standards in Halton.

**4.0 POLICY IMPLICATIONS**

41 None

**5.0 OTHER IMPLICATIONS**

5.1 None

**6.0 IMPLICATIONS FOR THE COUNCILS PRIORITIES**

6.1 Children and Young People in Halton

None

6.2 Employment learning and skills in Halton

None

6.3 A Healthy Halton

None

6.4 A Safer Halton

None

6.5 Halton's Urban Renewal

None

**7.0 RISK ANALYSIS**

7.1 No key issues have been identified which require control measures

**8.0 EQUALITY AND DIVERSITY ISSUES**

8.1 The Report of itself does not contain specific equality and diversity issues

**9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

9.1 None

**REPORT TO:** Standards Committee

**DATE:** 17<sup>th</sup> July 2012

**REPORTING OFFICER:** Operational Director Legal and Democratic Services/Monitoring Officer

**SUBJECT:** Localism Act 2011 – New Code of Conduct

**WARDS** Borough Wide

### **1.0 PURPOSE OF THE REPORT**

1.1 The Report seeks approval of Members to a New of Code of Conduct, and a recommendation that it be adopted by Council.

### **2.0 RECOMMENDATION: That**

- 1) the Draft Code of Conduct at Appendix 1 of this Report be recommended for adoption by the Council; and**
- 2) the suggested changes to the Constitution contained in paragraph 4 of this report be approved and recommended to Council.**

### **3.0 SUPPORTING INFORMATION**

3.1 The Localism Act 2011 received Royal Ascent on 15<sup>th</sup> November 2011. All Councils have a statutory duty to promote and maintain high standards of conduct by elected Members and Co-opted Members. In addition, all Town and Parish Councils are under the same duty.

3.2 Whilst the National Model Code of Conduct has been abolished, Councils including Town and Parish Councils must adopt a code of conduct setting out requirements of Members whilst acting in an official capacity. The Code must be consistent with the Nolan Principles of:

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

3.3 Councils have long awaited regulations to define the new category of “Disclosable Pecuniary Interests”. Failure to register or disclose such interests will become a criminal offence. The Council also needs to consider what other pecuniary interests and/ or non pecuniary interests they will require Members to register and disclose. The Register can then be finalised and any relevant provision in the Constitution confirmed. The



relevant commencement order has now been made, with an implementation date of 1<sup>st</sup> July 2012.

3.4 A considerable amount of work has been done in preparing a new Draft Code of Conduct for Members' consideration. Documents issued by the Department of Communities and Local Government and the Local Government Association have been considered as has the National Association of Local Councils Template Code for Parish Councils. Work has taken place amongst Council Solicitors in Cheshire with a view to a Draft Code being submitted for adoption across all of the Cheshire Authorities, to include Town and Parish Councils and the Fire Authority. This Draft is attached as Appendix 1. It aims to:

- be consistent with Nolan Principles and develop them into Member obligations
- balance light touch regulation with clear guidance
- include the obligations set out in the CLG Document
- Contain matters set out in the LGA Template regarding Members behaviour

#### **4.0 ADDITIONAL MATTERS REQUIRING CONSIDERATION**

4.1 The Act does not require a Member to withdraw from a Meeting during items of business where they have a pecuniary interest or have disclosed such an interest. However, participation in the discussion or voting will be a criminal offence. The Act provides in Section 31 (10) that Council may agree to make a standing order in the Constitution that Members should be excluded from Meetings where they have a Disclosable Pecuniary Interest. The advantage would be that there could not then be any perception that Members were improperly influencing colleagues by their continued presence.

4.2 The Act does not require disclosure of all registered interests at Meetings in all circumstances. It would, however, seem to be sensible to make a Standing Order requiring such disclosure in the interests of consistency.

4.3 The Act does not require Members to keep their register of Members interests up to date. The previous position was that Members had to notify changes to their Register of Interest within 28 days of the change taking place. This again appears to be good practice and is recommended.

4.4 Although the previous Code of Conduct required disclosure of gifts or hospitality to the value of £25 or greater, the new law does not make any such requirement. It is considered good practice for such declarations to be made.

## **5.0 POLICY IMPLICATIONS**

- 5.1 The Council has a statutory duty to promote and maintain high standards of conduct amongst its Members and Co-opted Members. A strong ethical framework is at the heart of the governance arrangements of the Council and supports decision making.

## **6.0 OTHER IMPLICATIONS**

- 6.1 The Standards provisions in the Localism Act 2011 are being brought into force with effect from 1<sup>st</sup> July 2012.

## **7.0 IMPLICATIONS FOR THE COUNCILS PRIORITIES**

- 7.1 Children and Young People in Halton

None

- 7.2 Employment Learning and Skills in Halton

None

- 7.3 **A HEALTHY HALTON**

None

- 7.4 A Safer Halton

None

- 7.5 Halton's Urban Renewal

None

## **8.0 RISK ANALYSIS**

- 8.1 Failure to adopt an appropriate Code of Conduct would be a breach of the Legislation, and would render the Council open to an array of risks in terms of reputation, decision making, and Corporate Governance.

## **9.0 EQUALITY AND DIVERSITY ISSUES**

- 9.1 The purpose of an amended Code is to assist in transparency of conduct and decision making to the benefit of all sectors of the community.

## **10.0 LIST OF BACKGROUND PAPERS**

- 10.1 DCLG illustrative text
- 10.2 Model Code of Conduct produced by LGA
- 10.3 NALC Draft for Town and Parish Councils

These documents are available for inspection from Mark Reaney  
Operational Director Legal and Democratic Services fourth floor, Municipal  
Building, Widnes.

**Halton Borough Council- DRAFT JUNE 2012**

**CODE OF CONDUCT FOR MEMBERS**

The Halton Borough Council (“the authority”) has adopted this Code of Conduct to promote and maintain high standards of conduct and underpin public confidence in the authority and its members and co-opted members.

The Code has been adopted under section 27 of the Localism Act 2011 and is based on the following core principles of public life - selflessness, integrity, objectivity, accountability, openness, honesty and leadership. It sets out general obligations about the standards of conduct expected of members and co-opted members of the authority, together with provisions about registering and declaring interests.

**Definitions**

In this Code

- “member” includes a co-opted member
- “co-opted member” is a person who is not a member of the authority but who is either a member of any of its committees or sub-committees or a member of and represents the authority on any joint committee or joint sub-committee of the authority, and who is entitled to vote at such meetings
- “meeting” means
  - any meeting of the authority or any of its committees, sub-committees, joint committees or joint sub-committees
  - any briefing by officers
  - any site visit to do with business of the authority.

“meeting” also includes  
any meeting of the Executive or its committees  
in taking a decision as a member of the Executive or as a ward member

**General obligations**

Whenever you are acting as a member of this authority you must act in accordance with the following obligations:

*Selflessness*

- 1 You must act solely in the public interest and must never use or attempt to use your position improperly to confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, friends or close associates.

*Integrity*

- 2 You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

You should exercise independent judgement. Although you may take account of the views of others (including a political group), you should reach your own conclusions on the issues before you and act in accordance with those conclusions.

*Objectivity*

- 3 When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

You should remain objective, listen to the interests of all parties appropriately and impartially and take all relevant information, including advice from the authority's officers, into consideration.

*Accountability*

- 4 You are accountable to the public for your decisions and you must co-operate fully with whatever scrutiny is appropriate to your office, including by local residents.

*Openness*

- 5 (a) You must be as open and transparent as possible about your decisions and actions and the decisions and actions of your authority. You should be prepared to give reasons for those decisions and actions. You must not prevent anyone getting information that they are entitled to by law.

(b) Where the law or the wider public interest requires it, you must not disclose confidential information or information to which public access is restricted.

*Honesty*

- 6 (a) You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests as set out below.

(b) You must only use or authorise the use of the authority's resources in accordance with the authority's requirements. You must, when using or authorising the use by others of such resources, ensure that they are used for proper purposes only. Resources must not be used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986

*Respect for others*

- 7 (a) You must treat others with respect. You should engage with colleagues and staff in a manner that underpins mutual respect, essential to good local government.

(b) You must not do anything which may cause your authority to breach any equality laws.

(c) You must not compromise or attempt to compromise the impartiality of anyone who works for, or on behalf of, the authority.

(d) You must not bully any person, including other councillors, officers of the authority or members of the public.

*Leadership*

- 8 You must promote and support high standards of conduct when serving as member or co-opted member of the authority, by leadership and example, championing the interests of the community.

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

**Registration of Interests**

- 9 You must within 28 days of

- (a) this Code being adopted by your authority; or
- (b) your election or appointment to office (where that is later)

register with the Monitoring Officer the interests which fall within the categories set out in Appendix A (Disclosable Pecuniary Interests) and Appendix B (Other Disclosable Interests).

- 10 You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest in Appendix A or B, or of any change to a registered interest, notify the Monitoring Officer of that new interest or change.

**Declaring of Interests and Participation in Meetings**

- 11 If you are present at a meeting and you have a Disclosable Pecuniary Interest as set out in Appendix A

(a) you must not participate in any discussion of the matter at the meeting and you must not vote on the matter;

(b) you must make a verbal declaration of that interest if an item of business affects or relates to that interest, at or before the item is considered or as soon as the interest becomes apparent;

(c) you must leave the room where the meeting is held during any discussion or vote;

(d) if the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

- 12 Where a matter arises at a meeting which relates to an interest in Appendix B,

(a) you must not vote on the matter;

(b) you may speak on the matter only if members of the public are allowed to speak at the meeting;

(c) you must declare your interest if you speak on the matter at the meeting or if the interest is not already on your register of interests or if you have not notified the Monitoring Officer of it. Otherwise, you do not need to declare the interest at the meeting.

13 Where a matter arises at a meeting which relates to or is likely to affect any of the interests listed in Appendix A, but in respect of a member of your family (other than your spouse/partner) or a friend or close associate of yours,

(a) you must declare the interest;

(b) you must not vote on the matter;

(c) you may speak on the matter only if members of the public are allowed to speak at the meeting.

### **Sensitive interests**

14 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 Monitoring Officer agrees that it is a “sensitive interest”, you need only declare the fact that you have an interest but not the details of that interest. Copies of the public register of interests may state you have an interest the details of which are withheld.

### **Gifts and Hospitality**

15 You must within 28 days of receipt notify the *Monitoring Officer/Clerk to the Council* of any gift, benefit or hospitality with an estimated value of £25 or more which you have accepted as a member from any person or body other than the authority. The notification will be entered on a public register of gifts and hospitality.

**APPENDIX A****DISCLOSABLE PECUNIARY INTERESTS**

The duties to register, disclose and not to participate 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 Pecuniary Interests) Regulations 2012.

A Disclosable Pecuniary Interest is an interest of you (i.e. the member) or of your partner (which means spouse or civil partner or a person with whom you are living as husband or wife, or as if you are civil partners) within the categories below\*:

<b><i>Interest</i></b>	<b><i>Prescribed description</i></b>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the authority) made or provided within the previous 12 months (up to and including the date of notification of the interest) in respect of any expenses incurred by you carrying out duties as a member, or towards your election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between you, your spouse or civil partner or person with whom you are living as a spouse or civil partner (or a body in which you or they have a beneficial interest) and the authority</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged</p>
Land	<p>Any beneficial interest in land which is within the authority’s area.</p> <p>For this purpose “land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for you, your spouse, civil partner or person with whom you are living as a spouse or civil partner (alone or jointly with another) to occupy the land or to receive income.</p>



- Licences Any licence (alone or jointly with others) to occupy land in the authority's area for a month or longer.
- Corporate tenancies Any tenancy where (to your knowledge) –  
(a) the landlord is the authority; and  
(b) the tenant is a body in which you, your spouse or civil partner or a person you are living with as a spouse or civil partner has a beneficial interest
- Securities Any beneficial interest in securities of a body where –  
(a) that body (to your knowledge) has a place of business or land in the authority's area 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 you, your spouse or civil partner or person with whom you are living as a spouse or civil partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For this purpose, "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.

*\*The provisions in the Code in respect of the registration and declaring of Disclosable Pecuniary Interests and the requirement to withdraw from participating in respect of any matter where you have a Disclosable Pecuniary Interest apply to your interests and to those of your spouse or civil partner or a person with whom you are living as a spouse or civil partner where you are aware of their interest.*

**APPENDIX B**

**OTHER DISCLOSABLE INTERESTS**

An interest which relates to or is likely to affect:

(i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority

(ii) any body

(a) exercising functions of a public nature;

(b) directed to charitable purposes; or

(c) 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

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<b>REPORT TO:</b>	Standards Committee
<b>DATE:</b>	17 <sup>th</sup> July 2012
<b>REPORTING OFFICER:</b>	Operational Director Legal and Democratic Services/Monitoring Officer
<b>SUBJECT:</b>	Declaration of Interests of Members
<b>WARDS</b>	N/A

## **1.0 PURPOSE OF THE REPORT**

1.1 To report on the local application of the systems for declarations of interest by Members in order to maintain the values of good governance and ethical behaviour.

## **2.0 RECOMMENDATION: That the Committee notes the Report.**

## **3.0 SUPPORTING INFORMATION**

3.1 At the meeting of the Committee on 25<sup>th</sup> May 2011, the third annual report on the Declarations of Interests by Members was submitted.

3.2 The purpose was to remind Members that integrity in Local Government is essential to command the confidence of the community and of all organisations with which the Council comes into contact.

3.3 The Report offered a reminder as to personal and prejudicial interests.

3.4 Personal interests are where the issue being discussed in the meeting affects the wellbeing or finances of a Member or his or her family or close associate more than most other people who live in the area affected by the issues. Personal interests also relate to matters which must be registered by Members.

3.5 Personal and prejudicial interests go a stage further and are personal interests which affect a member or his or her family or close associates in terms of their finances or regulatory functions such as Licensing or Planning, and which a reasonable member of the public with knowledge of the facts would believe likely to harm or impair the Member's ability to judge the public interest.

3.6 The Council has a challenging culture of Declarations of Interest. The prime responsibility rest with individual members, but the practical expression of the culture takes various forms.

- the Declaration of Interests by Members at the start of meetings, both formal and informal

- availability of guidance from the Monitoring Officer and his staff
- the completion of the Register of Interests
- the annual sending out of a Declaration form which forms an opportunity to reflect and self-review
- guidance and training
- engaged involvement by the Standards Committee
- sending out forms from Committee Services when a new interest becomes apparent at a meeting.

3.7 The Register is held by the Principal Committee Services Officer. Members are sent fresh forms to complete each May and, as stated, also receive a form should new interests be declared at any meetings during the year. There is a list on each Councillor's page on the Councils web site indicating that information on interests is publicly available on request from Committee Services. All newly elected members of the Council were invited to the Council's Member Induction Programme in May 2012 when further advice was given by the Monitoring Officer on Declarations of Interest.

3.8 Committee Services also maintain the register of gifts of hospitality. Members are required to register any gifts or hospitality worth £25 or more received in connection with official duties as a member. There should also be provided details of the person who makes the offer or gives the gift or hospitality. This must be done within 28 days of receipt. At meetings when an Item is under discussion which is likely to affect the giver of the gift or hospitality, then the existence and nature of the gift must be declared by the Member as well as the name of the giver and how the business relates to that person. The Member must then consider whether the interest is also a prejudicial interest. The Monitoring Officer looks at the register of gifts and hospitality periodically, and it is clear to him that Members are aware of its existence and using it. Since 1<sup>st</sup> May 2011 there have been 12 entries by Members and 21 by officers.

3.9 As is apparent from another Item on this Agenda, Members are being asked to approve a new Code of Conduct. This contains provisions in respect of Declarations of Interests, and arises out of the Localism Act 2011. The Government have brought in a new category of interests, Disclosable Pecuniary Interests. To fail to disclose them or take part in decisions when they exist can amount to a criminal offence. Following the adoption of a new Code of Conduct by the Council, the Register of Interests would be updated to take account of the Act which comes into operation on 1<sup>st</sup> July. This requires the publication on the Council's web-site of Members interests, and indeed those of Parish Councillors as well.

#### **4.0 POLICY IMPLICATIONS**

4.1 The Localism Act 2011 has redefined interests of Members, and publication of the Register will follow the requirements of the Act.

**5.0 OTHER IMPLICATIONS**

5.1 None

**6.0 EQUALITY AND DIVERSITY ISSUES**

6.1 None

**7.0 RISK ANALYSIS**

7.1 Failure to comply with the Registration and Declaration requirements would amount to a breach of the Code of Conduct and have serious consequences for both Member and Authority. Furthermore, breach of the new provisions may well amount to a criminal offence.

**8.0 IMPLICATIONS FROM THE COUNCILS PRIORITIES**

8.1 None

**9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

9.1 None

**REPORT TO:** Standards Committee

**DATE:** 17<sup>th</sup> July 2012

**REPORTING OFFICER:** Operational Director Legal and Democratic Services/Monitoring Officer

**SUBJECT:** Standards Committee – Current Issues

**WARDS** N/A

**1.0 PURPOSE OF THE REPORT**

1.1 To advise the Committee of important changes to legislation, and invite recommendations to Council to ensure that Halton's Standards Regime is fit for purpose

**2.0 RECOMMENDATIONS: That**

- 1) Members note the current position with regard to membership of the Standards Committee and that the position be referred to Council for information and approval;**
- 2) The Members note the position with regard to the recruitment of independent persons and that a recommendation be made to Council for the approval of up to three independent persons with names to be supplied;**
- 3) The Committee reaffirms the arrangements for dealing with complaints contained in Appendix 2 to this Report, and refers them to Council for approval; and**
- 4) The Committee notes that, following approval of a new Code of Conduct by the Council, the Monitoring Officer will take steps to comply with the requirements of the Localism Act 2011.**

**3.0 SUPPORTING INFORMATION**

3.1 Members will be aware that a detailed report was submitted to Council on 18<sup>th</sup> April 2012 setting out important changes to the Standards Regime. The Council resolution is contained in Appendix 1 to this Report.

3.2 Furthermore, Council on 18<sup>th</sup> April 2012 approved arrangements for dealing with complaints, which are contained in Appendix 2. As a result of a subsequent

commencement order, those arrangements now need to be referred to the Standards Committee for further approval and subsequent adoption by Council. The arrangements have previously been considered in detail by Executive Board prior to submission to the Council meeting in April.

- 3.3 Council asked that the Monitoring Officer prepare a revised Code of Conduct taking account of forthcoming regulations dealing with Declarable Pecuniary Interests. The draft code appears elsewhere upon this Agenda, and will form the basis of a recommendation to Council. Once a new code has been adopted, the Monitoring Officer will take steps to ensure that Members' Declarations of Interests are maintained and publicised as required in the Act, including on the Council's web-site. The same requirement will apply to Parish Councils, and the finally adopted Code will be provided to them with the recommendation that it be adopted unchanged. They are also required to arrange for publication of Members' interests. This has to be done on the Council's web-site if Parishes do not have their own.
- 3.4 There has been a significant change to the provisions regarding independent persons, contained in recently enacted transitional provisions. Whilst it remains the case that a person applying to be an independent person could not be a Councillor, Co-opted Member or Officer of the Council or a Parish or Town Council within the area, or a relative or close friend of such a person, an important change has been put in place. Councils can now appoint as an independent person an individual who is not a Member or Co-opted Member of the Standards Committee on 1<sup>st</sup> July 2012, but who has held such a post during the five years ending 30<sup>th</sup> June 2012, provided that the appointment is made before 1<sup>st</sup> July 2013. This means that the individuals who have recently stood down as independent members of the old Standards Committee are free to apply to be independent persons if they so wish. This is considered to be an extremely positive development. The vacancy has now been advertised, with a closing date of 11<sup>th</sup> July 2012. Information will be brought to Members on the up to date position at the Meeting on 17<sup>th</sup> July, and appropriate arrangements will be put in place for applications to be considered and a recommendation made to Council on 18<sup>th</sup> July for the appointment of up to three independent persons. The commencement order was brought into force at short notice, requiring new arrangements to be put in place by 1<sup>st</sup> July 2012 or as soon as possible thereafter.
- 3.5 Two of the previous Independent Members of the old Standards Committee had indicated a willingness to be considered for co-option onto the new committee as non-voting members. Of course, it may well be the case that they would be interested in being considered for the new role of independent person. If that were to happen, then there would remain vacancies for two co-opted non-voting members of this committee. That is considered to be less serious than having vacancies for independent persons, which position is a new statutory requirement.

3.6 Furthermore, the Parish Councils within the Borough have been invited to submit names for consideration of co-option to the committee. To date, no nominations have been put forward.

3.7 The Committee is therefore asked to note the current position. There is no legal requirement to have co-opted members nor indeed Parish Council Members. Therefore, it is requested that Council be informed of the current position, and to reaffirm the decision to proceed with a Standards Committee comprising of nine elected members, noting current vacancies for co-opted members.

#### **4.0 POLICY IMPLICATIONS**

4.1 The Localism Act 2011 requires Council to have in place a Code of Conduct, arrangements for dealing with complaints, and an appropriate register of Members Interests.

#### **5.0 OTHER IMPLICATIONS**

5.1 None

#### **6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES**

6.1 Children and young people in Halton

None

6.2 **Employment Learning and skills in Halton**

None

6.3 **A Healthy Halton**

None

6.4 **A Safer Halton**

None

6.5 **Halton's Urban Renewal**

None



**7.0 RISK ANALYSIS**

7.1 The Council would be exposed to significant risk should it fail to comply with the provisions of the Localism Act 2011.

**8.0 EQUALITY AND DIVERSITY ISSUES**

8.1 The Report of itself does not contain specific Equality and Diversity issues

**9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

9.1 None

It is recommended as follows

(a) That the Council establish a Standards Committee comprising nine elected Members of the Council, appointed proportionally;

(b) That the Leader of the Council be requested to nominate to the Committee only one member who is a member of the Executive;

(c) That the Parish Councils be invited to nominate a maximum of 2 Parish Councillors to be co-opted as non-voting members of the Committee;

(d) That the Standards Committee co-opt a maximum of 2 independent non – voting members.

(e) That the Monitoring Officer be instructed to prepare and present to Council for adoption a draft Code of Conduct. That draft Code should

i) equate to Paragraphs 3 to 7 of the current Code of Conduct applied to member conduct in the capacity of an elected or coopted member of the Council or its Committees and Sub-Committees; and

ii) require registration and disclosure of interests which would today constitute personal and/or prejudicial interests, but only require withdrawal as required by the Act in relation to Disclosable Pecuniary Interests.

(f) That, when the Disclosable Pecuniary Interests Regulations are published, the Monitoring Officer, after consultation with the Chair of Standards Committee and the Leader of the Council, add to that draft Code, provisions which he considers to be appropriate for the registration and disclosure of interests other than DPIs.

(g) That the Monitoring Officer be instructed to prepare and submit to Council for approval “arrangements” summarised as follows and contained in Appendix 3 to this report –

i) That the Monitoring Officer be appointed as the Proper Officer to receive complaints of failure to comply with the Code of Conduct;

ii) That the Monitoring Officer be given delegated power, after consultation with the Independent Person, to determine whether a complaint merits formal investigation and to arrange such investigation. He be instructed to seek resolution of complaints without formal investigation wherever

practicable, and that he be given discretion to refer decisions on investigation to the Standards Committee where he feels that it is inappropriate for him to take the decision, and to report quarterly to Standards Committee on the discharge of this function;

iii) Where the investigation finds no evidence of failure to comply with the Code of Conduct, the Monitoring Officer be instructed to close the matter, providing a copy of the report and findings of the investigation to the complainant and to the member concerned, and to the Independent Person, and reporting the findings to the Standards Committee for information;

iv) Where the investigation finds evidence of a failure to comply with the Code of Conduct, the Monitoring Officer in consultation with the Independent Person be authorised to seek local resolution to the satisfaction of the complainant in appropriate cases, with a summary report for information to Standards Committee. Where such local resolution is not appropriate or not possible, he is to report the investigation findings to a Hearings Panel of the Standards Committee for local hearing;

v) That Council delegate to Hearings Panels such of its powers as can be delegated to take decisions in respect of a member who is found on hearing to have failed to comply with the Code of Conduct, such actions to include –

- Reporting its findings to Council [or to the Parish Council] for information;
- Recommending to the 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;
- Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- Instructing the Monitoring Officer to [or recommend that the Parish Council] arrange training for the member;
- Removing [or recommend to the Parish Council that the member be removed] from all outside appointments to which he/she has been appointed or nominated by the authority [or by the Parish Council];  
Withdrawing [or recommend to the Parish Council that it withdraws] facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- Excluding [or recommend that the Parish 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.

That a meeting be arranged between the Chair of Standards Committee and the Group Leaders for the Council and representatives of Parish Councils to discuss how the new system can best operate.

- (h) That the Monitoring Officer, in consultation with the Chair of Standards Committee and the Leader of the Council, and with the advice of the Head of HR, be authorised to set the initial allowances and expenses for the Independent Person and any Reserve Independent Persons, and this function subsequently be delegated to the Standards Committee
- (i) That the Monitoring Officer advertises a vacancy of the appointment of 1 Independent Person and 2 Reserve Independent Persons
- (j) That a Committee comprising the Chair and three other members of Standards Committee be set up to short-list and interview candidates, and to make a recommendation to Council for appointment.
- (k) That the Monitoring Officer prepare and maintain a new register of members interests to comply with the requirements of the Act and of the Council's Code of Conduct, once adopted, and ensure that it is available for inspection as required by the Act;
- (l) That the Monitoring Officer ensure that all members are informed of their duty to register interests;
- (m) That the Monitoring Officer prepare and maintain new registers of members' interests for each Parish Council to comply with the Act and any Code of Conduct adopted by each Parish Council and ensure that it is available for inspection as required by the Act; and
- (n) That the Monitoring Officer arrange to inform and train Parish Clerks on the new registration arrangements.
- (o) The Monitoring Officer be instructed to recommend to Council a Standing Order which equates to the current Code of conduct requirement that a member must withdraw from the meeting room including from the public gallery, during the whole of consideration of any item of business in which he/she has a DPI, except where he or she is permitted to remain as a result of the grant of a dispensation.
- (p) The Monitoring Officer be instructed to recommend to Council a Standing Order which equates to the current Code of conduct requirement that a member must withdraw from the meeting room, including from the public gallery, during the whole of consideration of any item of business in which he/she has a DPI, except where he or she is permitted to remain as a result of the grant of a dispensation.

- (q) That Council delegate the power to grant dispensations –
  - (i) on Grounds set out in Paragraphs 11.3.1 and 11.3.4 of this report to the Monitoring Officer with an appeal to Standards Committee, and
  - (ii) on Grounds 11.3.2, 11.3.3 and 11.3.5 to the Standards Committee, after consultation with the Independent Person

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

## 1 Context

These “Arrangements” set out how you may make a complaint that an elected or co-opted member of this authority *[or of a parish council within its area]* has failed to comply with the authority’s Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the authority’s 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 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 parish council]* against whom an allegation as been made.

## 2 The Code of Conduct

The Council has adopted a Code of Conduct for members, which is attached as Appendix One to these arrangements and available for inspection on the authority’s website and on request from Reception at the Municipal Building Widnes.

*[Each parish council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council’s Code of Conduct, you should inspect any website operated by the parish council and request the parish clerk to allow you to inspect the parish council’s Code of Conduct.]*

## 3 Making a complaint

If you wish to make a complaint, please write or email to –  
“The Monitoring Officer  
Halton Borough Council  
Municipal Building  
Kingsway

Widnes  
WA8 7QF”

Or –  
[mark.reaney@halton.gov.uk](mailto:mark.reaney@halton.gov.uk)

The Monitoring Officer is 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.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the model complaint form, which can be downloaded from the authority’s website, next to the Code of Conduct, and is available on request from Reception at the Municipal Building.

Please do provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the member against whom you make the complaint, without your prior consent. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.

#### **4 Will your complaint be investigated?**

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. This decision will normally be taken within 14 days of receipt of your complaint. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision. Where he/she requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the member against whom your complaint is directed. *[Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council or your complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation.]*

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the member or the authority make a reasonable offer of local

resolution, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

If your 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.

## **5 How is the investigation conducted?**

The Council has adopted a procedure for the investigation of misconduct complaints,. If the Monitoring Officer 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 Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

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 you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

## **6 What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**

The Monitoring Officer will review the Investigating Officer's report and, if he is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned [*and to the Parish Council, where your complaint relates to a Parish Councillor*], notifying you that he is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not



satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider his/her report.

## **7 What happens if the Investigating Officer concludes that there is evidence of a failure 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 or, after consulting the Independent Person, seek local resolution.

### 7.1 Local 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 you as complainant and seek to agree what you consider 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 Standards Committee *[and the Parish Council]* for information, but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate, the Monitoring Officer will refer the matter for a local hearing.

### 7.2 Local Hearing

If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The Council has agreed a procedure for local 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 Hearings 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 you as the complainant to attend and give evidence to the Hearings Panel. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

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

### **8 What action can the Hearings Panel take where 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 individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearings Panel may –

- 8.1 Publish its findings in respect of the member's conduct;
- 8.2 Report its findings to Council [*or to the Parish Council*] for information;
- 8.3 Recommend to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 8.4 Recommend to the Leader of the Council that the member be removed from the Executive, or removed from particular Portfolio responsibilities;
- 8.5 Instruct the Monitoring Officer to [*or recommend that the Parish Council*] arrange training for the member;
- 8.6 Remove [*or recommend to the Parish Council that the member be removed*] from all outside appointments to which he/she has been appointed or nominated by the authority [*or by the Parish Council*];
- 8.7 Withdraw [*or recommend to the Parish Council that it withdraws*] facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- 8.8 Exclude [*or recommend that the Parish 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.

The Hearings Panel has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

### **9 What happens at the end of the hearing?**

At the end of the hearing, the Chair will state the decision of the Hearings Panel as to whether the member failed to comply with the Code of Conduct and as to any actions which the Hearings Panel resolves to take. As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel, and send a copy to you, to the member *[and to the Parish Council]*, make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

## **10 Who are the Hearings Panel?**

The Hearings Panel is a Sub-Committee of the Council's Standards Committee. The Standards Committee has decided that it will comprise a maximum of three members of the Council, including not more than one member of the authority's Executive and comprising members drawn from at least 2 different political parties. Subject to those requirements, it is appointed on the nomination of party group leaders in proportion to the strengths of each party group on the Council.

The Independent Person is invited to attend all meetings of the Hearings Panel and his 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 action to be taken following a finding of failure to comply with the Code of Conduct.

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

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.

A person cannot be "independent" if he/she –

11.1 Is, or has been within the past 5 years, a member, co-opted member or officer of the authority;

11.2 Is or has been within the past 5 years, a member, co-opted member or officer of a parish council within the authority's area, or

11.3 Is a relative, or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, "relative" means –

11.3.1 Spouse or civil partner;

11.3.2 Living with the other person as husband and wife or as if they were civil partners;

11.3.3 Grandparent of the other person;

11.3.4 A lineal descendent of a grandparent of the other person;

11.3.5 A parent, sibling or child of a person within paragraphs 11.3.1 or 11.3.2;

11.3.6 A spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or

11.3.5; or

11.3.7 Living with a person within paragraphs 11.3.3, 11.3.4 or 11.3.5 as husband and wife or as if they were civil partners.

## **12 Revision of these arrangements**

The Council may by resolution agree to amend these arrangements, and has delegated to the Chair of the Hearings Panel the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

## **13 Appeals**

There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Hearings Panel

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.