

The LGA Model Councillor Code of Conduct

Torridge District Council

Purpose of the training

- To reflect on the importance of standards in public life
- To outline the provisions of the local authority's code of conduct
- To look at the requirements of behaviour and conduct for councillors
- To explore interests, bias and predetermination

Overall aim of the training

- That all councillors gain an excellent understanding of the provisions of the code and feel immediately better equipped to carry out their roles effectively and lawfully

The importance of standards in public life

“Local government impacts the lives of citizens every day, providing essential services to those it serves. Its decisions directly affect the quality of life of local people. High standards of conduct in local government are needed to demonstrate that those decisions are taken in the public interest and to maintain public confidence”

The Committee on Standards in Public Life

**What are the main challenges
for you as a councillor in
ensuring high standards of
conduct?**

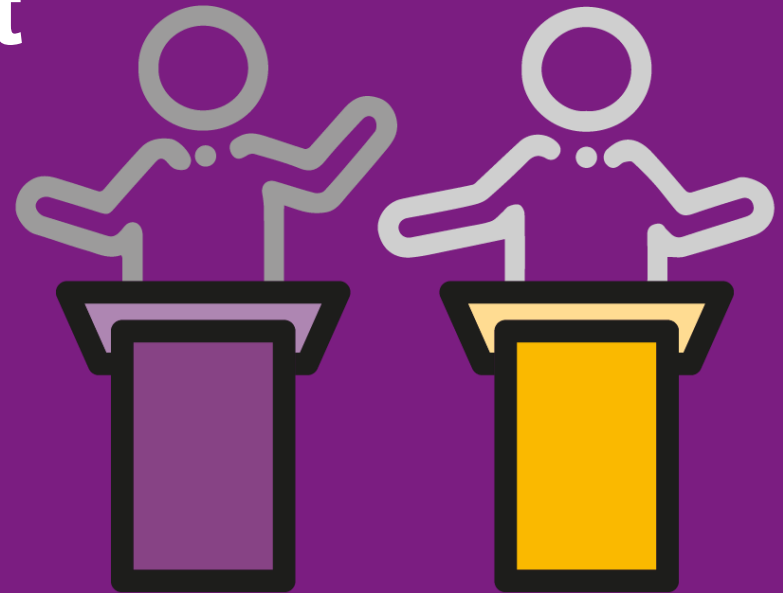
The LGA Model Code

- The Committee on Standards in Public Life recommended the introduction of an updated model code in January 2019
- The LGA model code was introduced in December 2020 following extensive consultation
- Guidance was issued in July 2021

Purpose of the code

- To assist councillors in modelling the expected behaviour
- To provide a personal check and balance
- To set out the type of conduct that could lead to action being taken against you
- Also to protect you, the public, your fellow councillors, officers and the reputation of local government

General principles of councillor conduct



Principles

- Everyone in public office at all levels who serve the public or deliver public services should uphold the Seven Principles of Public Life, also known as the Nolan Principles
- The Model Code also includes **general principles** which were developed specifically for the role of councillor

The Nolan Principles

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

General Principles (on all occasions)

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect
- I lead by example and act in a way that secures public confidence in the role of councillor

General Principles (in undertaking your role)

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage or disadvantage on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence
- I ensure that public resources are used prudently in accordance with the local authority's requirements and in the public interest

Application of the code of conduct



The code applies...

- When you are acting in your capacity as a councillor which may include when.....
 - You misuse your position as a councillor or
 - Your actions would give the impression to a reasonable member of the public with knowledge of all the facts, that you are acting as a councillor

The code applies to

- Face-to-face meetings
- Online or telephone meetings
- Written communication
- Verbal communication
- Non-verbal communication
- Electronic and social media communication, posts, statements and comments

“You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor”

Examples from the Guidance

- An argument with your neighbour – private
- A councillor and an officer having a personal relationship – covered by the code
- Writing on council notepaper or using council e mail, using councillor business cards or wearing council regalia – covered by the code
- An argument with a taxi driver and a threat to their licence – covered by the code

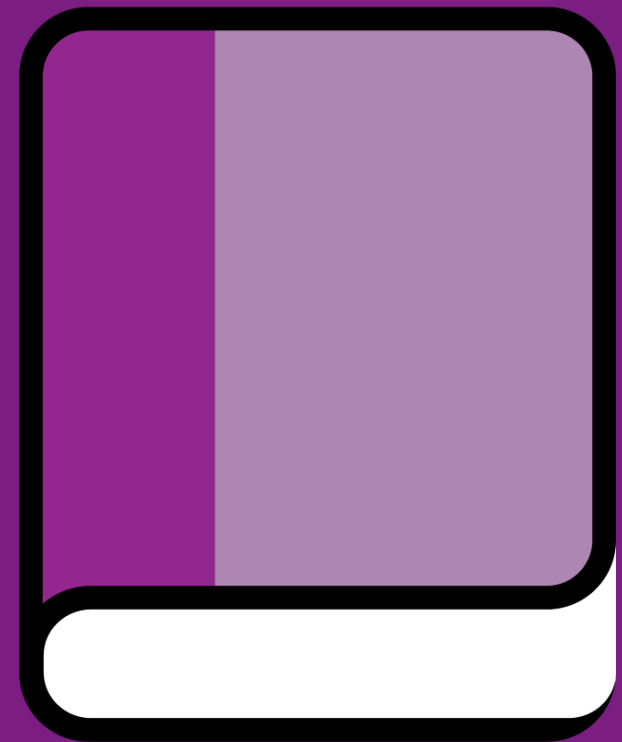
Social Media

- Now explicitly covered by the code
- Can be the main source of code of conduct complaints in many local authorities
- Useful guidance is available from from the LGA on dealing with social media

Examples from the Guidance

- Calling yourself a councillor (or not doing so) is not conclusive
- There must be a link within the posting or thread to your role as a councillor or to local authority business
- Councillor posted on Facebook (as a member of the public) that an officer should be sacked – covered by the code
- Councillor made insulting remarks about the Prime Minister – not covered by the code

General obligations under the code of conduct



Which of these do you think generates the most complaints?

1. Treating others with respect
2. Not bullying, harassing or discriminating
3. Not compromising the impartiality of officers
4. Dealing properly with information
5. Not bringing the council or your office into disrepute
6. Improper use of your position
7. Improper use of resources
8. Cooperating with code of conduct issues
9. Registering and disclosing interests
10. Dealing properly with gifts and hospitality

Standards of Councillor Conduct (1)

- I treat other councillors and members of the public with respect
- I treat local authority employees, employees and representatives of partner organisations and volunteers with respect and respect the role they play

Examples from the Guidance

- Highly critical comment and offensive caption posted about a councillor who had recently died – disrespect (and disrepute)
- Comments on a blog about nepotism in the award of contracts – disrespect (and disrepute)
- Councillor made abusive insulting and personal remarks to a police officer in his capacity as a ward member – disrespect

Standards of Councillor Conduct (2)

- I do not bully any person
- I do not harass any person
- I promote equalities and do not discriminate against any person

Examples from the Guidance on bullying and harassment

- Isolated minor incident unlikely to be bullying, but cumulative minor incidents can be
- Did the councillor know their actions constitute harassment, would a reasonable person consider the actions to be harassment and what was the impact on the victim
- At an official event, a councillor made unwarranted and inappropriate physical contact with councillors and officers and made patronizing and demeaning comments – this was a breach of the code

Examples from the Guidance on equalities and discrimination

- Councillor “liked” racially discriminatory comments on social media advocating violence against travellers – a breach of the code
- Councillor made a derogatory racist comment about a candidate for a job – a breach of the code

Standards of Councillor Conduct (3)

- I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority

Examples from the Guidance

- Councillor became involved in a social care case and inappropriately sought to influence operational decision making. He sent discourteous correspondence to officers
- Councillor sought to influence the decision of council officers dealing with a complaint by his son and daughter-in-law against a tenant
- Both were breaches of the code

Standards of Councillor Conduct (4)

- I do not disclose confidential information unless...
 - I have the required consent
 - I am required to do so by law
 - I need professional third-party advice
 - The disclosure is reasonable, in the public interest, in good faith, complies with the local authority's requirements and there has been consultation with the Monitoring Officer

Standards of Councillor Conduct (4) (cont.)

- I do not improperly use knowledge gained as a result of my role
- I do not prevent lawful access to information

Examples from the Guidance

- Councillor was involved in an adoption case and inadvertently shared information about the matter with a relative of the constituent – a breach of the code
- Councillor circulated information about the medical condition of an officer without consent – a breach

Standards of Councillor Conduct.(5)

- I do not bring my role or local authority into disrepute

Examples from the Guidance

- Councillor posted an offensive tweet about another councillor referring to the SFO investigating her conduct – this brought the authority into disrepute
- Councillor took advantage of a mistake and failed to prevent local authority employed contractors working on his (privately owned) home – this brought the authority into disrepute
- Chair of a council made a deeply inappropriate remark at a meeting. Many other councillors expressed concerns and found the remarks inappropriate – this brought his office (but not the authority) into disrepute

Standards of Councillor Conduct (6)

- I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else

Examples from the Guidance

- Councillor discussed and voted on a new lease to a community group without revealing that she was the “joint co-ordinator” of the group – this was using her position improperly
- Leader failed to declare a conflict of interest and used his position to enhance the value of his own land (by instructing a planning officer re the route of a by-pass) – a breach of the code (and an 18 month prison sentence)

Standards of Councillor Conduct (7)

- I do not misuse local authority resources.
- I will use them in accordance with the local authority's requirements and will not use them for political purposes (unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or my office)

Examples from the Guidance

- Councillor used council computer equipment for private purposes by downloading pornographic images – this was a misuse of resources (and also disrepute)
- Councillor used council notepaper in an attempt to avoid parking penalties incurred by his son – this was a breach of the code (and a conviction for deception)

Standards of Councillor Conduct (8)

- I undertake standards training
- I co-operate with any standards investigation and/or determination
- I do not intimidate/attempt to intimidate any person who is likely to be involved with the administration of an investigation or proceedings
- I comply with any sanction imposed on me following a breach finding

Protecting your reputation and the reputation of the local authority



Standards of Councillor Conduct (9)

- I register and disclose my interests

Standards of Councillor Conduct (10)

- I do not accept gifts and hospitality, irrespective of value, which could give rise to gain or concern
- I register any gift or hospitality of £50 or more with the MO within 28 days
- I register with the MO any significant gift or hospitality I have been offered but rejected

Registration and disclosure of interests



**Which aspects of
registering or disclosing
interests do you find
most challenging?**

Interests

- Three types...
 - Disclosable pecuniary interests (DPIs)
 - Other registerable interests (ORIs)
 - Non-registerable interests (NRIs)
- Two situations...
 - Registration
 - Disclosure

Disclosable pecuniary interests (DPIs)

- They relate to things such as your employment, interests in land, contracts with the Council etc. (Table 1)
- They cover interests of you and of your spouse/partner
- You must register them within 28 days of election and whenever your position changes
- It is a criminal offence under the Localism Act 2011 to fail to register DPIs, to fail to disclose them at meetings, to participate or vote where you have a DPI or to provide false or misleading information about them

DPIs (2)

- Where a matter arises at a meeting which **directly relates** to a DPI, you must disclose it, not participate in any discussion or vote on the matter and not remain in the room (unless you have a dispensation)

Guidance on DPIs

- You have a DPI where the matter being discussed directly relates to your registered interest rather than just affecting it
- If you live at 1 Acacia Avenue, you will have a DPI if you apply for planning permission for 1 Acacia Avenue or if the whole of Acacia Avenue is being considered for a Residents' Parking Zone.
- You will not have a DPI if 3 Acacia Avenue has put in a planning application (though you may have a NRI)

Examples from the guidance – DPIs

- Awarding a contract to your own company
- Planning application for your own property
- Resident parking zone includes your house
- All these are DPIs, so you you should disclose and withdraw (unless you have a dispensation)
- Criminal offence if you fail to do so – Section 34 of the Localism Act 2011

Other registerable interests (ORIs)

- Relate to unpaid directorships, membership of outside bodies, charities, lobby groups, TUs, political parties etc. (Table 2)
- Must register them within 28 days of election/appointment to office and whenever your position changes

ORIs (2)

- Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of an ORI, you must disclose it
- You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have a dispensation
- (See later for what to do if something **affects** one of your ORIs)

Examples from the guidance – ORIs

- Awarding/withdrawing grant funding or granting planning permission to a body of which you are a member e.g. community hall
- Both directly relate to the finances of an ORI.
- Both are therefore interests you should disclose, you should not participate in the discussion or vote and withdraw (unless you have a dispensation or the public can address the meeting)

Non-registerable interests (NRIs) “directly relates to”

- Where a matter arises at a meeting which **directly relates to** your financial interest or well-being (and is not a DPI) or to a financial interest or well-being of a relative or close associate, you must disclose it.
- You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have a dispensation

Examples from the guidance

- Determining an application submitted by your sister or your neighbour for a dog breeding licence
- Partner with free parking permit and policy review decision to be made
- You object in a private capacity to your neighbour's planning application

Examples from the guidance

- All these three **directly relate to** the finances of you, a partner, relative or close associate
- All are therefore interests you should disclose and you should not take part in any discussion, not vote and not remain in the room, (unless you have a dispensation or the public can address the meeting)

Non-registerable interests (NRIs) “affects”

- Where a matter arises at a meeting which **affects** your own financial interest or well-being or a financial interest or well-being of a relative or close associate or of a body included in your list of “Other Registerable Interests”
- Disclose it, but you can remain in the meeting, participate and vote unless...

Non-registerable interests (NRIs)

“The test”

- ...the matter affects the financial interest or well-being
- (a) to a greater extent than it affects the financial interests of a majority of inhabitants of the affected ward and
 - (b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

Non-registerable interests (NRIs)

The consequences...

- If so, you may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have a dispensation

Examples from the guidance

- Awarding grant funding to a competitor to a community hall, where you are on the membership committee
- Application for housing development on land near to partner's business property
- Your neighbour applies for planning permission
- These examples **affect** the finances or well-being of an ORI or a relative/close associate ...

Examples (cont)

- So apply the test –
 - Does it affect the finances or well-being more than the finances of the majority of inhabitants of the ward and
 - Would a reasonable member of the public knowing all the facts believe that it would affect your view of the wider public interest?
- If so, these are interests you should disclose, not participate in the discussion, not vote and withdraw (unless you have a dispensation or the public can address the meeting)

Applying the test - what do you think?

- A major development proposal affects the ward where your sister lives. She lives at the other end of the ward rather than next door to the development.
- You help to run a food bank and the council is considering a motion to investigate the causes of poverty in the area.

Applying the test (2)

- You are over 65 and are taking part in a discussion about provision for older people. You would be more affected than the majority by the outcome of the discussion.
- You are discussing closure of the local authority run care home where your father lives.

Examples from the guidance – well-being

- Road works noise outside your house
- Odours from nearby tip
- Anti-social behaviour from rough sleepers housed in B+B's nearby
- These are not financial issues but could affect your well-being/quality of life, so apply the test

Interests as a Cabinet Member

- Where you are a Cabinet member and are going to decide a matter in exercise of your executive function, if you have a DPI, an ORI or a NRI in the matter, you must notify the Monitoring Officer and not take any steps to deal with it (other than arranging for someone else to deal with it)

Sensitive interests

- An interest which, if disclosed, could lead to the councillor, or a person connected with her/him, being subject to violence or intimidation
- Where you have a sensitive interest you must notify the Monitoring Officer with reasons and, if the MO agrees, they will withhold the interest from the public register

Sensitive interests (2)

- When a sensitive interest arises at a meeting, you have to disclose that you have an interest, but not the nature of it

Dispensations

- The Localism Act sets out circumstances in which the council can grant a dispensation, so allowing a councillor to vote and/or speak in a meeting where they would otherwise have had to disclose an interest and withdraw.
- Standing dispensations

Summary of interests



Summary of interests (1)

If something **directly relates** to

- your DPIs
- the financial interest or well-being of an ORI
- your financial interest or well-being (which is not a DPI) or
- the financial interest/well-being of a relative or close associate ...

Summary of interests (2)

- You must disclose the interest, not participate in any discussion and leave the room
- You can speak on a matter if you have a dispensation
- You can speak on the matter if members of the public are also allowed to speak at the meeting (except if it relates to a DPI)

Summary of interests (3)

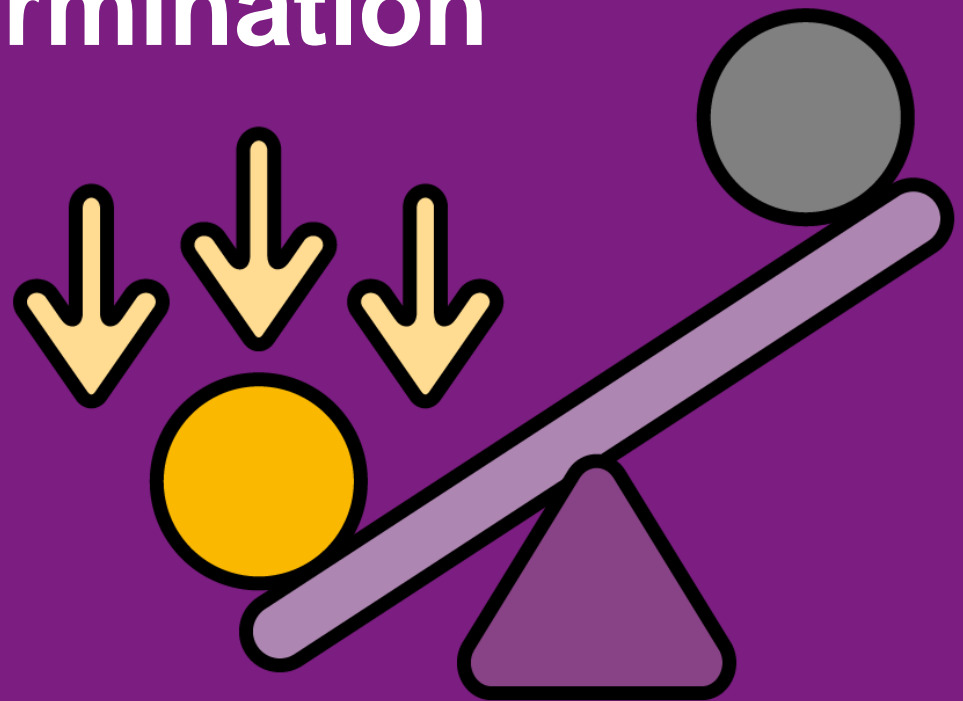
If something **affects**

- your financial interest or well-being
- the financial interest or well-being of a relative or close associate or
- the financial interest or well-being of an ORI ...

Summary of interests (4)

- You must disclose the interest. You can stay, speak and vote **unless** you/they are affected to a greater extent than most people **and** people would think your judgment might be clouded
- If so, you must not participate in any discussion and leave the room (though you can speak if you have a dispensation or if the public are allowed to)

Bias and predetermination



Bias and predetermination (1)

- Not explicitly covered in the code of conduct
- But they are important legal concepts to ensure that decisions are taken solely in the public interest and not to further any private interests

Bias and predetermination (2)

- Bias – where a decision maker's connections make it appear that there is a real danger of bias when s/he makes the decision
- Pre-determination – where a decision maker has completely made up his/her mind before the decision is taken.

Bias and predetermination (3)

- The risk in both cases is that the decision maker does not approach the decision with an objective, open mind
- This makes the local authority's decision challengeable (and may also be a breach of the code of conduct by the councillor)

Section 25 Localism Act 2011

- An elected or co-opted member is not to be taken to have had, or to appear to have had a closed mind when making a decision just because the decision-maker had previously done anything that directly or indirectly indicated what view the decision maker took or would or might take in relation to a matter and the matter was relevant to the decision

Example from the guidance (1)

- A councillor said publicly that he was “inclined to go along with” a barrister’s recommendation in relation to a TVG application. He then voted on the decision making committee. Probably predisposition and not predetermination.

Example from the guidance (2)

- A district councillor also belongs to a parish council that has complained about the conduct of an officer of the district council. The officer has been disciplined. The officer has appealed to a councillor panel and the councillor seeks to sit on the panel hearing the appeal
- The councillor should not participate

Roles and process for dealing with code of conduct complaints

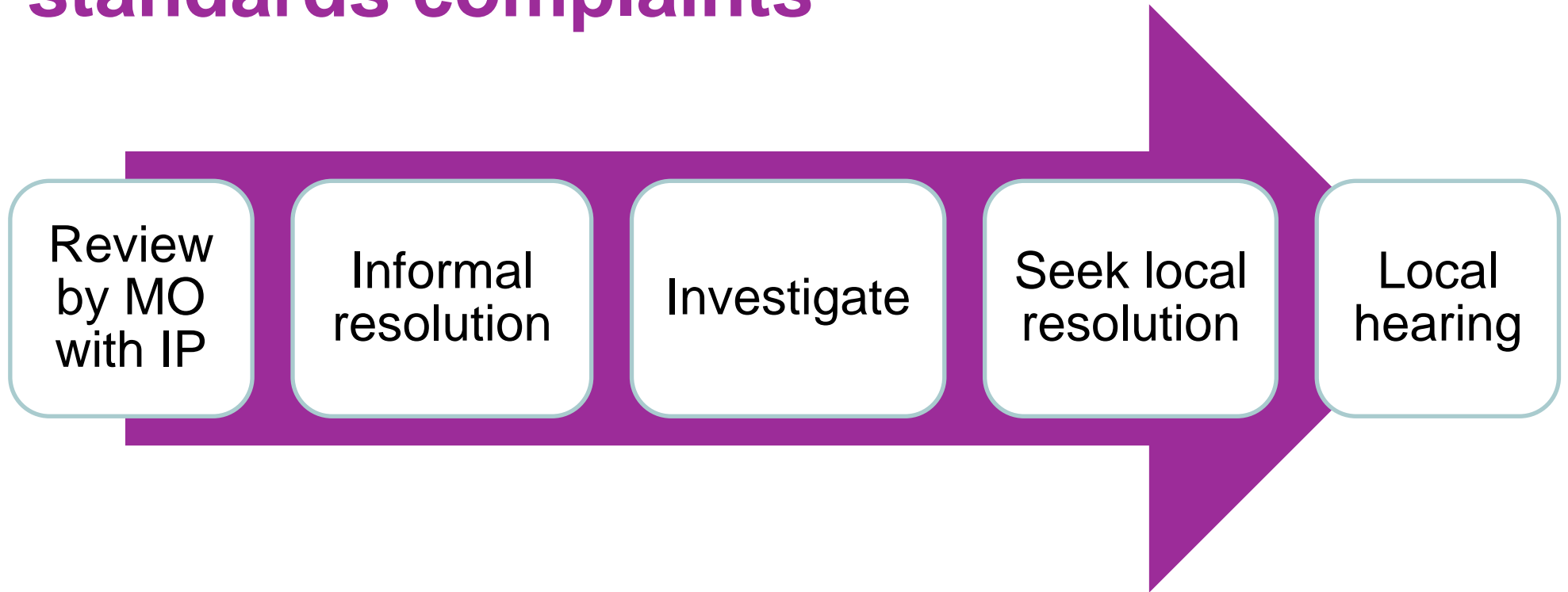


Role of the Monitoring Officer re: standards

- Maintaining the registers of interests
- Ensuring the investigation of complaints
- Supporting councillors and complainants

- Seek early advice from the Monitoring Officer on any issues re standards/interests

Usual arrangements for dealing with standards complaints



Mini scenarios



Weatherfield Council

Weatherfield Council has recently changed hands. At the first Council meeting the Mayor, Councillor Ken Barlow, loses control of the proceedings. Councillors start shouting over each other and ignoring rulings from the Mayor. They are strongly critical of the politics and policies of the opposing groups and make disparaging remarks about members and senior officers. The press describe the meeting as “shambolic”.

Councillor Sally Webster

The new Leader of the council, Councillor Sally Webster, calls the Chief Executive into her office and says that things must change. She tells him she is determined to sort out “all the deep-seated problems” she has inherited. In her Leader’s Blog, she posts that her party is going to sort out all the “dead wood” at the Council. The former Council Leader, Councillor Roy Cropper, responds robustly on social media calling Councillor Webster a “stupid woman”.

Councillor Leanne Battersby

Councillor Battersby keeps two twitter accounts – a personal one (LeaB) and one in the name of Councillor Leanne Battersby. She posts the following on her personal account:

“I was outraged at the planning committee last week. I voted against the dreadful application for the windfarm but was outvoted by idiotic opposition members who swallowed the unprofessional report written by officers who are in the pocket of the developer. These are my personal views”.

Councillor Ken Barlow

Councillor Barlow is the Mayor, and his family are major landowners in the area. He votes at the Planning Committee in support of an application for development on land which he realises, after the meeting, borders land owned by his wife. The grant of planning permission arguably adds value to her land. Councillor Barlow realises that he had completely overlooked his wife's ownership (which he was aware of) and it is not included in his register of interests. He apologises profusely.

Councillor Audrey Roberts

Councillor Audrey Roberts' husband is employed by a local firm – Weatherfield Materials Limited. Cllr Roberts notices that there is a confidential item on the agenda for a forthcoming committee meeting about awarding some contracts. One of the contracts is proposed to be granted to WML.

What if it was not her husband who works for WML, but her nephew, whom she hasn't seen for years?

Councillor Mike Baldwin

Councillor Baldwin is passionately in favour of an application which is coming to the Planning Committee. He thinks that it will bring jobs to the area and provide homes for local people. He says that his son and daughter-in-law cannot afford to buy a property in the town and this development may help them. He is also a member of 'Local Homes for Local People' a campaigning group trying to bring affordable housing into the area.

Conclusions and close