

NORTHAMPTON BOROUGH COUNCIL

STANDARDS COMMITTEE

Your attendance is requested at a meeting to be held at the The Holding Room, The Guildhall, St. Giles Square, Northampton, NN1 1DE. on Monday, 18 June 2012 at 5:00 pm.

D. Kennedy
Chief Executive

AGENDA

1. APOLOGIES
2. MINUTES
3. DEPUTATIONS / PUBLIC ADDRESSES
4. DECLARATIONS OF INTEREST
5. MATTERS OF URGENCY WHICH BY REASON OF SPECIAL CIRCUMSTANCES THE CHAIR IS OF THE OPINION SHOULD BE CONSIDERED
6. THE NEW STANDARDS ARRANGEMENTS: - THE LOCALISM ACT 2011
Report of Borough Secretary and Monitoring Officer (Copy herewith)
7. EXCLUSION OF PUBLIC AND PRESS
THE CHAIR TO MOVE:
"THAT THE PUBLIC AND PRESS BE EXCLUDED FROM THE REMAINDER OF THE MEETING ON THE GROUNDS THAT THERE IS LIKELY TO BE DISCLOSURE TO THEM OF SUCH CATEGORIES OF EXEMPT INFORMATION AS DEFINED BY SECTION 100(1) OF THE LOCAL GOVERNMENT ACT 1972 AS LISTED AGAINST SUCH ITEMS OF BUSINESS BY REFERENCE TO THE APPROPRIATE PARAGRAPH OF SCHEDULE 12A TO SUCH ACT."

Public Participation

Members of the public may address the Committee on any non-procedural matter listed on this agenda. Addresses shall not last longer than three minutes. Committee members may then ask questions of the speaker. No prior notice is required prior to the commencement of the meeting of a request to address the Committee.

Appendices

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NORTHAMPTON
BOROUGH COUNCIL

STANDARDS COMMITTEE REPORT

Report Title	The New Standards Arrangements – The Localism Act 2011
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AGENDA STATUS: PUBLIC

Committee Meeting Date:	18 June 2012
Policy Document:	Yes
Directorate:	Chief Executive's

1. Purpose

- 1.1 This report sets out the changes that the Localism Act 2011 makes to the system of regulation of standards of conduct for elected Councillors and any Co-opted Members. Although these changes come into effect from 1 July 2012 the Regulations supporting the Act were only published on 8 June 2012.

2. Recommendations

That Council be recommended to:

1. Disestablish the existing Standards Committee with effect from 30 June 2012.
2. Establish a Standards Committee, with effect from 1 July 2012, comprising nine Councillors and that the Standards Committee appoint such Co-opted Persons that it considers appropriate as set out in Article 10 of the Council's Constitution (Appendix A).
3. Approve the number of seats on each Committee as set out in paragraph 3.3.1 of the report.
4. Confirm the representation of the political groups as twenty five Conservative seats, sixteen Labour and four Liberal Democrat.

5. Agree that Group Leaders notify the Chief Executive of their appointees to the new Standards Committee including the naming of the Chair and Deputy Chair.
6. Approve the Members' Code of Conduct set out in Appendix B of the report.
7. Approve the Arrangements for Dealing With Allegations of Breaches of the Northampton Borough Council Code of Conduct and Codes of Conduct Adopted by Parish Councils set out in Appendix C of the report.
8. Authorise the Monitoring Officer to take the necessary steps under the transitional arrangements and to appoint Independent Persons.
9. Authorise the Monitoring Officer to determine the appropriate payment for Independent Persons.
10. Amend the Council's Constitution in respect of Responsibility for Functions as set out in Appendix D.
11. Approve the amendment of the Monitoring Officer's Delegations and the Proper Officer's Appointments under Part 8 of the Constitution in accordance with Appendix E.
12. Authorise the Monitoring Officer to undertake any other minor adjustments necessary to implement the report and appendices.

3. Issues and Choices

3.1 Report Background

3.2.1 Standards Committee

3.2.2 The Localism Act repeals Section 55 of the Local Government Act 2000, which provides for the current statutory Standards Committee. Whilst there is no longer a requirement for a statutory Standards Committee, the authority remains under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members. There will still be a need to deal with standards issues and case-work. The Monitoring Officer's view is that the best way to discharge these functions is through a Standards Committee which would be a normal Committee of Council, governed by proportionality (see paragraph 3.3.1 below). The current Co-opted Independent Members cease to hold office. The Localism Act establishes a new category of Independent Persons (see paragraph 3.6.1 below) who must be consulted at various stages. The Independent Persons can be invited to attend meetings of the Standards Committee but they would not have any voting rights. The transitional arrangements allow for existing independent members to be appointed as Independent Persons and it is proposed that the

Monitoring Officer take the necessary steps for the current Independent Members of the Standards Committee to fill these positions.

- 3.2.3 The Council will continue to have responsibility for dealing with standards complaints against elected and appointed members of Parish Councils, but the current Parish Council representatives cease to hold office. The Council can choose whether it wants to continue to involve Parish Council representatives and, if so, how many Parish Council representatives it wants. This aspect of the old standards arrangements has worked well and the Parish Council representatives on the Standards Committee have provided a valuable insight into parish council matters. With the likely creation of further Parish Councils as a result of the current Community Governance Review, the contribution of Parish Council representation on a new Standards Committee may prove to be even more valuable than hitherto.
- 3.2.4 It is proposed that the existing two Parish Council representatives be co-opted in a non voting capacity on to the new Standards Committee.
- 3.2.5 Article 10 of the Council's Constitution has been redrafted to take account of a new Standards Committee (see Appendix A). The redrafted Article sets out the composition of a new committee, its role and also to the creation of a Hearings Panel and its role in dealing with allegations of breaches of the Council's Code of Conduct (see paragraph 3.4.1).
- 3.2.6 It will be necessary to disestablish the existing Standards Committee in order to create a new committee.
- 3.3.1 Proportionality
- 3.3.2 As described in paragraph 3.2.2 above, a new Standards Committee will be a proportional committee. Council last considered proportionality at the annual meeting on 24 May 2012 and noted the current composition of the Groups as twenty five Conservative seats, sixteen Labour and four Liberal Democrat. This has not changed in the intervening period.

The existing sixty allocated Committee places divides as thirty three Conservative, twenty one Labour and five Liberal Democrat and the allocation of seats between the Committees is as follows:

Committee	Conservative	Labour	Liberal Democrat	Total
Audit	4	3	1	8
Overview & Scrutiny	8	5	1	14
Planning	7	4	1	12
Licensing	6	4	1	11
Appointments and Appeals	3	2	1	6

General Purposes	5	3	1	9
<u>Totals</u>	33	21	6	60
Proportionality would be:	33.3	21.3	5.3	69

3.3.3 A nine member Standards Committee would increase the number of allocated Committee places to sixty nine and this would divide as thirty eight Conservative seats, twenty four Labour and six Liberal Democrat. The allocation of seats between the Committees would be as follows:

Committee	Conservative	Labour	Liberal Democrat	Total
Audit	4	3	1	8
Overview & Scrutiny	8	5	1	14
Planning	7	4	1	12
Licensing	6	4	1	11
Appointments and Appeals	3	2	1	6
General Purposes	5	3	1	9
Standards	5	3	1	9
<u>Totals</u>	38	24	7	69
Proportionality would be:	38.3	24.3	6.3	69

3.4.1 The Code of Conduct

3.4.2 The Localism Act has repealed the existing Statutory Model Code of Conduct. However, the Council will be required to adopt a new locally agreed Code of Conduct governing elected and co-opted members' conduct when acting in that capacity, ie, it does not govern a Member's conduct (or a Co-opted member's conduct) when they are acting in a private capacity. The Council's new Code of Conduct must, when viewed as a whole, be consistent with the following seven Nolan principles:

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

but otherwise it has discretion as to what it includes. Nationally, there has been some measure of agreement that whilst it is open for each local authority to devise its own Code of Conduct and procedures for dealing with allegations of breaches, it would be helpful for Members, who were members of more than one tier of local authority in an area, if there were to be a common structure or, indeed, a common Code of Conduct so that Members did not have to learn completely different versions depending on which local authority they were representing at any particular point in time. In Northamptonshire, the County Council, together with Cambridgeshire County Council, have put forward a draft Code of Conduct for the district councils to consider. Appendix B sets out a Code of Conduct for consideration. It is based on the County Council's draft but has been adjusted to make, where possible, the wording easier to understand and to take account of Regulations made since the draft was prepared.

3.4.3 The Localism Act has repealed the concept of Personal and Personal Prejudice Interests. Instead they are now replaced by Personal Interests, which can be locally determined, and Disclosable Pecuniary Interests (DPI) which are statutory. The details of both are included within Appendix B. Failure to disclose a DPI is potentially a criminal offence. The Act prohibits Members with a DPI from participating in those items of business or voting on them.

3.5.1 Dealing with Misconduct Complaints

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

3.5.3 The advantage is that the Act repeals the requirements for separate Referrals, Review and Hearings Sub-Committees and enables the Council to establish its own process, which can include delegation of decisions on complaints.

3.5.4 As with the Code of Conduct, there has been some national agreement that the arrangements for dealing with allegations of breaches of the Code of Conduct should be similar between tiers of local authority within an area. To this end Northamptonshire County Council, together with Cambridgeshire County Council, have proposed a set of arrangements for the district councils to consider. Appendix C sets out the proposed arrangements for the Council to deal with alleged breaches of the Code of Conduct. These arrangements would also apply to the Parish Councils as well, irrespective of whether they chose to adopt the Council's Members' Code of Conduct or a different one. The arrangements set out in Appendix C are broadly the same as those put forward in the County Council's draft. A drawback of the old arrangement was the lack of discretion given to Monitoring Officers to be able to deal with appropriate allegations by other means, other than through the formal statutory process. The Council's proposed arrangements give that discretion

to the Monitoring Officer. The sanctions that can be applied to a Member who has been found to be in breach of the Members' Code of Conduct are set out in Appendix C.

3.6.1 Independent Person(s)

3.6.2 The Localism Act requires the Council to appoint at least one Independent Person.

The functions of the Independent Person(s) are:

- they must be consulted by the authority and their views taken into account before the authority makes a finding as to whether a member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that member. (This means that their views must be sought on a decision to take no action where the investigation finds no evidence of breach or, where the investigation finds evidence that there has been a breach, on any local resolution of the complaint, or on any finding of breach and on any decision on action as a result of that finding);
- they may be consulted by the authority in respect of a standards complaint at any other stage; and
- they may be consulted by a member or co-opted member of the District Council or of a Parish Council against whom a complaint has been made.

As it would be inappropriate for an Independent Person to be consulted by both the authority and the Member against whom the complaint has been made, and to give a measure of cover for unavailability, it would be sensible to have three Independent Persons.

3.6.3 The transitional arrangements allow for existing Independent Members to be appointed as Independent Persons and it is proposed that the Monitoring Officer takes the necessary steps to allow this to happen. However, if the existing Independent Members are unable or unwilling to adopt these new roles, the Monitoring Officer will seek whatever other arrangements are appropriate.

3.6.4 After the period of transition, Independent Persons must be appointed through a process of public advertisement, application and appointment by a positive vote of a majority of the Members of the Council.

Post the transition a person is considered not to be "independent" if:

- they are, or have been within the last five years, an elected or co-opted member or an officer of the District Council or of any of the Parish Councils within its area;

- there are, or have been within the last five years, an elected or co-opted member of any Committee or Sub-Committee of the District Council or of any of the Parish Councils within its area
- they are a relative or close friend of a current elected or co-opted member or officer of the District Council or any Parish Council within its area, or of any elected or co-opted member of any Committee or Sub-Committee of such Council.

3.6.5 As an Independent Person is not a member of the authority or of its Committees or Sub-Committees, the remuneration of them no longer comes within the scheme of Members' allowances, and could therefore be determined without reference to the Independent Remuneration Panel. However, although the role is likely to be less onerous than that of the existing Independent Members, for example, an Independent Person would not chair the Standards Committee, it would be appropriate to undertake a proper review of the function before setting remuneration. Furthermore, in the interests of consistency across the county, it would seem appropriate for a Remuneration Panel, on behalf of all the Northamptonshire Councils, to consider the matter.

3.7.1 The Register of Members' Interests

3.7.2 The Monitoring Officer is required to maintain a register of interests, which must be available for inspection and available on the Council's website. The Monitoring Officer is also responsible for maintaining the register for Parish Councils, which also have to be open for inspection at the Council offices and on the Council's website as well as on any website that the Parish Council may have.

Disclosable Pecuniary Interests (DPIs) are set out in Appendix B. Councillors and Co-opted Members must register all DPIs within twenty eight days of becoming a member. Failure to register a DPI or participating in a relevant meeting with a DPI without reasonable excuse are made criminal offences , but would not prevent the Member from acting as a Member.

In so far as the Code of Conduct requires the registration of Personal Interests, failure to do so would not be a criminal offence, but a failure to comply with the Code of Conduct.

3.7.3 Whilst there is no continuing requirement for a member to keep the register up to date, except on re-election or re-appointment, Members will need to register new interests from time to time as they arise from business at meetings. The requirements to disclose or disclose and withdraw from that part of the meeting are set out in Appendix B. These requirements also apply to delegated decisions made by a single Member.

3.8.1 Sensitive Interests

3.8.2 The Localism Act effectively continues the existing Code of Conduct provisions on Sensitive Interests. Where a Member is concerned that disclosure of the detail of an interest (either a Disclosable Pecuniary Interest

or any other interest which they would be required to disclose) at a meeting or on the register of Members' interests would lead to the Member or a person connected with them being subject to violence or intimidation, they may request the Monitoring Officer to agree that the interest is a "sensitive interest".

If the Monitoring Officer agrees, the Member then only has to disclose the existence of an interest, rather than the detail of it, at a meeting, and the Monitoring Officer can exclude the detail of the interest from the published version of the register of members' interests.

3.9.1 Dispensations

3.9.2 Dispensations will be able to be granted in the following circumstances:

- That so many members of the decision-making body have DPIs in a matter that it would "impede the transaction of the business". In practice this means that the decision-making body would be inquorate as a result;
- That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter. This assumes that members are predetermined to vote on party lines on the matter, in which case, it would be inappropriate to grant a dispensation to enable them to participate;
- That the authority considers that the dispensation is in the interests of persons living in the authority's area;
- That, without a dispensation, no member of the Cabinet would be able to participate on this matter (so, the assumption is that, where the Cabinet would be inquorate as a result, the matter can then be dealt with by an individual Cabinet Member. It will be necessary to make provision in the scheme of delegations from the Leader to cover this, admittedly unlikely, eventuality); or
- That the authority considers that it is otherwise appropriate to grant a dispensation.

Any grant of a dispensation must specify how long it lasts for, up to a maximum of four years.

3.9.3 The Localism Act allows discretion for this power to be delegated to Standards Committee or a Sub-Committee, or to the Monitoring Officer. It is proposed that the Monitoring Officer be delegated to grant dispensations together with the discretion to refer any particular request to the Standards Committee in appropriate circumstances.

3.10.1 Delegations

3.10.2 The Localism Act delegates specific roles to the Monitoring Officer in respect of Registers of Interests in terms of establishing and publishing registers and publishing Parish Council registers. The consequent additions to the Borough Secretary and Monitoring Officer's delegations are set out in Appendix E.

3.10.3 Section 33 of the Act enables a relevant authority, upon a written request to the Proper Officer from a Member or Co-opted Member. It is proposed that this power is delegated to the Monitoring Officer as outlined in paragraph 3.9.3 The consequent amendment to the Proper Officer Appointments is set out in Appendix E.

3.10.4 The Arrangements for Dealing With Allegations of Breaches of the Northampton Borough Council Members' Code of Conduct and Codes of Conduct Adopted by Parish Councils (Appendix C) propose delegations to the Borough Secretary as highlighted in paragraph 3.5.1 above. The consequent additions to the Borough Secretary's delegations are set out in Appendix E.

3.10.5 The Borough Secretary's delegations also include an authorisation to deal with any residual matters resulting from the Council's adopted Members' Code of Conduct and the Arrangements for Dealing With Allegations of Breaches of the Northampton Borough Council Members' Code of Conduct and Codes of Conduct Adopted by Parish Councils, also set out in Appendix E.

4. Implications (including financial implications)

4.1 Policy

The report sets out a new Members' Code of Conduct and Arrangements for Dealing With Allegations of Breaches of the Members' Code of Conduct resulting from the changes brought about by the Localism Act 2011.

4.2 Resources and Risk

There may be financial implications following consideration of any appropriate allowances by the Remuneration Panel. The legislation and regulations have been published hastily. The new processes may require adjustment in the future in the light of experience.

4.3 Legal

Contained within the report.

4.4 Equality

The new Members' Code of Conduct and the Arrangements for Dealing With Allegations of Breaches of the Members Code of Conduct will apply to all

elected Councillors and Co-opted Members and the Arrangements for Dealing With Allegations of Breaches of the Code of Conduct will also apply to all elected or appointed Parish Councillors.

4.5 Consultees (Internal and External)

None.

4.6 Other Implications

None.

5. Background Papers

None.

Francis Fernandes, Borough Secretary and Monitoring Officer 837334

Article 10 – The Standards Committee

10.1 Standards Committee

The Council Meeting will establish a Standards Committee.

10.2 Membership – The Standards Committee will be composed of nine Councillors. In addition the Standards Committee shall appoint:

- such Independent Members as the Committee considers appropriate. The Independent Members shall not have the right to vote;
- two Parish Council Members without the right to vote.

10.3 Independent Persons

An Independent Person:

- must be consulted and their views taken account of before the Standards Committee/Hearings Panel takes a decision on any allegation that is to be investigated;
- may be consulted by the Monitoring Officer in circumstances where an allegation is not to be investigated;
- may be consulted by a Member against whom an allegation has been made; and
- may be consulted by a Parish Councillor against whom an allegation has been made.

10.4 The Hearings Panel

The Committee shall establish a Hearings Panel.

The Hearings Panel shall be made up of any three Councillors of the Standards Committee, plus an Independent Member (without the right to vote), plus a Parish Council Member (without the right to vote) where a Parish Council issue is to be considered, and shall meet on an ad hoc basis

The Hearings Panel shall:

- consider any Investigating Officer's report referred to it by the Monitoring Officer and an Independent Person and conduct a hearing to determine if a Member or Co-opted Member of the Council (or a member of a Parish Council) has failed to comply with the Members' Code of Conduct (or such Members' Code of Conduct adopted by a Parish Council); and
- announce their findings upon the conclusion of the hearing and if finding a member or Co-opted Member of the Council (or Parish Councillor) has failed to comply with the Members' Code of Conduct, set out such sanctions from the list set out in paragraph 8 of the Council's "Arrangements for Dealing with Allegations of Breaches of the Members' Code of Conduct" as they think fit.

10.5 Terms of Reference

- 10.5.1 To promote and maintain high standards of conduct by the Members and co-opted members of the Council.
- 10.5.2 To assist Members and co-opted members to observe the Code of Conduct for Councillors.
- 10.5.3 To advise the Council on the adoption or revision of its Code of Conduct.
- 10.5.4 To monitor the operation and effectiveness of the Code of Conduct for Councillors.
- 10.5.5 To advise, train or arrange to train Members and Co-opted Members on matters relating to the Code of Conduct for Councillors and other issues relating to standards and conduct.
- 10.5.6 To assess and review complaints alleging breaches of the Code of Conduct by Members and Co-opted Members.
- 10.5.7 To conduct determinations hearings of complaints alleging breaches of the Code of Conduct through the Hearings Panel as described in 10.4 above.
- 10.3.8 To grant dispensations referred by the Monitoring Officer to Members and Co-opted Members with Disclosable Pecuniary Interests.
- 10.3.9 To promote high ethical standards within Parish Councils.

- 10.5.8 To advise the Council on the adoption or revision of all protocols and/or guidance, insofar as these relate to standards or ethical conduct issues.
- 10.5.9 To consider any matter referred to it by the Monitoring Officer.
- 10.5.10 To exercise such other responsibilities as may be prescribed by law.
- 10.5.11 To undertake any action that improves, promotes, safeguards or facilitates the highest standard, of probity and ethical conduct by the Council its Members and Officers and those with whom it has, or who seek a contractual, financial or other relationship and to advise the Council on the ethical aspects of good governance standards for public service.
- 10.5.12 To monitor the registers of Members' interests made under the Council's Code of Conduct, and to monitor the interests of any Officers who, in accordance with any requirements upon them, are required to declare such interests to the Council.
- 10.5.13 To respond to national reviews and consultations on governance related issues, in so far as they affect standards or ethical conduct issues.

NORTHAMPTON BOROUGH COUNCIL MEMBERS' CODE OF CONDUCT

The Members' Code of Conduct is intended to promote high standards of behaviour amongst Councillors and Co-opted Members of the Council.

The Code is underpinned by the following seven Nolan principles of public life, which should be borne in mind when interpreting the meaning of the Code. Councillors and Co-opted Members should behave with:

- i. **Selflessness** – and act solely in terms of the public interest. They should not act in order to gain financial or other benefits for themselves, their family or their friends.
- ii. **Integrity** – and should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
- iii. **Objectivity** – in carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits; choices should be made on merit.
- iv. **Accountability** – and are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- v. **Openness** – and should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- vi. **Honesty** – and declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- vii. **Leadership** – and should promote and support these principles by leadership and example.

PART 1

GENERAL PROVISIONS

1. Introduction and Interpretation

- 1.1. This Code applies to all elected Councillors and Co-opted Members of Northampton Borough Council.
- 1.2. The term “**the Authority**” used in this Code refers to Northampton Borough Council.
- 1.3. “**Councillor**” means any person being an elected or Co-opted Member of the Authority.
- 1.4. It is **your** responsibility to comply with the provisions of this Code.
- 1.5. In this Code:

“Meeting” means any meeting of:

- (a) the Authority
- (b) the executive of the Authority
- (c) any of the Authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees
- (d) any of the Authority’s advisory groups and executive boards, working parties and panels

1.6. **“Relevant Authority”** includes a County Council, a District Council or Parish Council. (It has the meaning given to it by Section 27(6) of the Localism Act 2011.)

2. Scope

2.1. You must comply with this Code whenever you act, claim to act or give the impression you are acting in your official capacity as a Councillor.

2.2. Where you act as a representative of the Authority:

- (a) on another Relevant Authority, you must, when acting for that other authority, comply with their Code of Conduct; or
- (b) on any other body, you must, when acting for that other body, comply with this Code of Conduct, except where 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 cause the Authority to fall foul of UK equalities legislation
- (b) bully any person
- (c) intimidate or attempt to intimidate any person who is or may be:
 - (i) a complainant
 - (ii) a witness; or
 - (iii) involved in the administration of this Code
- (d) in relation to an allegation that a Member (including yourself) has failed to comply with this Code of Conduct, do anything which compromises or may compromise the impartiality of those who work for, or on behalf of, the Authority
- (e) conduct yourself in a manner which could reasonably be regarded as bringing your office or Authority into disrepute

4. You must not:

- 4.1. Pass on 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, unless:
- (a) you have the consent of a person authorised to give it
 - (b) you are required by law to do so
 - (c) the disclosure is made to a third party for the purpose of obtaining professional advice, provided that they agree not to pass on the information to any other person; or
 - (d) the disclosure is:
 - (i) reasonable and in the public interest; and
 - (ii) made in good faith and in compliance with the reasonable requirements of the Authority; or
- 4.2. Prevent another person from gaining access to information to which that person is entitled by law.

5. You must not:

- 5.1. Use or attempt to use your position as a Councillor or Co-opted Member improperly to confer on, or secure for yourself or any other person, an advantage or disadvantage; and

6. You must:

- 6.1. When using, or authorising the use by others of, the resources of the Authority:
- (a) act in accordance with the Authority's reasonable requirements
 - (b) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- 6.2. Have regard to any Local Authority Code of Publicity made under the Local Government Act 1986.

7. When reaching decisions on any matter you must have regard to any relevant advice provided to you by:

- (a) the Authority's Chief Finance Officer; or
- (b) the Authority's Monitoring Officer

where that officer is acting in that role. You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Authority.

PART 2
INTERESTS

8. Disclosable Pecuniary Interests

8.1. Breaches of the rules relating to Disclosable Pecuniary Interests may lead to criminal sanctions being imposed.

8.2. You have a Disclosable Pecuniary Interest if it is of a description specified in regulations made by the Secretary of State and either:

- (a) it is an interest of yours, or
- (b) it is an interest of:
 - (i) your spouse or civil partner
 - (ii) a person with whom you are living as husband and wife, or
 - (iii) a person with whom you are living as if you were civil partners

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

8.3 Disclosable Pecuniary Interests are:

<u>Interest</u>	<u>Description</u>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on by you for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the Authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a Member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts *	Any contract which is made between you (or a body in which you have a beneficial interest) and the Authority <ul style="list-style-type: none">(a) under which goods or services are to be provided or works are to be executed; and(b) which has not been fully discharged.

Land	Any beneficial interest in land which is within the area of the Authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the Authority for a month or longer.
Corporate tenancies *	Any tenancy where (to your knowledge) <ul style="list-style-type: none"> (a) the landlord is the Authority; and (b) the tenant is a body in which you have a beneficial interest.
Securities *	Any beneficial interest in securities of a body where <ul style="list-style-type: none"> (a) that body (to your knowledge) has a place of business or land in the area of the Authority; and (b) either <ul style="list-style-type: none"> (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) where 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 have a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Interests marked * also apply to those persons described in paragraph 8.2(b) above.

9. Registration of Disclosable Pecuniary Interests and Personal Interests

- 9.1. Subject to paragraph 11 below (Sensitive interests), you must, within twenty eight days of your election or appointment notify the Authority's Monitoring Officer in writing of any Disclosable Pecuniary Interests and/or Personal Interests you have at that time.
- 9.2. Subject to paragraph 11 below (Sensitive interests), you must, within twenty eight days of becoming aware of any new Disclosable Pecuniary Interest/Personal Interests or any change to them, notify the Authority's Monitoring Officer in writing of that new Pecuniary Interest or change.

10. Disclosable Pecuniary Interests in matters considered at meetings or by a single Member

- 10.1 If you attend a meeting and have a Disclosable Pecuniary Interest or Personal Interest in any matter to be considered, or being considered, at that meeting and the interest is not entered in the Authority's Register of Members' Interests, you must, subject to sub-paragraph 11.1 below, disclose that interest to the meeting. If you have not already done so, you must notify the Authority's Monitoring Officer of the interest within twenty eight days beginning with the date of the disclosure, and
- 10.2 Whether the Disclosable Pecuniary Interest is registered or not you must not – unless you have obtained a dispensation from the Authority's Monitoring Officer or the Standards Committee:
- (i) participate, or participate further, in any discussion of the matter at the meeting (except to make representations, give evidence or answer questions prior to any debate on the matter); or
 - (ii) remain in the meeting room whilst the matter is being debated; or
 - (iii) participate in any vote taken on the matter
- 10.3 If you have declared a Personal Interest (as defined in paragraph 12.1 below) to the meeting you may take part in any debate on the matter under consideration and vote upon it.

Single Member Action

- 10.4 If you are empowered to discharge functions of the Authority acting alone (for example, through being a Cabinet Member), and have and are aware that you have a Disclosable Pecuniary Interest in any matter dealt with by you in that role, you must not take any action, or further action, on the matter (except for the purposes of enabling the matter to be dealt with by other means). If you have not already done so, you must notify the Authority's Monitoring Officer of the interest within twenty eight days beginning with the date of the disclosure

11. Sensitive Interests

- 11.1. Where you consider (and the Authority's Monitoring Officer agrees) that the nature of a Disclosable Pecuniary or Personal Interest is such that disclosure of the details of the interest could lead to you or a person connected with you being subject to intimidation or violence, it is a "sensitive interest" for the purposes of the Code. The details of the sensitive interest do not need to be disclosed to a meeting, although the fact that you have a sensitive interest must be disclosed, in accordance with paragraph 10.1 above.

12. Personal Interests

- 12.1. You have a personal interest in any business of the Authority where either it 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 the Authority

- (ii) any body:
 - (aa) exercising functions of a public nature (for example, a County Council or Parish Council)
 - (bb) directed to charitable purposes; or
 - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trades union), of which you are a member or in a position of general control or management
- (iii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50
- or (iv) 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 relevant person (see 12.2 below) to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward.

12.2 Personal Interests should be declared at a meeting or where a Councillor is making a decision alone (see paragraph 10.4 above). Failure to do so will be regarded as a breach of this Code of Conduct.

PART 3

RELATED DOCUMENTS

Arrangements for dealing with alleged breaches of the Northampton Borough Council's Members' Code of Conduct.



Northampton Borough Council

Arrangements for dealing with allegations of breaches of the Northampton Borough Council Members' Code of Conduct and of Codes of Conduct adopted by Parish Councils

1. Context

These "Arrangements" set out how you may make a complaint that an elected or co-opted Member of this Council has failed to comply with the authority's Code of Conduct, and sets out how the authority will deal with it. These Arrangements also apply to Parish Councils within the Borough of Northampton. You may make a complaint under these Arrangements that a Parish Councillor has failed to comply with the Code of Conduct adopted by the Parish Council. A complaint about a Parish Councillor will be dealt with by Northampton Borough Council in accordance with these Arrangements. References to "Member" in these Arrangements should therefore be read to include reference to a Parish Councillor.

These Arrangements include the appointment of 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 warrants investigation, and whose views can be sought by the authority at any other stage, or by a Member against whom an allegation has been made.

2. The Code of Conduct

The Council has adopted a Code of Conduct for Members, which is attached as Appendix A to these arrangements and is available for inspection on the authority's website [insert link] and on request from the One Stop Shop at the Guildhall

Making a complaint

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

The Monitoring Officer
Northampton Borough Council
The Guildhall
St Giles Square
Northampton
NN1 1DE

or e-mail the Monitoring Officer at:

ffernandes@northampton.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 process in respect of complaints of alleged Member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please use the complaint form, which can be downloaded from the

authority's website, next to the Code of Conduct, and is available on request from the One Stop Shop at the Guildhall.

You are required to 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 ten working days of receiving it and will keep you informed of the progress of your complaint.

4. Initial Assessment of Complaints Received

The Monitoring Officer will review all complaints received by the authority and may consult with the Independent Person (see section 11 below) at this stage. If a complaint has been made but does not fall within the scope or intent of these arrangements, the Monitoring Officer may still decide to take informal action in order to resolve the matter. In assessing the complaint the Monitoring Officer will determine whether the complaint is admissible and, if so, decide whether:

- a) it warrants investigation or,
- b) it may be suitable for alternative resolution without investigation or,
- c) it doesn't warrant any further action.

For the complaint to be admissible it must be in a legible format and relate to an existing Member of the authority.

In determining whether or not the complaint should be referred for investigation or to seek alternative resolution the Monitoring Officer (and Independent Person if involved at this point) will have regard to a range of factors including the following:-

- i) Whether there is sufficient information upon which to base a decision.
- ii) How serious is the alleged complaint.
- iii) Is the complaint politically motivated, vexatious or tit for tat;
- iv) Did the action complained about occur recently or not;
- v) Do the allegations relate to actions occurring whilst the Member was acting in their official capacity or do they relate to their private life;
- vi) Whether the matter is considered suitable for alternative resolution and either the Member concerned or the complainant is not prepared to accept this as a solution.

The initial assessment of the complaint will normally be taken within twenty eight days of receipt of your complaint and you will be informed, in writing, of the outcome by the Monitoring Officer.

Unless exceptional circumstances exist that indicate otherwise, the Monitoring Officer will inform the Member concerned of the receipt and nature of the complaint and invite their comments.

Where the Monitoring Officer requires additional information in order to come to a decision, they may come back to you for such information, and may request information from the Member against whom your complaint is directed.

Alternative Resolution

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. The Monitoring Officer may consult with the Independent Person about this course of action. Such informal resolution may involve the Member accepting that their conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the Member or the authority makes a reasonable offer of informal resolution, but you are not willing to accept that offer, the Monitoring Officer (and Independent Person, if appropriate) will take account of this in deciding whether the complaint warrants a 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. If the Complaint is Referred for Investigation how is the investigation conducted?

If the Monitoring Officer decides that a complaint merits formal investigation, they will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Monitoring Officer will agree an investigation plan with the Investigating Officer. The Investigating Officer will decide whether they need to meet or speak to you to understand the nature of your complaint. If so, then 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 Monitoring Officer may consult with the Independent Person about the need for a formal investigation.

The Investigating Officer would normally write to the Member against whom you have complained and provide them with a copy of your complaint. The Member would be asked to provide their 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 their 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 further consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send it 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, in consultation with the Independent Person, review the Investigating Officer's report and, if they are satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the Member concerned, notifying you that no further action is required.

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, in consultation with the Independent Person, review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel made up of Councillors from the Council's Standards Committee and any appropriate co-optees or seek an alternative resolution.

7.1 Local Resolution

The Monitoring Officer and Independent Person may consider that the matter can be resolved without the need for a hearing. 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 for information, but will take no further action.

7.2 Local Hearing

If the Monitoring Officer and Independent Person consider that local resolution is not appropriate or it isn't possible to achieve, the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a local hearing to decide 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.

In summary, the Monitoring Officer will conduct a "pre-hearing process", requiring the Member to give their response to the Investigating Officer's report. This is in order to identify what is likely to be agreed and what is likely to be in contentious at the hearing. 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 their report, call such witnesses as they consider necessary and make representations to substantiate their 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 their evidence, to call witnesses and to make representations to the Hearings Panel as to why they consider that they did not fail to comply with the Code of Conduct.

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. Alternatively, if the Hearings Panel finds 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.

If the Member wishes to make representations to the Panel and/or consult with the Independent Person the Hearing will adjourn, normally for one week, and reconvene to hear any representation or statement from the Member before either confirming or amending their decision. If the Member does not wish to make representations to the Panel, or consult with the Independent Person, the decision of the Panel will stand as announced.

8. What action can the Hearings Panel take where a Member has failed to comply with the Code of Conduct?

The Hearings Panel may:

- 8.1 Publish its findings in respect of the Member's conduct;
- 8.2 Report its findings to Council for information;
- 8.3 Recommend that Council remove the Member from any or all Committees or Sub-Committees of the Council for a specified period of time;
- 8.4 Recommend to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities for a specified period of time;
- 8.5 Instruct the Monitoring Officer to arrange training for the Member;
- 8.6 Instruct the Monitoring Officer to mediate between the complainant and the Member;
- 8.7 Recommend to Full Council that the Member be removed from any or all outside appointments to which they have been appointed or nominated by the authority where the complaint relates to that appointment and for a specified period of time;
- 8.8 Withdraw any facilities provided to the Member by the Council that may have been abused or improperly used; or
- 8.9 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.

There are no powers that allow Council or the Standards Committee to suspend or disqualify the Member or to withdraw Members' basic allowances. (Although removing a Member from Cabinet or a Committee would lead to a loss of any Special Responsibility Allowance that position was entitled to for the period of the suspension.)

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 and subject to any adjournment as set out in 7.2 above, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel and send a copy to you and to the Member. The decision notice will be made available for public inspection and the decision reported to the next convenient meeting of the Council.

10. 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 or take your own legal advice as to options that might be open to you.

11. Who are the Hearings Panel?

The Hearings Panel is a panel of the Council's Standards Committee. It will comprise three Members of the Standards Committee. If the conduct of a Parish Councillor is to be considered a Parish Council Member will form an additional Member of the Panel.

The Independent Person is invited to attend all meetings of the Hearings Panel and their 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.

12. Who is the Independent Person?

Council has appointed three Independent Persons.

* A person cannot be "independent" if they:

- 12.1 are, or have been within the past five years, a Member, co-opted Member or officer of the authority or of a parish council within the authority's area;
- 12.2 Is a relative or close friend, of a person within paragraph 12/1. For this purpose, "relative" means:
 - 2.1 Spouse or civil partner;
 - 12.2.2 Living with the other person as husband and wife or as if they were civil partners;
 - 12.2.3 Grandparent of the other person;
 - 12.2.4 A lineal descendent of a grandparent of the other person;
 - 12.2.5 A parent, sibling or child of a person within paragraphs 12.2.1 or 12.2.2;
 - 12.2.6 A spouse or civil partner of a person within paragraphs 12.2.3, 12.2.4 or 12.2.5; or
 - 12.2.7 Living with a person within paragraphs 12.2.3, 12.2.4 or 12.2.5 as husband and wife or as if they were civil partners.

* Note: This definition applies post the Transitional Arrangements period.

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 they

consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

Appendix A The authority's Members Code of Conduct

DRAFT

Responsibility for Functions

(Local Authorities (Functions and Responsibilities) (England) Regulations 2000) (The Functions Regulations)

1. Responsibility for Local Choice Functions

Function	Responsible body	Delegation of Functions
1. Any function under a local Act other than a function specified or referred to in Regulation 2 or Schedule 1 of the Functions Regulations.	Cabinet	
2. The determination of an appeal against any decision made by or on behalf of the Council, (other than licensing and related quasi-judicial matters which are the functions of a committee or delegated by them).	Cabinet save that personnel appeals shall be delegated to the Head of Paid Service except for those involving Directors and the Statutory Officers.	Those functions referred to in Part 8 of this Constitution (Delegations to Officers) are delegated to Officers as provided therein.

Function	Responsible body	Delegation of functions
<p>3. Any function relating to contaminated land.</p> <p>4. The discharge of any function relating to the control of pollution or the management of air quality.</p> <p>5. The service of an abatement notice in respect of a statutory nuisance.</p> <p>6. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Council's area.</p> <p>7. The inspection of the Council's area to detect any statutory nuisance.</p> <p>8. The investigation of any complaint as to the existence of a statutory nuisance.</p> <p>9. The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.</p> <p>10. The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.</p> <p>11. The appointment of any individual:</p> <p>11.1 to any office other than an office in which he/she is employed by the Council;</p> <p>11.2 to any body other than:</p> <p>11.2.1 the Council;</p>	<p>)</p> <p>Cabinet</p> <p>)</p> <p>Council on recommendation of the Cabinet</p>	<p>Those functions referred to in Part 8 of this Constitution (Delegations to Officers) are delegated to Officers as provided therein.</p>

<p>11.2.2 a joint committee of two or more authorities</p> <p>11.3 to any committee or sub-committee of such a body, and the revocation of any such appointment.</p>		
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2. Responsibility for Council Functions

Committee	Membership	Functions	Delegation of functions
Planning	12 Members of the Council	<p>Planning and conservation Functions relating to town and country planning and development control specified in Schedule 1 of the Functions Regulations.</p> <p>Highways use and regulation The exercise of powers relating to the regulation of the use of highways, footpaths, bridleways, public paths and rights of way set out in Schedule 1 of the Functions Regulations as amended.</p>	Those functions referred to in Part 8 of this Constitution (Delegations to Officers) are delegated to Officers as provided therein.
Licensing	11 Members of the Council	<p>Sale/Supply of Alcohol and Provision of Entertainment and Late Night Refreshment and Gambling The licensing functions of the Council under the Licensing Act 2003 and the Gambling Act 2005 (except for such functions as cannot be delegated).</p> <p>Taxi, gaming, entertainment, food and miscellaneous licensing Functions relating to licensing and registration set out in Schedule 1 of the Functions Regulations.</p>	Those functions referred to in Part 8 of this Constitution (Delegations to Officers) are delegated to Officers as provided therein.

Committee	Membership	Functions	Delegation of functions
		<p>Health and Safety Functions relating to health and safety under any "relevant statutory provision" within the meaning of Part 1 of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the Council's capacity as employer.</p>	
<p>Standards Committee</p>	<p>9 Members of the Council and such Independent Members as the Committee considers appropriate (non-voting) and two Parish Council Members (non voting)</p>	<p>To exercise all those roles and functions set out in Article 10.</p>	<p>Those functions referred to in Part 8 of this Constitution (Delegations to Officers) are delegated to Officers as provided therein.</p>
<p>Hearings Panel</p>	<p>Any 3 Members of the Standards Committee plus a Parish Council Member where an issue affects a Parish Council (non-voting) and an</p>	<p>To exercise all those roles and functions set out in Article 10 as far as they relate to the Panel</p>	<p>Those functions referred to in Part 8 of this Constitution (Delegations to Officers) are delegated to Officers as provided therein.</p>

Committee	Membership	Functions	Delegation of functions
	Independent Member (non-voting)		
Audit Committee	8 Members of the Council (excluding members of the Cabinet)	Generally considering all relevant processes for risk, control and governance set out in Article 9.	Those functions referred to in Part 8 of this Constitution (Delegations to Officers) are delegated to Officers as provided therein.
General Purposes Committee	9 Members of the Council	To exercise all those functions set out in Article 11.	Those functions referred to in Part 8 of this Constitution (Delegations to Officers) are delegated to Officers as provided therein.
Appointments and Appeals Committee	7 Members of the Council to include at least 2 Members of Cabinet	<ul style="list-style-type: none"> (i) To recommend to the Council the appointment of the Chief Executive. (ii) To make appointments of other Chief Officers set out in Article 14 of this Constitution. (iii) To undertake all associated activities including agreeing job descriptions, person specifications, the interview processes generally. (iv) To establish, agree terms of reference and appoint to the following three Sub-Committees (of the 	Those functions referred to in Part 8 of this Constitution (Delegations to Officers) are delegated to Officers as provided therein.

Committee	Membership	Functions	Delegation of functions
		<p>Appointments and Appeals Committee) to hear and determine disciplinary, capability, grievance and appeal matters in relation to Chief Officers and the three Statutory Officers:</p> <ul style="list-style-type: none"> • Investigating and Disciplinary Sub-Committee • Grievance Sub-Committee • Appeals Sub-Committee 	
<p>Civic Panel</p>	<p>One Member from each Group and the Mayor, the Deputy Mayor and the immediate past Mayor</p>	<p>To act as an advisory panel (and not a Committee) to provide the Chief Executive with advice in relation to the exercise of the Chief Executive's delegated power in paragraph 1.2.10 in Part B of Part 8 of this Constitution regarding civic and related matters.</p>	<p>Those functions referred to in Part 8 of this Constitution (Delegations to Officers) are delegated to Officers as provided therein.</p>

3. Responsibility for Executive Functions

Responsibilities and Portfolios	Detailed Functions	Delegation of functions
<p>The Cabinet has collective responsibility for all executive functions, individual Members having lead responsibility for separate portfolios outlined in the Leader's Scheme of Delegations.</p>	<p>Contained in the Leader's Scheme of Delegations (see post).</p>	<p>Those functions referred to in Part 8 of this Constitution (Delegations to Officers) are delegated to Officers as provided therein. Individual Cabinet Members have the powers delegated to them under the Leader's Scheme of Delegations.</p>

16. BOROUGH SECRETARY AND MONITORING OFFICER

16.1 General

- 16.1.1 To take all actions and discharge all functions and responsibilities in discharge of the duties of the Monitoring Officer pursuant to Section 5 of the Local Government and Housing Act 1989, including the taking of any actions that are ancillary and incidental thereto.
- 16.1.2 To publish and maintain the Council's Constitution with authority to make minor textual changes and amendments to the Constitution to correct typographical errors, to change Officer titles and reallocate delegations following restructures, to make changes following Council decisions on the Constitution and to take into account changes in legislation.
- 16.1.3 To act as Borough Solicitor to the Council for any purposes and to exercise discretion whether to issue or defend proceedings, including injunctions under any legislation on behalf of the Council in any Court, Tribunal or other body with jurisdiction, to enter into arbitration or mediation to settle claims, disputes and proceedings and to take such other actions as are appropriate for the Borough Solicitor which are in the Borough Solicitor's opinion necessary to protect, maintain and fulfil the interests, rights and duties of the Council and to complete all legal formalities, including the creation and completion of legal documentation required to implement the above.
- 16.1.4 To institute, conduct, prosecute and defend any legal proceedings on behalf of the Council to implement any decision of the Council, Cabinet, Committees, other Council decision – making body or to implement delegated decisions by Officers and to complete all legal formalities, including the creation and completion of legal documentation required to implement the decision.
- 16.2 To obtain Counsel's or other specialist advisor's opinion, where it is considered to be in the Council's interests and to instruct Counsel to represent the Council in any court or tribunal or other appropriate circumstance.
- 16.3 To authorise staff pursuant to section 223 Local Government Act 1972 to appear on behalf of the Council in proceedings before Magistrates Courts where those staff would otherwise not have rights of audience before the court.

- 16.4 In the best interests of the Council:
- 16.4.1 to exercise discretion to appeal against any decisions of all courts and tribunals;
 - 16.4.2 to exercise discretion to defend proceedings and resist appeals in all courts and tribunals; and
 - 16.4.3 to exercise discretion to settle court and tribunal proceedings.
- 16.5 To discharge Local Land Charges functions
- 16.6 To discharge Data Protection Act 1998, Freedom of Information Act 2000 and Environmental Information Regulations 2004 functions and to maintain the Records Retention Scheme in respect of the Freedom of Information Act 2000 or associated legislation.
- 16.7 Authorising Officers of the Council to prosecute, defend or appear on behalf of the Council in proceedings before any court, tribunal or other relevant forum upon being satisfied that the Officers have the requisite skill, experience and ability to represent the Council in such proceedings.
- 16.8 Authority to sign or seal any document needed to implement any decision taken by, or in the name of the Council and to authorise other Officers to do so.
- 16.9 Signing, issuing, serving and receiving on behalf of the Council all notices or other documents as may be necessary or incidental to the functions and business of the Council (whether or not such action is also within the power of any other Officer, but not where the action can by law only be taken by some other person).
- 16.10 Upon the recommendation of the Head of Housing Needs and Support, taking the following action under Part XI of the Housing Act 1985 relating to houses in multiple occupation:
- 16.10.1 making control orders; and
 - 16.10.2 instituting proceedings in respect of offences.
- 16.11 Implementing the "Right to Buy" legislation and any actions that are ancillary and incidental to the "Right to Buy", any schemes of voluntary house sales and any necessary actions and processes in relation to shared ownership properties.

- 16.12 Making of Tree Preservation Orders or authorising named Officers to make Tree Preservation Orders on the advice of the Head of Planning:
- 16.12.1 in cases of urgency such orders to be signed rather than sealed by the authorising Officer; and
 - 16.12.2 confirming on the advice of Head of Planning, Tree Preservation Orders where there are no outstanding valid objections.
- 16.13 In consultation with the Director of Planning and the Chair and Deputy Chair of the Planning Committee to serve notices where considered appropriate under section 215 of the Town and Country Planning Act 1990 requiring steps to be taken to improve the condition of a property and/or land in its curtilage.
- 16.14 Upon the recommendation of the Head of Public Protection the power to commence injunctions or any other necessary action or proceedings against the organisers or other relevant persons of acid house parties or raves where it is considered expedient for the promotion or protection of the interests of the inhabitants of the area of Northampton Borough.
- 16.15 Upon the recommendation of the Head of Planning after consultation with the Chair (or Deputy Chair in the absence of the Chair) of the Planning Committee and Opposition Spokespersons the issue of Enforcement Notices and Stop Notices in the case of urgency provided that if dissent be shown to the proposed issue of a Stop Notice or Enforcement Notice following the above procedure, a special meeting of the committee be arranged.
- 16.16 Upon the recommendation of the Head of Planning, the issue and service of Breach of Condition Notices.
- 16.17 Upon the recommendation of the Head of Public Protection, the institution of legal proceedings under the Environment Act 1995 (contaminated land).
- 16.18 The making of Traffic Regulation, Road Closure and Off Street Parking Place Orders which have been agreed on behalf of the Council (whether in the exercise of delegated powers or otherwise) and upon the advice of the Head of Neighbourhood Environmental Services that any necessary works and signs have been completed.
- 16.19 The institution of proceedings for contravention of the Advance Payments Code under Section 219 of the Highways Act 1980.

- 16.20 Giving consent on behalf of the Council to the issue by a relevant Police Officer of an authorisation under Part 4 of the Anti-Social Behaviour Act 2003.
- 16.21 To establish and maintain a register of interests of Members and Co-opted Members as required by Section 29(1) of the Localism Act 2011.
- 16.22 To ensure that a Council's register of interests is available for public inspection at the Guildhall and is published on the Council's website as required by Sections 29(5) and 29(6) of the Localism Act 2011.
- 16.23 To determine requests from Members or Co-opted Members that any interest be regarded as a "sensitive interest" in accordance with Section 32 of the Localism Act 2011.
- 16.24 To make an initial assessment of allegations of breaches of the Council's adopted Members' Code of Conduct, seek alternative resolution in appropriate cases, instigate and consider Investigating Officers' reports as set out in paragraphs 4, 5, 6 and 7 of the Agreements for Dealing with Allegations of Breaches of the Members' Code of Conduct.
- 16.25 To issue decision notices in accordance with paragraph 9 of the Arrangements for Dealing with Allegations of Breaches of the Members' Code of Conduct.
- 16.26 To deal with any other residual matters, not otherwise delegated, resulting from the Council's adopted Members' Code of Conduct and the Adopted Arrangements of Breaches of the Northampton Borough Council Members' Code of Conduct and Codes of Conduct adopted by Parish Councils.
- 16.27 In accordance with Section 33 of the Localism Act 2011, to grant dispensations together with the discretion to refer any particular request to the Standards Committee in appropriate circumstances.

PROPER OFFICER APPOINTMENTS

1. Except for documents to be executed under seal, any Officer of the Council to whom powers have been delegated shall be the Proper Officer of the Council for the purposes of authenticating any notice, order or document which they are authorised or required by any enactment to give, make or issue or pursuant to sections 229 and 234 of the Local Government Act 1972; and unless otherwise specifically defined or delegated by law or in the Constitution of which these delegations and appointments form part, the Proper Officer for all other statutory purposes (including, without prejudice to the generality of the foregoing, the provisions of the Local Government Act 2000 and all Regulations Protocols and Rules made thereunder) shall be the Chief Executive.

2. In particular, the following Proper Officer appointments are specifically designated:

PART 1

Statutory Provision	Brief Description	Proper Officer
S13(3) & (5) LGA 72	Parish Trustee	Chief Executive
S4(3) Northampton Act 1988	Roll of Freemen	Chief Executive
S33 Localism Act 2011	Receipt of requests for Dispensations	Chief Executive and Monitoring Officer

ELECTIONS

S.8 R of the PA 83	Registration Officer	Chief Executive
S.35 R of the PA 83	Returning Officer for Borough Mayoral and Parish Elections and Officer for Mayoral Referendums other Referendums and Parish Polls	Chief Executive
S.83(1) & (4) LGA 72	Witness and Receipt of Declarations of Acceptance of Office	Chief Executive

S.84 (1) LGA 72	Acceptance of resignation	Chief Executive
S.88 (2) LGA 72	Convening of meetings of the Council to Fill Casual Vacancy in the Office of Chairman	Chief Executive
S.89 (1)(b) LGA 72	Receipt of Notices of Casual Vacancies	Chief Executive

CHARITIES

S.210(6) & (7) LGA 72	Charity Function created before 1972 and inherited by the Council on 1 April 1974	Chief Executive
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DOCUMENTS AND MINUTES

S.225(1) LGA 72	Deposit of Documents	Chief Executive and Borough Secretary
S.229(5) LGA 72	Certification of Photographic Copies	Chief Executive and Borough Secretary
S.234(1) & (2)	Authentication of LGA 72 Documents	Chief Executive and Borough Secretary
S.236(9) & (10) LGA 72	Send copies of the Byelaws to Parish and County Councils	Chief Executive and Borough Secretary
S.238 LGA 72	Certification of Byelaws and Borough Solicitor	Chief Executive
S.41(1) LG(MP)A 76	Certification of Resolutions, Orders, Reports and Minutes	Chief Executive and Borough Secretary
	Preparation and Holding of Register of Politically	Chief Executive

Restricted Posts

COUNCIL MEETINGS

LGA 72 Sched 12

para. 4(2)(b)	Signature of Summons for Council Meeting	Chief Executive
para. 4(3)	Receipt of Notices of Addresses to which Summons to be sent	Chief Executive

ACCESS TO INFORMATION

LGA 72

S.100B(2)	Circulation of Reports and Agenda	Chief Executive
S.100B(7)(c)	Supply of Agenda and Reports to the Press	Chief Executive
S.100C(2)	Preparation of Summaries of Exempt Minutes	Chief Executive
S.100D(1)(a) for	Compilation of Lists of Background Papers to a Report	Director responsible Report
S.100D(5)	Identification of Background Papers	Director responsible for Report
S.100F(2)	Determination of Papers not open to the Public	Chief Executive

FINANCIAL

S.115(2) LGA 72	Receipt of Monies due from Officers	Chief Finance Officer
S.146(1)(a) LGA 72	Declarations and Certificates for Council's Securities	Chief Finance Officer

S.151 LGA 72	Responsibility for Administration of Council's Financial Affairs Officer	Chief Finance Officer
Part VIII LG Fin.A 88	Responsibility for making Financial Reports to the Council	Chief Finance Officer

ORDNANCE SURVEY

S.191 LGA 72	Ordinance Survey (receipt of applications under Ordinance Survey Act 1841)	Chief Executive
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PART II - PRE 1974 ENACTMENTS

The Proper Officer in relation to any reference or any enactment passed before 1 April 1974 (other than the Local Government Act 1972) relating to:

- | | |
|---|--|
| (1) The Clerk or Town Clerk | Chief Executive |
| (2) The Surveyor holding | The most senior Officer of the Council relevant qualification or experience |
| (3) The Treasurer | Chief Finance Officer |
| (4) A Public Health Inspector | All professionally qualified and registered Environmental Health Officers from time to time in the employ of the Council |
| (5) The Medical Officer of Health or practitioner appointed by or on behalf of the employees of the Council | Such registered medical practitioner or other registered medical practitioners as may be appointed by the Council in writing |

SECTION 47 NATIONAL ASSISTANCE ACT 1948 AND PART III ENACTMENTS NOT PREVIOUSLY SPECIFICALLY REFERRED TO

The Proper Officer in relation to Section 47 of the National Assistance Act 1948 and in relation to any enactment passed after 1st April 1974 not previously referred to relating to Environmental Health (including Food Safety and Communicable Disease) matters shall be the appropriate Environmental Health Manager.

THE PUBLIC HEALTH (CONTROL OF DISEASE) ACT 1984

The Proper Officer functions in relation to the above provisions – Health Protection Agency, East Midlands South (further delegation to appropriate registered clinicians in that role).

PROPER OFFICER APPOINTMENTS - KEY TO ABBREVIATIONS

Statutes:

LGA 72 Local Government Act 1972

R of the PA 83 Representation of the People Act 1983

LG(MP)A 76 Local Government (Miscellaneous Provisions) Act 1976

LG Fin.A 88 Local Government Finance Act 1988

LG HA 89 Local Government and Housing Act 1989.