

NEWCASTLE·UNDER·LYME
BOROUGH COUNCIL

THE BOROUGH COUNCIL OF NEWCASTLE-UNDER-LYME

LOCALISM ACT 2011 (Chapter 7)
STANDARDS OF CONDUCT OF
MEMBERS AND CO-OPTED MEMBERS

COMPLAINT FORM

Section 1 – your details

Please provide us with your name and contact details:

Title	
First name	
Last name	
Address	
Daytime telephone	
Evening telephone	
Mobile telephone	
Email	

Section 2

Please tell us which best describes you:

Member of the public	<input checked="" type="checkbox"/>
An elected or co-opted Member of an Authority	<input type="checkbox"/>
An Independent Member of the Standards Committee	<input type="checkbox"/>
Member of Parliament	<input type="checkbox"/>
Local Authority Monitoring Officer	<input type="checkbox"/>
Other Council officer or Authority employee	<input type="checkbox"/>
Other (please specify)	<input type="checkbox"/>

Section 3

Please provide the name of the Member(s) you believe have breached the Code of Conduct and the name of their council or authority. A copy of the Council's Code of Conduct is attached for your information at Appendix A.

FIRST NAME	LAST NAME	COUNCIL OR AUTHORITY NAME

Section 4

Please explain in this section (or on separate sheets if preferred) what the Member has done that you believe breaches the Code of Conduct. If you are complaining about more than one Member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account. For example:

You should be specific, wherever possible, about exactly what you are alleging the Member said or did. For instance, instead of writing that the Member insulted you, you should state what it was that they said
You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe
You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible
You should provide any relevant background information

Section 5 - details

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

A large, empty rectangular box with a thin black border, intended for the user to provide details of their complaint. The box is currently blank.

ONLY COMPLETE THE NEXT SECTION IF YOU ARE REQUESTING THAT YOUR IDENTITY IS KEPT CONFIDENTIAL

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint

Section 6 - additional help

Complaints must be submitted in writing. This includes electronic submissions. However, in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

We can also help if English is not your first language.

If you need any support in completing this form, please let us know as soon as possible.

Signed: _____

Dated: _____

DATA PROTECTION

HOW INFORMATION YOU HAVE GIVEN WILL BE USED:

We will only use the information you have provided in order to process your complaint. We will process personal data in accordance with the requirements of the data protection legislation.

Please return your completed form to:

The Audit Manager and Monitoring Officer,
Newcastle Borough Council,
Civic Offices,
Merrial Street,
Newcastle,
Staffs, ST5 2AG.

Telephone: 01782 742122

Email: MemberCodeofConduct@newcastle-staffs.gov.uk



NEWCASTLE·UNDER·LYME
BOROUGH COUNCIL

ARRANGEMENTS FOR DEALING WITH STANDARDS **ALLEGATIONS UNDER THE LOCALISM ACT 2011**

1. Context

These 'arrangements' set out how you may make a complaint that an elected or co-opted Member of this Authority *[or of a parish council within its area]* has failed to comply with the Authority's Code of Conduct, and sets out how the Authority will deal with allegations of a failure to comply with the Authority's Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place 'arrangements' under which allegations that a Member or co-opted Member of the Authority *[or of a parish council within the authority's area]*, or of a committee or sub-committee of the Authority, has failed to comply with that Authority's Code of Conduct can be investigated and decisions made on such allegations.

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

2. The Code of Conduct

The Council has adopted a Code of Conduct for Members, which is attached as Appendix A to these arrangements and is available for inspection on the Authority's website and on request from the Monitoring Officer.

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

3. Making a complaint

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

The Audit Manager and Monitoring Officer,
Civic Offices,
Merrial Street,
Newcastle,
Staffordshire, ST5 2AG

Or email: MemberCodeofConduct@newcastle-staffs.gov.uk

The Monitoring Officer has statutory responsibility for maintaining the Register of Members' Interests and is responsible for administering the system in respect of complaints of Member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the complaint form, which can be downloaded from the Authority's website, or available on request from the Monitoring Officer.

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

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

4. Will your complaint be investigated?

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. This decision will normally be taken within 14 days of receipt of your complaint. Where the Monitoring Officer has taken a decision, she will inform you of his decision and the reasons for that decision.

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

[Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation.]

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the Member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the Authority. Where the Member or the Authority make a reasonable offer of local resolution, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and/or other regulatory agencies.

5. How is the investigation conducted?

If the Monitoring Officer decides that a complaint merits formal investigation, she will appoint an Investigating Officer, who may be another senior officer of the Authority,

an officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

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

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the Member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

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

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

The Monitoring Officer will review the Investigating Officer's report and, if she is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the Member concerned [*and to the Parish Council, where your complaint relates to a Parish Councillor*], notifying you that she is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, she may ask the Investigating Officer to reconsider his/her report.

7. What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Standards Committee or, after consulting the Independent Person, seek local resolution.

Local Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee [*and the Parish Council*] for

information, but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate, the Monitoring Officer will refer the matter for a local hearing.

1.1 Local Hearing

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

The Council has agreed a procedure for local hearings, which is attached as Appendix 3 to these arrangements.

Essentially, the Monitoring Officer will conduct a "pre-hearing process", requiring the Member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Standards Committee may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the Member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Standards Committee. The Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

If the Committee, with the benefit of any advice from the Independent Person, may conclude that the Member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Committee concludes that the Member did fail to comply with the Code of Conduct, the Chair will inform the Member of this finding and the Committee will then consider what action, if any, they should take as a result of the Member's failure to comply with the Code of Conduct. In doing this, the Committee will give the Member an opportunity to make representations to it and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

2 What action can the Standards Committee take where a Member has failed to comply with the Code of Conduct?

The Council has delegated to the Standards Committee such of its powers to take action in respect of individual Members as may be necessary to promote and maintain high standards of conduct. Accordingly the Committee may:

2.1 Censure or reprimand the Member;

2.2 Publish its findings in respect of the Member's conduct;

- 2.3 Report its findings to Council [*or to the Parish Council*] for information;
- 2.4 Recommend to the Member's Group Leader (or in the case of ungrouped Members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 2.5 Recommend to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 2.6 Recommend to Council that the Member be replaced as Executive Leader;
- 2.7 Instruct the Monitoring Officer to [*or recommend that the Parish Council*] arrange training for the Member;
- 2.8 Remove [*or recommend to the Parish Council that the Member be removed*] from all outside appointments to which he/she has been appointed or nominated by the authority [*or by the Parish Council*];
- 2.9 Withdraw [*or recommend to the Parish Council that it withdraws*] facilities provided to the Member by the Council, such as a computer, website and/or email and Internet access; or
- 2.10 Exclude [*or recommend that the Parish Council exclude*] the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

The Committee has no power to suspend or disqualify the Member or to withdraw Members' or special responsibility allowances.

3 What happens at the end of the hearing?

The Independent Person will be invited to attend all meetings of the Standards Committee which are related to an ongoing investigation. His views are sought and taken into consideration before the Committee 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.

At the end of the hearing, the Chair will state the decision of the Committee as to whether the Member failed to comply with the Code of Conduct and as to any actions which the Committee resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Committee, and send a copy to you, to the Member [*and to the Parish Council*], make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

4 Who is the Independent Person?

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

A person cannot be “independent” if he/she:

4.1 Is, or has been within the past five years, a Member, co-opted Member or officer of the authority, with the exception that former Independent Members of Standards Committees can be appointed as Independent Persons;

4.2 *[Is or has been within the past five years, a Member, co-opted Member or officer of a parish council within the authority’s area], or*

4.3 Is a relative or close friend of a person within paragraph 4.1 or 4.2 above. For this purpose, “relative” means:

4.3.1 Spouse or civil partner;

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

4.3.3 Grandparent of the other person;

4.3.4 A lineal descendant of a grandparent of the other person;

4.3.5 A parent, sibling or child of a person within paragraphs 4.3.1 or 4.3.2;

4.3.6 A spouse or civil partner of a person within paragraphs 4.3.3, 4.3.4 or 4.3.5; or

4.3.7 Living with a person within paragraphs 4.3.3, 4.3.4 or 4.3.5 as husband and wife or as if they were civil partners.

5 Revision of these arrangements

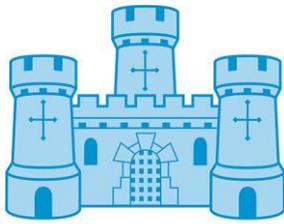
The Council may by resolution agree to amend these arrangements, and has delegated to the Chair of the Standards Committee the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

6 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 Standards Committee.

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

APPENDIX A



NEWCASTLE·UNDER·LYME
BOROUGH COUNCIL

CODE OF CONDUCT FOR MEMBERS - 2015

1. Application

- 1.1 This Code of Conduct applies to you whenever you are acting in your capacity as a Member of the Borough Council of Newcastle under Lyme, including:
 - a. At formal meetings of the Council, its committees and sub committees and its Cabinet and Cabinet committees
 - b. When acting as a representative of the Authority
 - c. In taking any decision as a Cabinet member or Ward Councillor
 - d. In discharging your functions as a Ward Councillor
 - e. At briefing meetings with officers
 - f. At site visits
 - g. When corresponding with the Authority other than in a private capacity
- 1.2 When carrying out their public role, members should always have regard to the seven principles of public life;
 - a. **Selflessness** – you must act solely in the public interest and must never use or attempt to use your position improperly to confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family or close associates.
 - b. **Integrity** – you must not place yourself under a financial or other obligation to outside individuals that might seek to influence you in the performance of your official duties. You should exercise independent judgement and declare all interests and relationships.
 - c. **Objectivity** – you must act and take decisions impartially, fairly and on merit, using the best evidence without discrimination or bias.
 - d. **Accountability** - you are accountable to the public for your decisions and actions and must submit yourself to the scrutiny necessary to ensure this.
 - e. **Openness** – you should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for doing so.
 - f. **Honesty** – you should be honest and truthful.
 - g. **Leadership** – your own behaviour should exhibit leadership, actively supporting and demonstrating this, being willing to challenge poor behaviour where ever it occurs.

2. Behaviour

2.1 As a member you should:

- a. behave in such a way that a reasonable person would regard as respectful,
- b. not act in a way which a reasonable person would regard as bullying or intimidation,
- c. not seek to improperly confer an advantage or disadvantage on any person,
- d. use the resources of the council in accordance with its requirements,
- e. not disclose information which is confidential or where disclosure is prohibited by law,
- f. respect the impartiality of officers and not to influence them inappropriately.

3. Registration of interests

3.1 Within 28 days of this Code being adopted by the council, or the members election or the co-opted member's appointment (where that is later), Members must register with the Monitoring Officer the interests which fall within the categories set out in Appendices A and B.

3.2 Upon the re-election of a member or the re-appointment of a co-opted member, councillors must within 28 days re-register with the Monitoring Officer any interest's in Appendices A and B.

3.3 Members must register with the Monitoring Officer any change to interests or new interests in Appendices A and B within 28 days of becoming aware of it.

3.4 Members need not register any interest which the Monitoring Officer agrees is a 'sensitive interest'. A sensitive interest is one which, if made public, could lead to the councillor or a person connected with the councillor being subject to violence or intimidation.

4. Declaration of interests at meetings

4.1 Disclosable Pecuniary Interests

4.1.1 Where a matter arises at a meeting which relates to an interest in Appendix A members must declare their interest and not participate in a discussion or vote on the matter.

4.2 Other declarable interests

4.2.1 Where a matter arises at a meeting which relates to or affects an interest in Appendix B or a financial interest of the councillor, a friend, relative or close associate (and it is not a Disclosable Pecuniary Interest as defined in appendix A), councillors must declare the interest.

4.2.2 Where the matter affects the declarable interest of more than the majority of people in the area that will be affected by the decision and a reasonable member of the public would think the councillor's view of the public interest would be adversely affected, the councillor must not vote on the matter. They

may speak on the matter only if members of the public are also allowed to speak at the meeting.

- 4.2.3 Where a matter arises at a meeting which is a sensitive interest as defined under paragraph 3.4 above, councillors do not have to declare the nature of their interest but must follow the rules regarding non-participation.

5. Dispensations

- 5.1 On a written request made to the Council's Monitoring Officer, the Council may grant a councillor a dispensation to participate in a discussion and/or vote on a matter at a meeting where they would otherwise not be allowed to if the council believes that the number of members otherwise prohibited from taking part in the meeting would impede the transaction of the business; or it is in the interests of the inhabitants in the council's area to allow the member to take part or it is otherwise appropriate to grant a dispensation.

6. Gifts and Hospitality

- 6.1 You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £10 which you have accepted as a Member from any person or body other than the Authority.
- 6.2 The Monitoring Officer will place your notification on a public register of gifts and hospitality
- 6.3 This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the authority for this purpose

APPENDIX A
Disclosable Pecuniary Interests (DPIs)

Interests defined by regulations made under section 30(3) of the Localism Act 2011 and described in the table below.

The duties to register, disclose and not to participate in respect of any matter in which a Member has a DPI are set out in Chapter 7 of the Localism Act 2011.

DPIs are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows:

INTEREST	PRESCRIBED DESCRIPTION
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority)
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority – (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged
Land	Any beneficial interest in land which is within the area of the relevant authority
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer
Corporate tenancies	Any tenancy where (to the Member's knowledge) – (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant authority has a beneficial interest
Securities	Any beneficial interest in securities of a body where – (a) that body (to the Member's knowledge) has a place of business or land in the area of the relevant authority; and (b) either – (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal

	value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class
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For this purpose:

'the Act' means the Localism Act 2011

'body in which the relevant person has a beneficial interest' means a firm in which the relevant person is a partner or a body corporate of which the relevant person has a beneficial interest

'director' includes a member of the committee of management in an industrial or provident society

'land' excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income

'Member' includes a co-opted Member

'relevant authority' means the Member's Authority

'relevant period' means the period of 12 months ending with the day on which a Member gives a notification for the purposes of Section 30(1) or 31(7) as the case may be, of the Act

'relevant person' means the Member or any other person referred to in Section 30(3)(b) of the Act

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

APPENDIX B

Councillors must register:

- 1 any body of which the councillor is in a position of general control or management and to which he/she is appointed or nominated by the Council;
- 2 any body -
 - a. exercising functions of a public nature;
 - b. directed to charitable purposes; or
 - c. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which the member of the council is a member or in a position of general control or management;
- 3 any gifts or hospitality worth more than an estimated value of £10 which the member has received by virtue of his or her office.