

Oadby and Wigston Borough Council

Dear Sir/Madam,

I hereby summon you to attend an **EXTRAORDINARY** meeting of the **COUNCIL** to be held in the Council Offices, Station Road, Wigston on **TUESDAY, 26 JUNE 2012** at **7.00 pm** for the transaction of the business set out in the Agenda below.

Yours faithfully

Council Offices
Wigston
18 June 2012

A handwritten signature in black ink, appearing to be 'M. J. ...'.

Chief Executive

AGENDA

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| 5. | The Press and Public are likely to be excluded from the remainder of the meeting in accordance with Section 100(A)(4) of Local Government Act 1972 (Exempt Information) | |
| 6. | Standards Committee - Appointment of Independent Persons | 20 - 22 |

Agenda Item 3



Council

26 June 2012

Decision

Title: **Release of the Council's Car Parks
on a Deferred Capital Receipt Basis.**

Author: **Rob Harbour, Head of Regulation and Regeneration**

1 Introduction

- 1.1 The emerging Town Centres Area Action Plan Development Plan Document development sites are substantially allocated and sited on Council owned public car parks.
- 1.2 The Council has previously acknowledged and supported the policy of these new developments, albeit subject to the condition that any existing or new shopper's car parking should remain free as at present, and with no net loss in the total number of public car parking spaces available in each town.
- 1.3 On 11 to 13 June the emerging Town Centres Area Action Plan Development Plan Document was subject to a three day Examination in Public, where the Council's proposals and their detailed deliverability were scrutinised by the presiding Independent Planning Inspector, and invited formal objectors. At the closure of the examination hearings stage the Inspector asked the Council to clarify a key issue relating to the financial viability and deliverability of the Area Action Plan developments proposed on the Council's car parks in Wigston and Oadby town centres. The Council has until 29 June to provide additional information, such as this clarification

2 Recommendations

- 2.1 It is recommended that Members endorse the recommendation for the release of the Council's car parking land as set out in paragraph 3.6 of this report.

3 Information

Key issue to be clarified

- 3.1 The Council's consultants B E Group have prepared detailed financial appraisals showing the financial deliverability for each of the proposed schemes in the town centres.
- 3.2 They have applied a series of 'sensitivity analyses' to these which effectively show best to worst case scenarios. These analyse the key elements of such appraisals. These include: building costs, assumed rents from tenants, sale values, and most relevantly land acquisition costs.

- 3.3 It has become clear that for these future schemes to be viable, it will be essential that the Council inputs its land via joint venture arrangements with any developers, initially at a nil consideration (i.e. free). This would be subject to the Council subsequently negotiating financial arrangements whereby it could consider if or not to recover a return (i.e. a capital or revenue value) from such developments at a future date. The financial arrangements could allow the Council the ability to take a capital or revenue income from development over a period of time.
- 3.4 Such disposals could be either by way of freehold or long-term leasehold arrangements (whereby the Council could retain a greater degree of future control). The long term leasehold option would allow the Council to keep long term ownership and control over the land and to lease it out, thereby protecting Council assets in the long term.
- 3.5 Any such arrangements entered into with any developers would be subject to formal procurement arrangements. These would include legal and financial arrangements that would be bespoke to any individual scheme. At this early stage it is not possible to pre-judge what these might be. The Council will have the ability to consider all terms and methods of any such deals and land release.

What is required now?

- 3.6 The Inspector is now formally requesting the Council to urgently confirm that it is prepared in principle to:

Allow release of any town centre car park land for development on the basis at an initial nil consideration for any appropriate development scheme, and not seek market values at the outset.

- 3.7 This would be subject to the Council negotiating appropriately structured deals whereby it would then seek to recover some form of financial return at a future date from such development arrangements.
- 3.8 Such 'buy now – pay later' agreements are consistent with the latest government guidance on un-locking public sector land to secure development.
- 3.9 By confirming the above, the Council is not locking itself into any specific land disposals, or the detailed basis upon which they might be negotiated and agreed, but merely that it will adopt the flexibility to not seek a return on its land input at the outset of any such future deals.

4 Financial Implications

- 4.1 It is proposed that any capital or revenue receipt from any relevant land disposals for these sites will be structured on deferred payment basis. It is not possible to assess the detailed financial implications of such future possible proposals in any more detail at this stage. The method of possible land disposal, and the detailed heads of terms agreed with any developer partner will be structured having regard to the circumstances and needs of the Council, and market conditions, at that time.

Implications	
Health	None
Environment	None
Community Safety	None
Human Rights	None
Equal Opportunities	None
Risk Assessment	Contained within the report
Value for Money	Contained within the report
Equalities	None
Legal	None



Council	26 June 2012	Decision
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Title: **STANDARDS UNDER THE LOCALISM ACT 2011-
THE AMENDED REGIME**

Author: **Anne Court, Director of Services and Monitoring Officer**

1 Introduction

This report follows on from the report to Council on 17 April 2012 which informed members of the changes to the system of regulation of standards of conduct for elected and co-opted members of Councils following the abolition of the Standards Board regime by the Localism Act 2011 (the Act). At that time further Regulations were pending before the processes of a new regime could be proposed. The Commencement Order has now been made bringing the new arrangements for the standards and conduct of members into force on 1 July 2012. The Regulations in relation to Disclosable Pecuniary Interests have also now been made and come into force on 1 July 2012. The Standards Committee met on 12 June 2012 to consider the proposed arrangements and their recommendations are included within this report. The report seeks Members agreement to the proposed arrangements for implementing the new regime.

2 Recommendations

- 2.1 That Council adopt the attached Code of Conduct with the Regulations on Disclosable Pecuniary Interests also attached, at Appendix 1
- 2.2 That Council adopt the arrangement for dealing with complaints as set out in the flow chart at Appendix 2
- 2.3 That Council delegate to Hearings Panels such of its powers as can be delegated to take decisions in respect of a member who is found on hearing to have failed to comply with the Code of Conduct and take the actions available where a member is found to have failed to comply with the Code of Conduct.
- 2.4 That Council appoints at least one "Independent Person(s)" from the list at Appendix 4 on an expenses only basis.
- 2.5 That Council agree the contents of the Register of Interests at Appendix 3
- 2.6 That Council agrees to amend the Council's Constitution to include a provision which equates to the current Code of Conduct requirement that a member must withdraw from the meeting room, including the public gallery, during the whole of consideration of any item of business in which he/she has a Disclosable or a non Disclosable Pecuniary Interest except where he/she is permitted to remain as a result of the grant of a dispensation.

3 Information

3.1 The Code of Conduct

The report to Council of 17 April 2012 set out the main provisions of the Act in relation to the future regulating of the conduct of members and co-opted members of Local Authorities in that the Standards Board for England has been abolished and there will be no statutory Code of Conduct, but rather there must be local Codes with certain prescribed provisions including Disclosable Pecuniary Interests which need to be declared.

The Leicestershire group of Monitoring Officers and their deputies (ACSeS) had earlier in the year hoped to be able to draw up a common Code of Conduct across Leicestershire for consistency but this has not been possible due to the tightness of time frames and publication of Regulations. There has been no nationally agreed Model Code, with both the Local Government Association and the Department for Communities producing their own "Template" The situation is therefore that each Leicestershire Local Authority, including the County and the City will be adopting their own variance, having no alternative, with the obligation on each Local Authority to adopt a Code by 1 July 2012. However, in the spirit of collaborative working, the Leicestershire ACSeS group propose that in September 2012, a review of the new arrangements takes place with a view to working towards a Model Code for Leicestershire for eventual adoption by all Leicestershire Local Authorities. In the meantime, the attached Code of Conduct as has been drafted which includes recommendations by this Council's existing Standards Committee. A Code needs to be adopted and take effect from 1 July 2012.

Under the Regulations, any existing complaints as at 1 July will be continued under the new regime.

3.2 Process for determining complaints

It is up to each Local Authority, rather than statute, as to how the complaints process is administered. Once again, this was something that the Leicestershire ACSeS had hoped could be common across Leicestershire. In view of the timescales given for implementation it has not been possible to agree a common set of simplified processes to deal with allegations, but as with the Code of Conduct, each Local Authority will be adopted its own process which it is envisaged that after 1 July 2012 there be an ongoing piece of work across the Leicestershire Authorities to align as far as possible a common approach. Members are asked for the time being to adopt the proposed flow chart at Appendix 2 with delegation to the Monitoring Officer in conjunction with the Chair of the Standards Committee to flesh this out on a local basis.

3.3 Requirement to leave the meeting when a pecuniary interest is declared

There is no longer a statutory provision requiring a member who declares an interest to leave a meeting. The Standards Committee recommend that this provision should still be available as and when necessary. The Council's Procedure Rules within the Constitution will need to be amended for this to take effect.

3.4 Register of Interests & Declarations of Gifts and Hospitality

The Register must include “Disclosable Pecuniary Interests which are defined by Regulations, other than these it is for the Local Authority to determine what information should be provided in the Register of Interests as long as it complies with the Act. Other than Disclosable Pecuniary Interests it is recommended that the other interests to be registered are where a member holds a position of general control or management of private clubs or organisations. The Standards Committee also recommend that the existing level of value for declaring gifts and hospitality is raised from £25.00 to £50.00. The revised form is attached at Appendix 3.

It is a requirement of the legislation that all registers of interests are available electronically on the Council’s website. It is the Standards Committee recommendation to retain the provision to withhold “sensitive information” a member has declared to the Monitoring Officer.

3.5 Appointment of Independent Persons

From 1 July 2012 the existing Standards Committee, with the composition of both elected and Independent members will cease to exist. The concept of Independent members as decision makers with voting rights on a committee, will no longer exist, the Independent role is now as “Persons” to be advisors, rather than members with voting rights. Whilst there is no statutory requirement for a Standards Committee, there must still be in place (whatever this may be referred to), a system for a Local Authority to deal with complaints against members. The existing Standards Committee of this Local Authority recommend that this still be referred to as a Standards Committee and at the Annual General Meeting on 22nd May a politically balanced Standards Committee of entirely elected members was appointed to deal with the new role.

The procurement process of the new role for “Independent Persons” was proposed at the Council meeting on 17 April and following the recommendations arising out of that meeting, it was the decision of the Council’s Constitutional Task Group to approve a process of recruitment to the new role by a panel of Monitoring Officers with feedback to members.

The procurement process for the appointment of Independent Persons across the Leicestershire Districts (excluding Melton) was carried out in May and June. Thirteen applications were received and all applicants were interviewed. Whilst it is a legal requirement for at least one Independent Person be appointed it seem practical for a Local Authority to appoint more than the minimum for holiday cover and for potential conflicts of interests eg where an Independent Person is already advising the complainant and is then needed for the Hearings Panel.

At the exempt Appendix 4 there is a brief resume and scoring of each of thirteen applicants against the interview process. It is recommended that between six to eight individuals are appointed by this Council to give sufficient flexibility.

There will be no allowance payable for Independent Persons, only expenses. All applicants were made aware of this at the time of interview and they confirmed that they still wished to be considered for appointment.

4 Financial Implications

There are no financial implications as Independent Persons expenses will be met through existing budgets. **(CR)**

Email: Anne.Court1@oadby-wigston.gov.uk Tel: 011 62572602

Implications	
Health	Not applicable
Environment	Not applicable
Community Safety	Not applicable
Human Rights	Natural Justice will be met through procedures in place
Equal Opportunities	A recruitment exercise was undertaken for the appointment of Independent Persons
Risk Assessment	A system for dealing with allegations of misconduct will avoid any adverse impact on the Council's reputation
Value for Money	Not applicable
Equalities	No significant impact
Legal	Comments within the report

CODE OF CONDUCT OF OADBY AND WIGSTON BOROUGH COUNCIL

1. Application

This Code of Conduct is intended to promote high standards of behaviour amongst the elected and co-opted members of Oadby and Wigston Borough Council. It applies to you whenever you are acting in your capacity as a member of Oadby and Wigston Borough Council including –

- 1.1 at formal meetings of the Council, its Committees and Sub-Committees
- 1.2 when acting as a representative of the authority
- 1.3 in taking any decision as a Ward Councillor
- 1.4 in discharging your functions as a Ward Councillor
- 1.5 at briefing meetings with officers and
- 1.6 at site visits
- 1.7 when corresponding with the authority other than in a private capacity

You should read this Code in conjunction with the Council Procedure Rules as detailed in the Constitution.

2. General Conduct

The Code is underpinned by the Nolan principles of public life of selflessness, integrity, objectivity, accountability openness, honesty and leadership which should be borne in mind when interpreting the meaning of the Code. In addition you must

- 2.1 Treat others with respect and not bully any person. It is the collective responsibility of all members to create a fair, safe and enjoyable environment for members, officers and residents which is free from intimidation and abuse. You must not do anything which may cause the Authority to breach the Equality Act 2010.
- 2.2. not disclosing confidential information to third parties unless required by law
- 2.3 use council resourceful for the undertaking of the Council duties and not for other purposes
- 2.4 Follow the law in relation to policies of the Council and its legal obligations.

3. Disclosable Pecuniary Interests

3.1 Subject to Paragraph 6 (sensitive interests), you must within 28 days of

- (a) this code being adopted or
- (b) your election or appointment (where that is later)

Notify the Monitoring Officer of any Disclosable Pecuniary Interests where such an interest is

- (i) yours,
- (ii) your spouse's or civil partner's or
- (iii) somebody with whom you are living as husband and wife or civil partners

and you are aware that that person has the interest

3.2 You must within 28 days of becoming aware of any new Disclosable Pecuniary Interest or any change to any such interest, notify the Monitoring Officer in writing

3.3 You have a Disclosable Pecuniary Interest if it is of a description specified in Regulations made by the Secretary of State attached at the Appendix to this Code

3.4 Where such an interest exists you must disclose the interest to any meeting of the authority at which you are present, where you have a Disclosable Pecuniary Interest in any matter being considered and where the matter is not a 'sensitive interest' or where no dispensation has been given.

3.5 Following any disclosure of an interest not on the authority's register you must notify the Monitoring Officer in writing of the interest within 28 days beginning with the date of disclosure.

3.6 Where you have a Disclosable Pecuniary Interest you must not vote or participate in the discussions on the matter and will leave the room if required by standing orders or Council Procedure Rules.

4. Other Interests

4.1 Subject to Paragraph 6 (sensitive interests), you must within 28 days of

- (c) this code being adopted or
- (d) your election or appointment (where that is later)

Notify the Monitoring Officer of any Non-Pecuniary Interests through the Register of Interest forms

4. 1 if you attend a meeting at which any item of business is to be considered and you are aware that you have a "Non-Pecuniary Interest" in that item you must make verbal declaration of the existence and nature of that interest at or

before the consideration of the item of business or as soon as the interest becomes apparent.

4.1.1 Where you have verbally declared a “Non-Pecuniary interest” you may remain in the meeting speak and vote on the matter unless to do so would compromise your impartiality obligations or any other obligations set out in this Code.

- 4.2 You have a Non-Disclosable Pecuniary Interest in an item of business of your authority if the interest is specified as a Pecuniary Interest by Regulations and and it is the interest of an immediate member of your family (parents, children, siblings, aunts, uncles, grandparents) or a close associate.

4.2.1 Where you have verbally declared a Non-Disclosable Pecuniary Interest you must not vote or participate in the discussions on the matter and will leave the room if required by standing orders or Council Procedure Rules

5. Dispensations

Dispensations may be granted by the Monitoring Officer for one meeting only on request in writing from you. Dispensations will only be granted where there are reasonable grounds for doing so and where such grounds are in the public interest

6. Sensitive Interests

A “sensitive interest” is where disclosure of an interest of the member or co-opted member would, in the opinion of the Monitoring Officer lead to the member or co-opted member, or a person connected with the member or co-opted member be subject to violence or intimidation.

7. Gifts and Hospitality

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 £50. 00 which you have accepted as a member from any person or body other than the authority.

The Monitoring Office will place your notification on a public register of gifts and hospitality

Appendix

Definitions

In this Code:

“Meeting” means any meeting of:

- (a) the Authority;
- (b) any of the Authority’s committees, sub-committees, joint committees, joint sub-committees, or area committees;

“Member” means any person being an elected or co-opted member of the Authority and any independent person appointed by the Authority to assist with the discharge of the Code of Conduct functions

NOLAN PRINCIPLES

- i. **Selflessness** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.
- ii. **Integrity** Holders of public office 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, holders of public office should make choices on merit.
- iv. **Accountability** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- v. **Openness** Holders of public office 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** Holders of public office have a duty to 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** Holders of public office should promote and support these principles by leadership and example.

Appendix

Disclosable Pecuniary Interests

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

Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows –

<i>Interest</i>	<i>Prescribed description</i>
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) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. 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 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 M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M'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.

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 is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” includes 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;

“M” means the person M referred to in section 30 of the Act;

“member” includes a co-opted member;

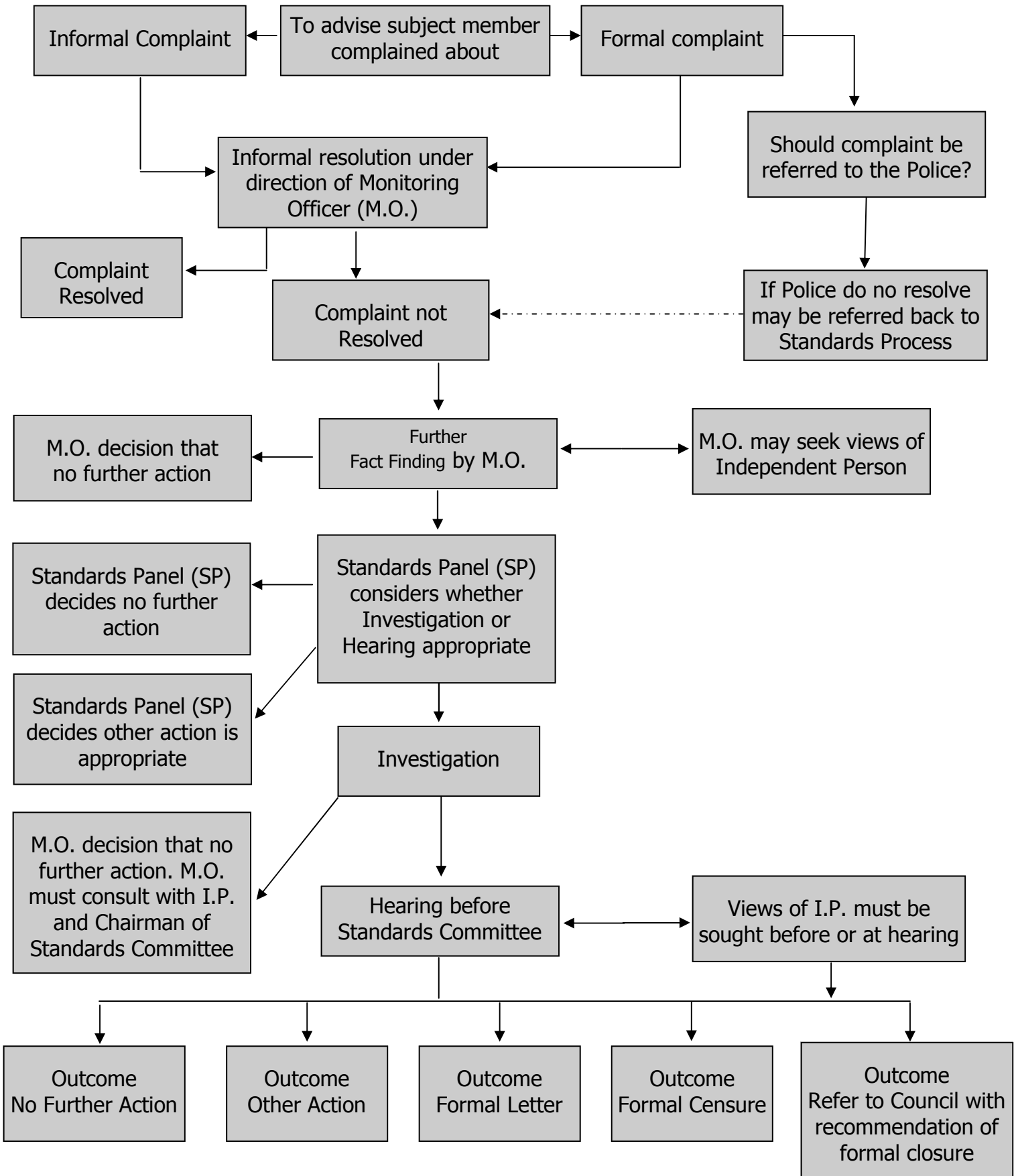
“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) of the Act;

“relevant person” means M 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.

FLOWCHART FOR PROPOSED STANDARDS PROCESS



● Notes

- At every stage in the process, reasons for decisions must be given.
- Complaints may be made by members or officers of the Oadby & Wigston Borough Council, members of the public or on referral from the Standards Committee.
- Members subject of complaint will be advised of the allegations and their views sought unless there are wholly exceptional circumstances, such as that member being seriously ill or unavailable or it is clear that the Monitoring Officer (M.O.) will conclude that no further action will be taken.
- At any stage of the process, if it becomes clear to the M.O. that the complaint should be referred to the police, he/she will then have authority so to do without seeking the views of the Standards Committee, Chair of Standards Committee or IP. The Chair of Standards will normally be advised of the referral. In these circumstances, the member subject of the complaint may not be advised of the referral.
- Legal representation will not be allowed before hearings of Standards Committee.
- An investigation may be carried out by the M.O. or commissioned by the M.O.
- An option for either party to seek views of an IP.

REGISTER OF MEMBERS' INTERESTS

NOTE: *“Member” (M) includes a co-opted member of an authority.
Numbering follows numbering in Code of Conduct.*

I, *(full name) (capitals)*

a Member/Co-opted Member of theCouncil

GIVE NOTICE, as I am required to do **under S29 Localism Act 2011**, that I have the following disclosable interests: *(please state “None” where appropriate)*

The interest relates to either my own, my spouse or my civil partner or someone with whom I live with as if they were my spouse or civil partner.

(i)	Any employment, office, trade, profession or vocation carried on for profit or gain

(ii)	Sponsorship – Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.
	<i>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a)</i>

(iii) Contracts – Any Contract which is made between the relevant person (or a body in which the 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 .

(iv) Land – Any beneficial interest in land which is within the area of the relevant Authority

(v) Licenses – Any Licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.

(vi) Corporate Tenancies – Any tenancy where (to M's knowledge) – (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.

(vii) Securities – Any beneficial interest in securities of a body where – (a) that body (to M’s knowledge) has a place of business; or land in the area of the relevant authority; an (b) wither (i) the total nominal value to the securities exceeds £25,000 or one hundredth of the total issues share capital of that body; or (ii) if the share capital of that body is 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.

OTHER INTERESTS

The Localism Act also allows other interests to be registered. The Authority has determined that the following should be registered.

(a) I am a member or hold a position of general control or management of the following private clubs or organisations

(b) The interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50.00

SENSITIVE INTERESTS

I have/have not got any Sensitive Interests as defined by s 32 Localism Act 2011 and the Monitoring Officer considers that disclosure could lead to the risk of violence or intimidation. *(delete as appropriate)*

MEMBER'S SIGNATURE

Date	
Member's Name <i>(Capitals – in Full)</i>	
Member's signature	

NOTIFICATION OF CHANGE OF CIRCUMSTANCES

A Member must, within 28 days of becoming aware of any change to the interests specified above, provide written notification to the Monitoring Officer of that change at the Council Offices, Station Road, Wigston, Leicestershire, LE18 2DR

RECEIPT BY MONITORING OFFICER

Date received by the Council	
Signature of Monitoring Officer	

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A of the Local Government Act 1972.

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