

REPORT OF THE
Conduct Advisory Panel
PART I

91. LOCALISM ACT 2011 – REVISED CODE OF CONDUCT FOR MEMBERS AND CO-OPTED MEMBERS OF THE COUNTY COUNCIL

1. By virtue of Section 27 of the Localism Act 2011 ('the Localism Act'), the County Council is required to promote and maintain high standards of Conduct by both Members and Co-opted Members of the County Council, and to adopt a Code of Conduct to deal with the Conduct expected of Members and Co-opted Members when acting in an official capacity ('Members' Code of Conduct'). The Members' Code of Conduct must include provision in respect of the registration and disclosure of Pecuniary Interests ('DPI's') and any such provision as the County Council considers appropriate in respect of interests other than DPI's which the County Council requires to be registered. Subject to the statutory requirements, the exact form and content of the County Council's Members' Code of Conduct is a matter for Members to determine locally.

2. In order to secure compliance with the revised statutory requirements a new Members' Code of Conduct was adopted by the County Council at its meeting on 19 July 2012. It was however recognised at the time that if it were possible it would be helpful to have a consistent approach across the Hampshire and Isle of Wight Local Authorities ('HIOWLGA') in matters of local determination to avoid the potential for confusion, particularly since a number of Members of the County Council were Members of more than one HIOWLGA Authority.

3. A report from HIOWLGA together with a revised Members' Code of Conduct taking account the suggestions of HIOWLGA was considered by the Conduct Advisory Panel at its meeting on 30 May 2014. A copy of the Report to the Conduct Advisory Panel together with the revised draft Members' Code of Conduct are attached at Annex 1 and Annex 2 this Report. Members of the Conduct Advisory Panel approved the revised draft Members' Code of Conduct for consideration by the County Council.

4. Revised Members' Code of Conduct

Currently, whilst there is provision in the Members' Code of Conduct requiring the registration and disclosure of DPI's, there is no specific requirement on Members to register and/or disclose Non Pecuniary Interests, the decision to do so being left to individual Members. In practice Non Pecuniary Interests are routinely both registered and disclosed by Members. It is considered that there should be a consistent approach to the registration and disclosure of Non Pecuniary or "Personal" Interests relevant to the business of member Authorities. A list of 'suggested' Personal Interests is set out at Part 5 of the draft revised Code of Conduct at Annex 2 to this Report. Members will note that these 'Personal Interests' are similar to Interests which, under Standards

Arrangements prior to the Localism Act constituted Personal Interests.

5. The suggestion from HIOWGLA supported by the Conduct Advisory Panel is that the requirement on Members to register Personal Interests should remain a matter for individual Members concerned, as per the existing Members' Code of Conduct. However it is suggested that, in the interests of openness and transparency, where a Member has a Personal Interest at a meeting of the County Council, its Committees or the Executive, and the Member considers such Interest to be relevant to an item of business being considered at the meeting, there should be an obligation that such Interest should be disclosed. It is suggested that once disclosed there should continue to be no requirement that the Member concerned should withdraw from the meeting and not take part in any discussion or vote, although as currently provided in the Members' Code of Conduct, having taken advice in appropriate circumstances, it should remain open to a Member to withdraw, should the Member consider it appropriate to do so.

6. Amendment to Standing Orders

As Members will be aware, where a Member has a DPI in a matter being considered at a meeting such Member cannot, by virtue of the requirements of the Localism Act and reflected in the existing Code of Conduct, participate in discussion or vote on the matter. The Localism Act does not specifically require a Member with a DPI to leave the room while the matter is discussed. However as a matter of good governance, and in the interests of openness and transparency, this is presently included in the existing Code of Conduct over and above the statutory provision. The suggestion from HIOWLGA is that for consistency this requirement should also be included in member Authorities' Standing Orders.

RECOMMENDATIONS

That the County Council:

- (a) Adopt the revised Members' Code of Conduct as set out in the draft attached at Annex 2 to this Report.

- (b) Authorise the Monitoring Officer to make the necessary amendments to Standing Orders to provide for the exclusion of Members from any meeting of the County Council, its Committees or the Executive while any discussion or vote takes place on a matter on which a Member has a Disclosable Pecuniary Interest, unless a dispensation has been granted.

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Conduct Advisory Panel	Item 5
Date:	30 May 2014	
Title:	Localism Act 2011 – Revised Draft Code of Conduct for Members and Co-opted Members of the County Council	
Reference:	5868	
Report From:	Chief Executive	

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1. Executive Summary

1.1 This Report suggests a revised Code of Conduct for Members and Co-opted Members of the County Council, for the Conduct Advisory Panel to consider prior to submission to the County Council for approval.

2. Contextual information

2.1. By virtue of Section 27 of the Localism Act 2011 ('the Localism Act'), the County Council is required to promote and maintain high standards of conduct by both Members and Co-opted Members of the County Council, and to adopt a Code of Conduct to deal with the conduct expected of Members and Co-opted Members when acting in an official capacity. By virtue of Section 28 of the Localism Act, such Code of Conduct must, when viewed as a whole, be consistent with the Nolan principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership, as set out in the Localism Act. The Code of Conduct must also include provision in respect of the registration and disclosure of Pecuniary Interests as defined in Regulations made by the Secretary of State under the Localism Act, any such provision as the County Council considers appropriate in respect of Interests other than Disclosable Pecuniary Interests which the County Council requires to be registered. Subject to the statutory requirements, the exact form and content of the County Council's Members' Code of Conduct is a matter for Members to determine locally.

2.2. In order to secure compliance with the revised statutory requirements set out in the Localism Act, a new Code of Conduct was considered by the Conduct Advisory Panel, and adopted by the County Council at its meeting on 19 July 2012. It was however recognised at the time that if it were possible it would

be helpful to have a consistent approach across the Hampshire and Isle of Wight Local Authorities ('HIOWLGA') in matters of local determination to avoid the potential for confusion, particularly since a number of Members of the County Council are Members of more than one HIOWLGA Authority.

- 2.3. HIOWLGA therefore resolved at their meeting on 22 June 2013 to express support for a Pan-Hampshire Members' Code of Conduct, and requested that the Clerk to the Hampshire Fire and Rescue Authority lead on a project to explore co-operation and collaboration between the HIOWLGA Authorities to produce where possible a joint Code.
- 2.4. A Report on the Options was considered by HIOWLGA on 22 November 2013. A copy of the Report to HIOWLGA, together with a copy of a letter dated 16 January 2004 from the Chairman of HIOWLGA in this regard is attached at Annex 1a and 1b to this Report. Members will note that Option 2 as contained in the Report to HIOWLGA was identified as the preferred way forward, and it was agreed that all HIOWLGA Authorities would be asked to review and, where necessary, revise their existing Members' Code of Conduct and Standing Orders, with a view to ensuring that these included the core provisions set out in the Appendix to the HIOWLGA Report.

3. Revised Members' Code of Conduct

3.1. Obligatory Disclosure of 'Personal Interests'

The suggestion is that there should be a compulsory obligation on Members to disclose specified 'Personal Interests' as referred to at Paragraphs 1.1 and 1.2 of the Appendix to the HIOWLGA Report. These 'Personal Interests' are similar to Interests which, under previous Standards Arrangements prior to the Localism Act, constituted Personal Interests. Members will recall that in considering whether or not there should be any obligatory disclosure of any specified Personal Interests, Members were of the view that whilst there should be provision for Members to declare Personal Interests at meetings, and on the County Council's Register of Members' Interests, the decision to do so should be left to individual Members. Personal Interests are currently referred to in the County Council's Members' Code of Conduct as 'Non-Pecuniary Interests'.

The suggestion from HIOWLGA is that whilst there should be no requirement on Members to register Personal Interests, where a Member has a specified Personal Interest such Member should be required to disclose the Interest at any meeting of the County Council, its Committees, Sub-Committees, and (presumably) Executive Meetings, where the Member concerned considers that the Interest is relevant to an item of business being considered at the Meeting. Once disclosed, there is no suggestion that the Member concerned should withdraw from the meeting and not take part in any discussion of vote, although as currently provided for in the County Council's Code of Conduct, having taken advice in appropriate circumstances, it is open to a Member to withdraw, should the Member consider it appropriate to do so.

3.2. Gifts and Hospitality

The suggestion of HIOWLGA is that gifts and hospitality of an estimated value of at least £50 should be registered within 28 days of receipt. This provision is already contained in the County Council's Members' Code of Conduct.

3.3. Standing Orders

The suggestion from HIOWLGA is that Authorities should amend their Standing Orders to provide for the exclusion of Members from a meeting while any discussion or vote takes place on a matter in which a Member has a Disclosable Pecuniary Interest, unless a dispensation has been granted. This provision is already contained in the County Council's Code of Conduct. If considered desirable the provision could also be included within Standing Orders.

A revised Members' Code of Conduct taking account of the above is attached at Annex 2 to this Report.

4. Recommendations

4.1. It is recommended that the Conduct Advisory Panel:

- a) Consider the revised draft Members' Code of Conduct attached at Annex 2 to this Report, including revised provision in respect of the disclosure of Personal Interests, and approve the draft incorporating any comments of the Conduct Advisory Panel for submission to the County Council at its meeting on 17 July 2014.
- b) Consider whether notwithstanding the provision in the existing Members' Code of Conduct, it should be recommended that the County Council amend its Standing Orders to provide for the exclusion of Members from a Meeting of the County Council, its Committees or the Executive while any discussion or vote takes place on a matter in which a Member has a Disclosable Pecuniary Interest, unless a dispensation has been granted.

CORPORATE OR LEGAL INFORMATION:

This proposal does not link to the Corporate Strategy but, nevertheless, requires a decision because of the requirements of the Localism Act 2011 and for the good governance of the County Council.

Other Significant Links

Links to previous Member decisions:

<u>Title</u>	<u>Reference</u>	<u>Date</u>
Localism Act – Revised Standards Arrangements – New Code of Conduct for Members of the County Council	272	19 July 2013

Direct links to specific legislation or Government Directives

<u>Title</u>	<u>Date</u>
Localism Act	2011

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

<u>Document</u>	<u>Location</u>
None	

IMPACT ASSESSMENTS:

1. Equalities Impact Assessment:

The proposals have no identified equality impacts.

2. Impact on Crime and Disorder:

There are no identified impacts on crime and disorder.

3. Climate Change:

- (a) How does what is being proposed impact on our carbon footprint / energy consumption? N/A
- (b) How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts? N/A

HAMPSHIRE AND ISLE OF WIGHT

HAMPSHIRE AND ISLE OF WIGHT
LOCAL GOVERNMENT ASSOCIATION



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16 January 2014

All Leaders of
cc All Chief Executives of

Dear Councillor

Pan-Hampshire Code of Conduct

At the meeting of Hampshire and Isle of Wight Local Authorities () on 22 November 2013, consideration was given to the matter of a Pan-Hampshire Code of Conduct for Members. A copy of the report considered at the meeting is attached.

It was considered to be in the interests of Members of our constituent authorities (a number of whom are Members of more than one authority), and the public that those authorities serve, to adopt a consistent approach to the registration and disclosure of Members' pecuniary and non-pecuniary interests. Such an approach will reduce confusion as to when relevant interests should be disclosed, and minimise the risk of inadvertent failure to comply with relevant requirements.

After considering the options set out in the report, Option 2 was identified as the preferred way forward. Under the Localism Act, it is for each local authority to adopt and, where necessary, revise, its Code of Conduct. It was agreed therefore that all authorities would be asked to review and, where necessary, revise their existing Code and Standing Orders, with a view to ensuring that these include the core provisions set out in the appendix to the report.

I would be grateful if you could make the necessary arrangements for this review to take place within your own authority. While the outcome of that consideration is a matter for your authority, I would invite you to have regard to the value that will be added by the

arrangements of all authorities, governing the disclosure of Member interests, sharing the same essential characteristics.

Yours faithfully

A handwritten signature in black ink that reads "Seán Woodward". The signature is written in a cursive, flowing style.

Councillor Seán Woodward
CHAIRMAN

HLOWLA	Item
	<p>22 November 2013</p> <p>Localism Act– Options for a Pan-Hampshire Members’ Code of Conduct</p> <p>Report of the Clerk to Hampshire Fire and Rescue Authority</p>

Contact: Kevin Gardner, kevin.gardner@hants.gov.uk. Telephone: 01962 847381

1 Summary

- 1.1 This report follows on from a discussion at HLOWLA on 22 June 2012, when Members resolved that further work be undertaken to explore the options for a pan-Hampshire Members’ Code of Conduct. The report sets out an analysis of the main options, with the advantages and disadvantages in each case, and identifies one particular option for consideration as a way forward.
- 1.2 It is not within the scope of the report to provide detailed guidance on the requirements of the Localism Act regarding Member conduct. Members are referred to the report of 22 June 2012, which included a summary of the changes introduced by the Localism Act. Where further or more detailed advice on these requirements is sought, Members should refer to their authority’s monitoring officer.

2 Background

- 2.1 The Localism Act 2011 has amended the arrangements governing standards of member conduct that were previously set out in the Local Government Act 2000. Local authorities, including fire and rescue authorities and national park authorities, were therefore required to put in place revised arrangements in this regard from 1st July 2012.
- 2.2 At the HLOWLA meeting on 22 June 2012, it was reported that Members of Hampshire Fire and Rescue Authority (“HFRA”) had identified that there was potential scope for co-operation and collaboration between authorities in implementing some or all of these arrangements. HFRA Members had asked that this be raised within the HLOWLA arena so that such potential could be further explored.
- 2.3 HFRA comprises 25 Members – 19 Members of Hampshire County Council, and 3 Members of each of Portsmouth and Southampton City Councils. A number of HFRA Members are also members of district

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councils and/or parish councils. The previous arrangements under the Local Government Act 2000 required all such authorities to adopt a code of conduct based on a statutory Model Code, with only very limited scope for variation. Under the Localism Act, it is possible for each authority to adopt a different Code. HFRA Members recognised that this could create potential for confusion, if the ethical standards to which they must adhere vary depending on the capacity in which they are acting, or which authority's meeting they are attending. It was felt that this may increase the risk of inadvertent failure to comply.

- 2.4 It was considered that the same situation and risk may arise for Members who are "double" or "triple-hatted" in other settings e.g. a district councillor who is also a parish councillor and/or a member of one of our two national park authorities. There is also the possibility that Members representing their authorities on joint committees would be subject to differing codes of conduct while engaged on essentially the same business. This may cause confusion not only for Members, but also for stake holders and members of the public.
- 2.5 The meeting resolved: "That the HIOWLA authorities expressed support for a pan-Hampshire code of conduct and that Kevin Gardner (*on behalf of the Clerk to HFRA*) would lead on the project to explore co-operation and collaboration between the HIOWLA authorities to produce a joint code to implement the requirements of the Localism Act on Members' conduct."
- 2.6 It was acknowledged that, for reasons of timing, each of the HIOWLA authorities would need to proceed to put in place their own arrangements from 1 July 2012, to ensure that they complied with the Localism Act. However, this left open the possibility of those authorities agreeing to adopt a different code, which could be a pan-Hampshire Code, at a later date.
- 2.7 There was no wish from the meeting to explore further co-operation in the form of a joint standards committee or joint arrangements for complaints handling. These aspects have not been explored further, therefore.
- 2.8 In considering the options for a pan-Hampshire Code, a period of time has been allowed for the Localism Act arrangements to bed down, to establish whether, and the extent to which, the potential confusion and perceived issues relating to "multi-hatted" members have materialised in practice. Members' experience of this will be invaluable in judging whether there is indeed a need for greater consistency in approach.
- 2.9 This paper sets out the suggested options for greater collaboration.
- 2.10 It should be noted that, in some situations, the degree to which a Member may participate in debate or voting on an item of business

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may be affected by common law principles relating to bias and predetermination, rather than by the requirements of their authority's Code of Conduct regarding disclosure of interests. This position would continue to apply, unaffected by any of the proposals below. Should such an instance arise, advice should be sought from the relevant authority's own legal officers.

3 Option 1 – Consistent Approach to Disclosable Pecuniary Interests

3.1 At the HIOWLA meeting on 22 June 2012, the Regulations on disclosable pecuniary interests (“DPIs”) had only recently been published, and had yet to come into force.¹ These are now in place and provide a basic level of commonality across all of the authorities as to the requirements upon Members for the registration and disclosure of pecuniary interests. The first option therefore involves a view that, in the light of experience in practice, this now secures a sufficient level of consistency and that no further provision is required.

3.2 The advantages of this option are:

- It strikes a balance between consistency in the key area of registration and disclosure of significant pecuniary interests, while recognising that authorities have discretion to adopt additional provisions where they consider this appropriate to local needs
- It is easy to implement, representing the status quo

3.3 The disadvantage of this option is:

- The ability for authorities to adopt additional provisions in their codes enables further requirements to be adopted on the registration and disclosure of pecuniary interests other than DPIs (e.g. gifts and hospitality), and non-pecuniary interests. This may still lead to confusion for multi-hatted members therefore, who would still need to adhere to slightly different rules on registering and disclosing interests

4. Option 2 – Consistent Approach to Pecuniary and Non-Pecuniary Interests other than DPIs (“Personal Interests”)

4.1 This option goes one step further than Option 1 and would involve all authorities adopting a common set of requirements concerning registration and disclosure of those pecuniary interests that do not

¹ The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, which came into force on 1 July 2012

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meet the description of a DPI, and non-pecuniary interests. Further, there could be consistency as to when a Member, who has a DPI or other interest in a matter being considered at a meeting, is required to leave the meeting room for that item.

- 4.2 Research suggests that a common approach may be achievable here:
- 4.3 Personal Interests: A number of the Hiowla authorities already require there to be at least some registration and/or disclosure of personal interests. The Localism Act reduced the scope of interests legally required to be registered and disclosed, leaving the making of additional provision to local discretion. There is a feeling that some disclosure of personal interests remains appropriate in the handling of certain potentially sensitive types of business (e.g. planning applications, the award of grants and contracts), where reliance solely on the rules relating to DPIs would not afford a sufficient level of transparency.
- 4.4 A number of authorities regard a “personal interest” as arising in an item of business where it relates to or is likely to affect any of the following bodies of which the Member is a member: a public or charitable body, any body to which the Member has been appointed by the authority, any political party, trade union or other body one of whose principal purposes is to influence public opinion or policy.
- 4.5 Similarly, a number of authorities provide that a “personal interest” will also arise where a decision on an item of business might reasonably be regarded as affecting the well being or financial position of the Member, a member of the Member’s family or person with whom they have a close association, more than other council tax payers, ratepayers or inhabitants of the authority’s area.
- 4.6 Based on the current range of approaches, a possible basis for a common, proportionate approach would be a requirement to disclose a personal interest orally at a meeting, where it is relevant to an item of business being considered at that meeting. There would be no requirement to enter the interest in the published register of interests, though the oral disclosure at a meeting would be recorded in the minutes of that meeting. Once the interest has been disclosed, there would be no requirement for the Member to leave the room, and the Member would be able to participate in discussion and vote on the matter. There would be no requirement to include the interest in the register of interests which is published on the web.
- 4.7 Although many of the Hiowla authorities accept the principle that there should be some registration and/or disclosure of personal interests, the detailed provisions adopted by the authorities vary. Acceptance of a need for change on the part of some authorities would be required, as

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the price to be paid for achieving a common Hiowla-wide approach.

- 4.8 Gifts and Hospitality: A number of authorities have adopted a requirement to register the receipt of gifts or hospitality. The general threshold of value for registration varies, between £25 and £50. It may be possible to reach agreement in principle that such a requirement should be universally adopted, with an agreed value, say £50.
- 4.9 Exclusion from the Room where a Member has a DPI: In general, authorities require through their standing orders that a Member who holds a DPI in a matter being considered at a meeting should leave the room while the discussion and vote on that item take place.
- 4.10 The advantage of this Option 2 would be:
- All authorities would operate consistent provisions regarding all aspects of the registration and disclosure of interests, reducing risk of confusion amongst Members, and of inadvertent failure to comply with the relevant authority's code
- 4.11 The disadvantage of this option would be:
- It still does not address the issue of consistency in requirements concerning aspects of conduct other than registration and disclosure of interests

5 **Option 3 – Consistent Approach to DPI's, other Pecuniary and Non-Pecuniary Interests, and other Aspects of Conduct**

- 5.1 This Option involves going one step further than Option 2 by ensuring consistency in provision regarding aspects of conduct other than registration and disclosure of interests. While the precise wording may differ slightly from one authority's code to another, many currently include provision in areas such as the following:
- Treating others with respect
 - Maintaining confidentiality
 - Observing requirements of equalities legislation
 - Upholding, and not compromising, the impartiality of officers
 - Not using position as a Member to secure an advantage
 - Using resources of the authority for authorised purposes, and not for political purposes
- 5.2 There are two ways in which greater consistency could be achieved.

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5.3 **Option 3A** would involve agreeing the principles (such as those listed in para 5.1 above) which should be covered by each authority's Code, yet leave it at each authority's discretion to settle upon its own precise wording. **Option 3B** would involve agreeing the actual wording for all authorities to adopt.

5.4 The advantage of Option 3A would be that:

- There is consistency in the principles of proper conduct that members are required to observe
- There is discretion for authorities as to the style in which the requirements are expressed
- It may better facilitate agreement and adoption, as it would not be necessary to resolve issues where there are different views on detailed drafting

5.5 The disadvantage of Option 3A would be that:

- There is still some minor inconsistency in the particular requirements Members are required to observe

5.6 The advantage of Option 3B would be that:

- It achieves complete consistency across all authorities on not only the principles, but the precise details, of the requirements placed upon Members

5.7 The disadvantage of Option 3B would be that:

- It may be viewed as too prescriptive and not recognising a role for local variation to meet local needs
- It may be difficult to reach agreement.

6. Comment

6.1 This part of the report sets out some considerations to be borne in mind in weighing up the above options.

6.2 The experience of Members in the period since July 2012, operating within the Localism Act requirements, is key. For example, some Members may feel that the concerns expressed prior to implementation about potential confusion for "multi-hatted" members, have not materialised, or have been largely addressed by the introduction of universal statutory requirements on the registration and disclosure of DPIs. To the extent that there may be some remaining inconsistency amongst authorities on other aspects of their Codes, it may be felt that this is not significant, a natural consequence of applying principles of localism, and insufficient to justify the investment of further time and resource in the development of an overly prescriptive, common Code.

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Where this is the view, Option 1 would provide a basis for the way forward, and would involve maintaining the status quo.

- 6.3 As the other options involve change, it should be recognised that legally it is for each local authority to adopt its own Code of Conduct² and, in doing so, to ensure that its Code is consistent with the Nolan principles³ and includes such provision as it considers appropriate in respect of the registration and disclosure of pecuniary and other interests⁴. Where a local authority has adopted a Code of Conduct it is able to revise it, or adopt a replacement⁵. It is also for each local authority to decide whether its Standing Orders should provide for the exclusion of a member from a meeting, while the discussion and vote takes place on a matter in which that member has a disclosable pecuniary interest⁶.
- 6.4 An authority cannot therefore be required to adopt a particular Code simply because it is being adopted by neighbouring authorities. The adoption of a pan-Hampshire Code would involve each authority voluntarily recognising the value that was added by having a Code that shared the same essential characteristics as those of neighbouring authorities.
- 6.5 It may therefore facilitate the reaching of voluntary agreement if the adopted solution comprises a core set of common principles, yet builds in some local discretion for authorities to supplement these where it considers necessary to meet local needs.
- 6.6 Where it is felt that a middle line is required, Options 2 and 3A may be attractive: Option 2 achieves consistency in the registration and disclosure of DPIs, other pecuniary and non-pecuniary interests; Option 3A extends this consistency further into the core values in other areas of conduct, yet leaves it to authorities to choose how to express these, and/or to add further values where they consider it necessary to do so.
- 6.7 Where the preferred option is Option 3B, then in theory one way in which this could be implemented is by one authority's existing Code being adopted by all the other authorities. However, it may be more conducive to securing agreement if any pan-Hampshire Code that emerges were to be seen as a "new" Code, not originating from any one authority, but an evolution building on the work and experience to date of the Members of all the HIOWLA authorities.

² S.27(2) Localism Act 2011

³ S.28(1) Localism Act 2011

⁴ S.28(2) Localism Act 2011

⁵ S.28(5) Localism Act 2011

⁶ S.31(10) Localism Act 2011

7. Proposal

- 7.1 Following consideration of the options, HFRA's Standards and Governance Committee expressed a preference for Option 2. This is felt to strike a reasonable balance between achieving consistency in the disclosure of interests, while retaining flexibility for some local variation in the setting of standards for other aspects of conduct and behaviour. Further, this would not preclude the adoption of consistent standards for such other aspects of conduct and behaviour at some future stage, should this be desired.
- 7.2 In the event that Option 2 were to receive the support of Hiowla, a suitable draft document has been prepared for agreement (see Appendix), and recommendation to all constituent local authorities for adoption.
- 7.3 As indicated above (para 6.3) Hiowla cannot resolve to adopt a Code of Conduct on behalf of any constituent authority, or to unilaterally amend any authority's existing Code or Standing Orders. However, Hiowla can agree to ask each constituent local authority to review and, where necessary, consider revising its existing Code and Standing Orders with a view to ensuring that these include the core provision set out in the Appendix to the report. Constituent authorities would be invited to do this having regard to the value that is added by the arrangements of all Hiowla authorities, governing the disclosure of member interests, sharing the same essential characteristics.

8. Conclusion

- 8.1 This report has set out the main options for the development of a pan-Hampshire Code of Conduct for Members, together with an assessment of the advantages and disadvantages of each, and identifies one particular option for consideration as a way forward. A pan-Hampshire Code offers the opportunity for greater consistency in approach amongst the HIOWLA authorities towards their responsibilities regarding Member conduct under the Localism Act.

9. Recommendation

- 9.1 That the options for a pan-Hampshire Code of Conduct are considered, and a steer given as to the preferred way to proceed, and
- 9.2 In the event that Option 2 is preferred, that all constituent authorities are asked to review and, where necessary, consider revising their existing Code of Conduct and Standing Orders with a view to ensuring that these include the core provisions set out in the Appendix to the report.

Appendix:

Core Provision to be made in the Codes of Conduct and Standing Orders of Hampshire and Isle of Wight Local Authorities (HIOWLA) to achieve consistency of approach to Member Conduct

Summary

HIOWLA considers that it is in the interests of Members of its constituent authorities, and the public served by those authorities, to adopt a consistent approach to the registration and disclosure of Members' pecuniary and non-pecuniary interests that are relevant to the business of the authorities. It is considered such an approach will reduce confusion as to when relevant interests should be disclosed, and minimise the risk of inadvertent failure to comply with relevant requirements.

It has therefore been agreed to invite each constituent authority to review its Code of Conduct for Members and Standing Orders and, where necessary, to consider revising these to ensure that, in addition to the mandatory requirements of the Localism Act, they include the core provisions set out below.

Authorities may of course adopt such further provision in their Code of Conduct or Standing Orders as they consider appropriate, but are requested to ensure that no such provision is inconsistent with the core provisions set out below.

The term "Member" includes member and co-opted member, throughout.

Code of Conduct

1. Personal Interests

- 1.1. A Member has a "personal interest" in an item of business where it relates to or is likely to affect any of the following bodies of which they are a member: a public or charitable body, any body to which the Member has been appointed by the authority, any political party, trade union or other body one of whose principal purposes is to influence public opinion or policy.
- 1.2. A Member also has a "personal interest" in an item of business where a decision in relation to it might reasonably be regarded as affecting the well being or financial position of the Member, a member of the Member's family or person with whom they have a close association, more than other council tax payers, ratepayers or inhabitants of the authority's area.
- 1.3. A Member shall disclose a "personal interest" at a meeting of the authority, committee or sub-committee, where the Member considers

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that interest to be relevant to an item of business being considered at that meeting. The disclosure shall be made at the commencement of the meeting, or when the interest becomes apparent, and shall be recorded in the minutes of the meeting.

- 1.4. Disclosure of a personal interest does not affect the ability of the Member to participate in discussion or vote on the relevant item, provided it is not also a disclosable pecuniary interest.

2. Gifts and Hospitality

- 2.1. A Member shall enter in the authority's register of interests the receipt of any gift or hospitality, where the Member estimates the value to be at least £50, within 28 days of receipt.

Standing Orders

3. Exclusion from Meeting Where Member Holds a Disclosable Pecuniary Interest

- 3.1. The authority's Standing Orders shall provide for the exclusion of a Member of the authority from a meeting while any discussion or vote takes place on a matter in which the Member has a disclosable pecuniary interest, unless a dispensation has been granted.

HAMPSHIRE COUNTY COUNCIL

Code of Conduct for Members (DRAFT)

Part 1: General Provisions and Interpretation

1. Introduction

This Code of Conduct is adopted by the County Council pursuant to its statutory duty to promote and maintain high standards of conduct by Members and Co-opted Members of the County Council. This Code applies to all Members and Co-opted Members of the County Council.

This Code is based on and is consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership as referred to in the Localism Act 2011.

In the interests of transparency and openness, and in accordance with the requirements of the Localism Act 2011, a copy of the Register of Members' Interests is published on the County Council's website, and is available for public inspection at the County Council's offices at all reasonable hours.

2. Scope

This Code applies to all Members and Co-opted Members of the County Council when acting in their official capacity, or when giving the impression that they are acting as a representative of the County Council.

Where a Member or Co-opted Member is a member of more than one local authority, but acting on behalf of the County Council, such Member or Co-opted Member is, for the avoidance of doubt, bound by this Code of Conduct.

3. General obligations of Members and Co-opted Members

As a Member of Hampshire County Council, your conduct will address the principles of the Code of Conduct by:

- 3.1 Representing the needs of residents, and putting their interests first.
- 3.2 Dealing with representations or enquiries from residents, members of communities within the administrative area of Hampshire County Council and visitors fairly, appropriately and impartially.

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- 3.3 Not allowing other pressures, including the financial interests of yourself or others connected to you, to deter you from pursuing constituents' casework, the interests of the County Council's area, or the good governance of the County Council in a proper manner.
- 3.4 Exercising independent judgement and not compromising your position by placing yourself under obligations to outside individuals or organisations who might seek to influence the way you perform your duties.
- 3.5 Listening to the interests of all parties, including relevant advice from statutory and other professional officers of the County Council, taking all relevant information into consideration, remaining objective and making decisions on merit.
- 3.6 Being accountable for your decisions and co-operating when scrutinised internally and externally.
- 3.7 Contributing to making the County Council's decision-making processes as open and transparent as possible.
- 3.8 Restricting access to information when the wider public interest, the County Council's Constitution, or the law requires it.
- 3.9 Behaving in accordance with all the County Council's legal obligations, the County Council's policies, protocols and procedures.
- 3.10 Ensuring that when using or authorising the use by others of the resources of the County Council that such resources are not used improperly for political purposes.
- 3.11 Having regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986 or otherwise.
- 3.12 Not knowingly doing anything which might cause the County Council to breach any legislation.
- 3.13 Valuing your colleagues and Officers of the County Council and engaging with them in an appropriate manner.
- 3.14 Always treating all people and organisations with respect and propriety.
- 3.15 Providing leadership through behaving in accordance with these principles.

Part 2: Disclosable Pecuniary Interests

1. Introduction

A disclosable pecuniary interest is an interest falling within the Schedule set out at Paragraph 3 below of:

- 1.1 Yourself; or
- 1.2 Your spouse or civil partner, or someone you are living with as if you were husband and wife or civil partners, where you are aware that that other person has the interest.

2. Interpretation

In the Schedule set out at Paragraph 3 below, the following words or expressions mean as follows:

- 2.1 'the Act' means the Localism Act 2011;
- 2.2 '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;
- 2.3 'director' includes a member of the committee of management of an industrial and provident society;
- 2.4 '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;
- 2.5 'M' means a member of a relevant authority;
- 2.6 'member' includes a co-opted member;
- 2.7 'relevant authority' means Hampshire County Council of which M is a member;
- 2.8 '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) or Section 31(7), as the case may be, of the Act;
- 2.9 '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 (2000 c. 8) and other securities of any description, other than money deposited with a building society.

3. Schedule of Disclosable Pecuniary Interests

Subject	Prescribed description
Employment, office, trade profession or vocation	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 (1992 c. 52).
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.
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Part 3: Registration and Disclosure of Disclosable Pecuniary Interests

1. Obligations

- 1.1 You must, within 28 days of taking office as a Member or Co-opted Member of the County Council, notify the County Council's Monitoring Officer of any disclosable pecuniary interests as defined by regulations made by the Secretary of State (as set out at Part 2 of this Code), where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.
- 1.2 You must also, within 28 days of becoming aware of any new disclosable pecuniary interest, or change thereto, notify the County Council's Monitoring Officer of such new or changed interest.
- 1.3 If you have a disclosable pecuniary interest included on the Register of Members' Interests, you must disclose this interest at any meeting of the County Council, its Committees or the Executive at which you are present and participating in the business. Such interest should be disclosed at the commencement of consideration of the business or when the interest becomes apparent. You do not need to disclose details of the interest itself.
- 1.4 If a disclosable pecuniary interest has not been entered onto the County Council's Register of Interests, then you must also disclose the interest to any meeting of the County Council, its Committees or the Executive at which you are present where you have such an interest in any matter being considered. Such interest should be disclosed at the commencement of consideration of the business or when the interest becomes apparent. You do not need to disclose details of the interest itself. Following disclosure of a disclosable pecuniary interest not on the County Council's Register or the subject of pending notification, you must notify the Monitoring Officer of such interest within 28 days, beginning with the date of disclosure.
- 1.5 Unless a dispensation has been granted by the County Council, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a disclosable pecuniary interest. You must as

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soon as it becomes apparent that you have such an interest (save for in circumstances set out at Paragraph 1.6 below) withdraw from the chamber or room where the meeting considering the business is being held, and must not seek improperly to influence a decision about that business. If acting as a single Executive Member you may not take any further steps in relation to the matter other than for the purpose of arranging for the matter to be dealt with otherwise than by yourself.

- 1.6 Without prejudice to Paragraph 1.5 above where you have a disclosable pecuniary interest in any business of the County Council (including any meeting of a Select Overview and Scrutiny Committee of the County Council) you may, notwithstanding such disclosable pecuniary interest, attend such meeting for the purpose of making representations, answering questions or giving evidence relating to such business, provided members of the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Part 4: Registration of Gifts and Hospitality

1. You must, within 28 days of receipt, notify the County Council's Monitoring Officer of any gift or hospitality you receive, if such gift or hospitality has an estimated value of at least £50.

Part 5: Registration and Disclosure of Personal Interests

1. Without prejudice to requirements contained at Part 3 of this Code in respect of the Registration and Disclosure of Pecuniary Interests, you may in addition notify the County Council's Monitoring Officer of any Personal Interests you consider it appropriate to be entered on the Register of Members' Interests.
2. You have a "personal interest" in an item of business where it relates to or is likely to affect any of the following bodies of which you are a member: a public or charitable body, any body to which you have been appointed by the authority, any political party, trade union or other body one of whose principal purposes is to influence public opinion or policy.
3. You also have a "personal interest" in an item of business where a decision in relation to it might reasonably be regarded as affecting the well being or financial position of yourself, a member of your family or person with whom you have a close association, more than other council tax payers, ratepayers or inhabitants of the authority's area.
4. You shall disclose a "personal interest" at a meeting of the County Council, its Committees or the Executive, where you consider that interest to be relevant to an item of business being considered at that meeting. The disclosure shall be made at the commencement of the meeting, or when the interest becomes apparent, and

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shall be recorded in the minutes of the meeting.

5. Disclosure of a personal interest does not affect your ability to participate in discussion or vote on the relevant item, provided it is not also a disclosable pecuniary interest. If you consider, having taken advice in appropriate circumstances, you should not participate in the business being considered, you should leave the chamber or room where the business is being considered, after exercising any right to speak which a member of the public would have.

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