



## **CORPORATE GOVERNANCE STANDARDS SUB-COMMITTEE**

Thursday 9 February 2017 at 10.00 am

Meeting Room 1, Ryedale House, Malton

### **Agenda**

**1 Emergency Evacuation Procedure**

The Chairman to inform Members of the Public of the emergency evacuation procedure.

**2 Apologies for Absence**

**3 Urgent Business**

To receive notice of any urgent business which the Chairman considers should be dealt with at the meeting as a matter of urgency by virtue of Section 100B(4)(b) of the Local Government Act 1972.

**4 Declarations of Interest**

Members to indicate whether they will be declaring any interests under the Code of Conduct.

Members making a declaration of interest at a meeting of a Committee or Council are required to disclose the existence and nature of that interest. This requirement is not discharged by merely declaring a personal interest without further explanation.

**5 Monitoring Officer's Report Regarding Complaint Alleging Breach Of The Members' Code Of Conduct** (Pages 3 - 42)

**6 Any other business that the Chairman decides is urgent**

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**REPORT TO:** **CORPORATE GOVERNANCE STANDARDS SUB-COMMITTEE**

**DATE:** **9 FEBRUARY 2017**

**REPORT OF THE:** **MONITORING OFFICER  
ANTHONY WINSHIP**

**TITLE OF REPORT:** **MONITORING OFFICER'S REPORT REGARDING  
COMPLAINT ALLEGING BREACH OF THE MEMBERS'  
CODE OF CONDUCT**

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## **EXECUTIVE SUMMARY**

### **1.0 PURPOSE OF REPORT**

1.1 To advise members of the Sub-Committee of the findings of an investigation report regarding a complaint about the conduct of Councillor John Raper (a Member of Ryedale District Council)

### **2.0 RECOMMENDATION(S)**

2.1 It is recommended that the Sub-Committee should consider the investigation report and representations made to them at the hearing and decide:

2.1.1 The Sub-Committee needs to make a finding of the facts in this case having due regard to the investigators report and any further representations.

2.1.2 Whether the Sub-Committee consider that there has been a breach of the Members' Code of Conduct; and if so,

2.1.3 What, if any, sanction/s to impose on Councillor Raper.

### **3.0 REASON FOR RECOMMENDATION(S)**

3.1 To discharge the role of the Corporate Governance Standards Sub-Committee in accordance with the District Council's arrangements for dealing with complaints alleging a breach by a Councillor of the Members' Code of Conduct.

3.2 To comply with section 28(4) of the Localism Act 2011 which provides as follows :

## 28 Codes of conduct

*(4)A failure to comply with a relevant authority's code of conduct is not to be dealt with otherwise than in accordance with arrangements made under subsection (6)*

The Council's arrangements state that every complaint about a Councillor relating to the code will be received by the Monitoring Officer and determined in accordance with various steps set out in those arrangements. These include the determination of a complaint referred for investigation by a hearings panel of three members where the investigator reaches the conclusion that there has been a breach of the Members' Code of Conduct and local resolution is not appropriate.

### **4.0 SIGNIFICANT RISKS**

4.1 The main risks identified in this Report which could potentially affect the Council achieving its objectives are as follows:

4.2 Positive:

4.2.1 Being seen to enforce the Members' Code of Conduct appropriately will have a positive effect on the future conduct of members and will improve the confidence of the public in the Council.

4.3 Negative

4.3.1 Failure to enforce the Members' Code of Conduct appropriately will have an adverse effect on the future conduct of members and will adversely affect the confidence of the public in the Council.

## **REPORT**

### **5.0 BACKGROUND AND INTRODUCTION**

5.1 The Corporate Governance Standards Sub-Committee is required to consider complaints referred to it where a member of a Council in the District is alleged to have breached the Members' Code of Conduct. The Code of Conduct is attached at Appendix 1. One such complaint has been received about Councillor Raper.

5.2 The Complaint was considered by the Monitoring Officer (in consultation with the Independent Person) and he decided to refer the complaint for investigation.

5.3 The Monitoring Officer appointed an investigator to carry out the investigation.

### **6.0 POLICY CONTEXT**

6.1 Maintaining appropriate standards of member conduct contributes indirectly to all Corporate Priorities.

### **7.0 REPORT DETAILS**

- 7.1 A complaint was received about the conduct of Councillor John Raper, a Member of Ryedale District Council, from Councillor Luke Ives. The complaint concerns Councillor John Raper's alleged behaviour at a Council meeting on 8 December 2016. The allegation against Councillor John Raper are summarised in the Investigator's Report which is attached at Appendix 2.
- 7.2 The complaint is within the jurisdiction of the Corporate Governance Standards Sub-Committee.
- 7.3 The investigator appointed by the Monitoring Officer investigated the allegations referred to at 8.1 above and concluded that it did amount to a breach of the District Council's Code of Conduct for Councillors ("the Code").
- 7.4 The Sub-Committee is required to determine the complaint. It must first consider its finding of facts and second whether there has been a breach of the Members' Code of Conduct. If so, the Sub-Committee should then consider what, if any, sanction to impose on the Councillor.
- 7.5 The following matters are apparent from the Investigators report :
- It is very clear that the member was acting in an official capacity as a District Councillor
  - The law on voting is clear
  - The facts are agreed
  - The provision in the Members' Code of Conduct is clear
  - Councillor Raper concedes that his actions were wrong.

- 7.6 The sanctions open to the Committee are as follows :

*"2. Sanctions*

*In the event that the Corporate Governance Standards Sub-Committee makes a finding of a failure to observe the Code of Conduct it may impose any or all of the following sanctions:*

*(a) Issue a letter of censure to the Member and where appropriate require an apology to be given to the complainant.*

*(b) Recommend to the Member's Group Leader that he/she be removed from any or all Committees or Sub-Committees of the Council.*

*(c) Instruct the Monitoring Officer to arrange training for the Member.*

*The Panel has no power to suspend or disqualify the Member or to withdraw allowances. "*

- 7.7 If the Corporate Governance Standards Sub-Committee considers that the above sanctions are not adequate, the Sub-Committee may make recommendations to Council on sanctions. When appointing three Members to the Corporate Governance Standards Sub-Committee, the Overview and Scrutiny Committee meeting on 26 January 2017 resolved that if the Sub-Committee wished to make recommendations to Council on sanctions it could do so.

## **8.0 IMPLICATIONS**

8.1 The following implications have been identified:

a) Financial

There are no financial issues arising from this Report.

b) Legal

(i) The Sub-Committee is required to determine complaints referred to it where a member of a Council in the District is alleged to have breached the Members' Code of Conduct for Members under the provisions of the Localism Act 2011; and

(ii) The Member about whom the complaint has been made has the right to a fair hearing. The Sub Committee procedures fulfil this role.

c) Other (Equalities, Staffing, Planning, Health & Safety, Environmental, Crime & Disorder)

The subject of this Report is not a policy, strategy, function or service that is new or being revised. An equality impact assessment is not required.

**K.A.Winship  
Council Solicitor**

**Job Title                      Council Solicitor & Monitoring Officer**

**Author:                         Anthony Winship, Monitoring Officer's Report Regarding  
Complaint**

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**Background Papers: None**

**RYEDALE  
DISTRICT  
COUNCIL**



**MEMBERS' CODE OF CONDUCT  
WITH GENERAL PRINCIPLES OF LOCAL GOVERNMENT**

**WITH EFFECT FROM  
1 JULY 2012**

**Ryedale District Council  
Ryedale House  
MALTON  
North Yorkshire  
YO17 7HH**

## CONTENTS

		<u>Page</u>
1.	Introduction	2
2.	General Principles of Local Government	5
3.	Members' Code of Conduct	5

Version	Author	Date	Comments
1	Anthony Winship	July 2007	
2	Anthony Winship	June 2008	Local Assessment Changes
3	Anthony Winship	May 2012	Localism Act 2011 Changes



**RYEDALE DISTRICT COUNCIL**  
**LOCALISM ACT 2011 – CHAPTER 7 OF PART I**  
**CODE OF CONDUCT FOR COUNCILLORS**  
**WITH GENERAL PRINCIPLES OF LOCAL GOVERNMENT**  
**EFFECTIVE FROM 1 JULY 2012**

**[Adopted by resolution at a Meeting of Ryedale District Council held on  
19 May 2012]**

## **INTRODUCTION**

The District Council adopted its first Code of Conduct in accordance with section 51 of the Local Government Act 2000 on 10 January 2002.

The new code was adopted pursuant to Section 27 of the Localism Act 2011 by a Council Meeting on 19 May 2012 with effect from 1 July 2012.

## **Principles and Outcomes**

The Code of Conduct is a principles based, outcomes focussed Code of Conduct which is in the following three parts:-

- (i) Part 1 - Principles at page 5
- (ii) Part 2 - The outcomes the principles seek to achieve at page 6
- (iii) Part 3 - Interests at page 7

The Code of Conduct sets out seven mandatory principles which apply to Member conduct. They originate from the Seven Principles of Public Life (the 7 Nolan principles) that Lord Nolan included in his report called “*Standards in Public Life*” published in July 1997. They are the key ethical requirements for Members and co-opted Members who are involved in Local Government. Members and co-opted Members must abide by these principles and use them as their starting point when faced with an ethical dilemma. Where two or more of these principles come into conflict then the principle which takes precedence is the one which best serves the public interest in the particular circumstance, especially the public interest in the proper administration of Local Government.

Outcomes are mandatory and achieving them should help to ensure compliance with the Principles.

Absent from the Code of Conduct are the ‘indicative behaviours’ that are required to produce the outcomes. However, many ‘indicative behaviours’ are already incorporated in the Council’s existing documentation, for example, dealing with member-officer relations, use of Council resources, information management, protocol on the disclosure of confidential information, standing orders, and the Planning Code of Practice etc.

## **To whom does it apply?**

It applies to both Members who are councillors and to co-opted members of committees or sub-committees of the District Council.

This Code of Conduct is expressed in the first person to make explicit the personal responsibility that each individual Member has to comply with the provisions of the Code of Conduct.

### **Written Undertaking**

All Councillors upon election should undertake to observe the Code when entering into the statutory declaration of acceptance of office. All new co-opted members of committees or sub-committees of the District Council (provided that they have voting rights) should sign an undertaking to observe the Code before acting as a member.

### **The Purpose of the Code**

The Code defines the standards of conduct which will be required of Members of the District Council in carrying out their duties, and in their relationships with the District Council and the District Council's officers. The Code represents the standards against which the public, their fellow members, the Local Government Ombudsman and the Council's Overview and Scrutiny Committee meeting as a Corporate Governance Committee will judge their conduct.

### **Raising Concerns**

If any person has a complaint or concern about the conduct of a Member of the Council in relation to the Code of Conduct, s/he can submit a complaint using our complaint form ***Complaint Form: Code of Conduct for Members***. Before completing the complaint form you are advised to read the notes ***Code of Conduct for Members: Information for Potential Complainants***.

Both these documents may be seen on the Council's web site. Alternatively copies of these documents are available direct from Legal Services on (01653) 600666 extension 255 or via e-mail at [legal@ryedale.gov.uk](mailto:legal@ryedale.gov.uk)

### **The purpose of the General Principles**

The general principles underpin the Code of Conduct for Members and are included as a preamble for completeness.

### **The Council's Overview and Scrutiny Committee (meeting as a Corporate Governance Committee)**

Responsibility for discharging the District Council's duty to promote and maintain high standards of conduct has been delegated to the Overview and Scrutiny Committee.

The Overview and Scrutiny Committee for the District Council is the Overview and Scrutiny Committee (meeting as a Corporate Governance Committee) appointed by the District Council. It comprises nine elected Members. Two Independent persons are available to advise.

Further details about the Committee can be obtained from:-

Council Solicitor  
Ryedale District Council  
Ryedale House  
Malton  
North Yorkshire  
YO17 7HH

Telephone: (01653) 600666 Ext: 267  
Fax: 01653 696801  
Email: [anthony.winship@ryedale.gov.uk](mailto:anthony.winship@ryedale.gov.uk)  
Internet: [www.ryedale.gov.uk](http://www.ryedale.gov.uk)

## **CODE OF CONDUCT FOR MEMBERS**

### **Preamble**

#### **General Principles of Local Government Conduct**

**These are the General Principles of Local Government Conduct that have been approved by Parliament and underpin the Code of Conduct for Councillors.**

#### **Background**

1. Under section 28 of the Localism Act 2011, Parliament has specified the principles which are to govern the conduct of councillors and voting co-optees.
2. The code of conduct for councillors and voting co-optees must be consistent with these principles.
3. Members must take account of these principles. The Hearing Panel established to deal with complaints, the Local Government Ombudsman and the Courts may have regard to these principles when dealing with complaints against Members or scrutinising the procedures or decisions of the Council and its Committees.

#### **Application**

This Code of Conduct applies to you whenever you are acting in your capacity as a member of Ryedale District 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 discharging your functions as a Ward Councillor
- 1.4 At briefing meetings with officers and
- 1.5 At site visits
- 1.6 When corresponding with the authority other than in a private capacity

### **PART 1 - PRINCIPLES**

As a member or co-opted member of Ryedale District Council I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority:-

### **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 material benefits for themselves, their family, or their friends.

### **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.

### **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.

### **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.

### **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.

### **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.

### **LEADERSHIP**

Holders of public office should promote and support these principles by leadership and example.

## **PART 2 - OUTCOMES**

As a Member of Ryedale District Council, my conduct will in particular address the statutory principles of the code of conduct by:

- **Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.**
- **Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.**
- **Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the District or the good governance of the authority in a proper manner.**

- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it.
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.

### **PART 3 - INTERESTS**

#### **Summary**

Part 3 comprises the following three sections:-

- (i) Part A – Disclosable Pecuniary Interests
- (ii) Part B – Disclosable Other Personal Interests
- (iii) Part C – Gifts and Hospitality

The Act further provides for the registration and disclosure of interests and in Ryedale District Council this will be done as follows:

#### **Registering and Declaring Pecuniary and Non-Pecuniary Interests**

You must, within 28 days of taking office as a member or co-opted member, notify your authority's Monitoring Officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, 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.

In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's Monitoring Officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.

If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.<sup>1</sup>

Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or other personal interests as defined by your authority. This includes complying with any procedure rule adopted by the Council which requires Members to leave the room during any meeting at which a matter in which they have a disclosable pecuniary or other personal interest is being discussed.

## **PART A – DISCLOSABLE PECUNIARY INTERESTS**

Part A explains the requirements of the Localism Act 2011 (Ss 29-34) and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, in relation to disclosable pecuniary interests. These provisions are enforced by criminal sanction. They come into force on 1 July 2012.

### **1 Notification of Disclosable Pecuniary Interests**

Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'. These are listed in the attached Appendix.

### **2 Register of Interests**

Any interests notified to the Monitoring Officer will be included in the register of interests.

A copy of the register will be available for public inspection and will be published on the authority's website.

### **3 Sensitive Interests**

Where you consider that disclosure of the details of a disclosable pecuniary interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of

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<sup>1</sup> A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's Monitoring Officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

the register will exclude details of the interest, but may state that you have a disclosable pecuniary interest, the details of which are withheld under Section 32(2) of the Localism Act 2011.

#### **4 Non participation in case of Disclosable Pecuniary Interest**

If you are present at a meeting of the authority, or any committee, sub-committee, joint committee or joint sub-committee of the authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting.

1. You may not participate in any discussion of the matter at the meeting.
2. You may not participate in any vote taken on the matter at the meeting.
3. If the interest is not registered, you must disclose the interest to the meeting.
4. If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

**Note:** In addition, Standing Order X requires you to leave the room where the meeting is held while any discussion or voting takes place.

#### **5 Dispensations**

The authority may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

#### **6 Offences**

It is a criminal offence to

- Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election
- Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register
- Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting
- Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest
- Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting

The criminal penalties available to a court are to impose a fine not exceeding level 5 (currently £5,000) on the standard scale and disqualification from being a councillor for up to 5 years.

### **PART B – DISCLOSABLE OTHER PERSONAL INTERESTS**



Part B relates to the Disclosure of other Personal Interests. The layout follows the Localism Act layout ie notification, disclosure, register, sensitive interests, non participation.

## **Interests**

### **1 Notification of Interests**

- (1) You must, within 28 days of—
  - (a) this Code being adopted by or applied to your authority; or
  - (b) your election or appointment to office (where that is later),notify the Monitoring Officer in writing of the details of your disclosable pecuniary interests that are notifiable under the Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interest) Regulations 2012, for inclusion in the register of interests, and notify the Monitoring Officer in writing of the details of your other personal interests, where they fall within the following descriptions, for inclusion in the register of interests.
- (2) You have a personal interest in any business of your authority where either—
  - (a) it relates to or is likely to affect—
    - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
    - (ii) any body—
      - (aa) exercising functions of a public nature;
      - (bb) directed to charitable purposes; or
      - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management.
    - (iii) any easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income.
- (3) You must, within 28 days of becoming aware of any new interest or change to any interest registered under paragraph (1), or as a disclosable pecuniary interest notify the Monitoring Officer of the details of that new interest or change.

### **2 Disclosure of Interests**

(1) Subject to sub-paragraphs (2) to (5), where you have a personal interest described in paragraph 1 above or in paragraph (2) below in any business of your authority, and where you are aware or ought reasonably to be aware of the existence of the personal interest, and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) (A) You have a personal interest in any business of your authority

- (i) where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a *relevant person* to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision, or
- (ii) it relates to or is likely to affect any of the interests you have registered as a disclosable pecuniary interest.

(B) In sub-paragraph (2)(A), a *relevant person* is—

- (a) a member of your family or any person with whom you have a close association; or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in paragraph 1(2)(a)(i) or (ii).

(3) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 1(2)(a)(i) or 1(2)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

(4) Where you have a personal interest but, by virtue of paragraph 4, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

(Note:

- (a) "A member of your family" means: your partner (ie your spouse, civil partner or anyone with whom you live in a similar capacity); your parent or parent-in-law; any child, stepchild or sibling of you or your partner, your grandparent,

grandchild, aunt, uncle, nephew or niece; and the partners of any of those people.

- (b) You have a “close association” with someone if your relationship is such that a reasonable member of the public might think you would be prepared to favour or disadvantage that person when deciding a matter which affects them).

### **3 Register of Interests**

Any interests notified to the Monitoring Officer will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the authority’s website.

### **4 Sensitive Interests**

Where you consider that disclosure of the details an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.

### **5 Non participation in case of Pecuniary Interest**

(1) Where you have a personal interest in any business of your authority you also have a pecuniary interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and where that business—

- (a) affects your financial position or the financial position of a person or body described in paragraph 1(2); or

- (b) relates to or affects the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 1(2) or 2(2) above.

(2) Subject to paragraph (3) and (4), where you have a pecuniary interest in any business of your authority—

- (a) You may not participate in any discussion of the matter at the meeting.

- (b) You may not participate in any vote taken on the matter at the meeting.

- (c) If the interest is not registered, you must disclose the interest to the meeting.

- (d) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

**Note:** In addition Standing Order X requires you to leave the room where the meeting is held while any discussion or voting takes place.

(3) Where you have a pecuniary interest in any business of your authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

(4) Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a pecuniary interest that relates to the functions of your authority in respect of—

- (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
- (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
- (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
- (iv) an allowance, payment or indemnity given to members;
- (v) any ceremonial honour given to members; and
- (vi) setting council tax or a precept under the Local Government Finance Act 1992.

## **6 Interests arising in relation to Overview and Scrutiny Committees**

In any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

- (a) that business relates to a decision made (whether implemented or not) or action taken by the executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

You may only attend a meeting of the overview and scrutiny committee for the purpose of answering questions or giving evidence relating to the business, and you must leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

## PART C – 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 which you have accepted as a member from any person or body other than the authority.

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

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

### 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.

A 'Disclosable Pecuniary Interest' is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) within the descriptions described below.

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

(In the extracts from the Regulations below, 'M' means you and 'relevant person' means you and your partner, as above).

<i>Interest</i>	<i>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.

These descriptions on interests are subject to the following definitions:

“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” 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;

“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.

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**RYEDALE  
DISTRICT  
COUNCIL**



**RYEDALE DISTRICT COUNCIL  
INVESTIGATION REPORT  
LOCALISM ACT 2011**

**ALLEGATION OF FAILURE TO COMPLY WITH THE CODE OF CONDUCT**

**CORPORATE GOVERNANCE STANDARDS SUB-COMMITTEE**

**RESPONDENT:  
COUNCILLOR JOHN RAPER**

**INVESTIGATING OFFICER  
SIMON COPLEY  
DEMOCRATIC SERVICES MANAGER**



## Investigation Report

1. On Thursday 8 December 2016, the Monitoring Officer received a complaint against Councillor John Raper for voting using two electronic voting units at the meeting of Council on that date.
2. The following provision in the Members' Code of Conduct is considered to be relevant in this case:

*"Behaving in accordance with all our legal obligations, alongside any requirements contained within the authority's policies, protocols and procedures, including on the use of the Authority's resources."*

3. The complainant highlighted that the following principles set out in the Members' Code of Conduct were also relevant: selflessness, integrity, openness, honesty and leadership.
4. Council Procedure Rule 15.1 in Part 4 of the Council's Constitution relating to Member voting at Council meetings is considered to be relevant:

### ***"15. Voting***

#### ***15.1 Majority***

*Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put."*

5. It is made clear in *Knowles on Local Authority Meetings* that voting more than once is in breach of at least two rules:
  - (i) the common law rule that every person voting at a meeting is reckoned as one vote (*Rex v Rector of Birmingham* (1837), (the one person one vote rule).
  - (ii) only those Members present can vote at a Council meeting. It is not possible to vote on behalf of an absent Member at a Council meeting.
6. The issue of whether or not voting twice at a Council meeting was a criminal offence has been considered. The Monitoring Officer took independent legal advice and discussed the matter with the Police. Having looked into the matter, the Police do not consider that it reaches the threshold for Police involvement and will not be looking into it any further. They suggested that the Council's Member disciplinary procedures would be sufficient.
7. The incident occurred whilst Full Council was considering the timetable of meetings for 2017-2018, at 10.35pm. Having examined the voting records, it is clear that the use of two electronic voting units took place for two separate votes. The first vote was on an amendment, moved by Councillor Di Keal, to refer the issue of meeting

start times to the Overview and Scrutiny Committee for further discussion and production of a report to be considered by the Policy and Resources Committee and then Full Council. The second was on the substantive motion. It was during the second vote that Councillor Raper was observed using two units and when challenged he "cancelled" out the vote on the second unit by changing it from "for" to "against". The vote on both the amendment and the motion were then taken again.

8. I spoke to Councillor David Cussons as part of the investigation. As observed at the meeting and shown on the voting records, Councillor Raper had voted on Councillor Cussons' voting unit in addition to his own. Owing to the lateness of the meeting, Councillor Cussons had to leave before the end. He did not ask Councillor Raper to cast his vote in his absence. He had already left the room before the vote on the amendment took place.
9. Councillor Raper has accepted the evidence I presented to him as part of the investigatory process, confirmed that he did vote using two electronic voting units and recognised that this was wrong.
10. In conclusion, the evidence gathered during this investigation clearly supports the view that there has been a breach of the Code of Conduct, as detailed in paragraphs 2 and 3 of this report.
11. It is therefore recommended that the Corporate Governance Standards Sub-Committee consider recommending to Council a censure motion for approval.
12. An example of such a motion which the Sub-Committee may wish to recommend is:

*"Council is aware that Councillor John Raper voted using two electronic voting units, on two occasions, during the meeting of Full Council on 8 December 2016.*

*Council notes that these actions constitute a breach of the requirement in the Members' Code of Conduct to behave 'in accordance with all our legal obligations, alongside any requirements contained within the authority's policies, protocols and procedures'.*

*Council notes that these actions are also contrary to a number of the principles set out in the Members' Code of Conduct, namely selflessness, integrity, openness, honesty and leadership.*

*As such these actions are wholly unacceptable and inappropriate, damaging the reputation of the Council and public trust and confidence in the integrity of its democratic decision making processes.*

*Therefore the Council hereby censures Councillor John Raper for his unacceptable behaviour and actions breaching the Members' Code of Conduct."*

13. It also recommended that the Corporate Governance Standards Sub-Committee recommend to Council that Councillor Raper be required to apologise to the Chairman of Council and all Members of Council for his conduct.
14. Additionally, it is recommended that practices around electronic voting be improved as follows:
  - Any Member leaving a meeting early, to notify the Chairman when they depart and return their voting unit to the front of the room, and the time of their departure to be recorded in the minutes
  - All Members be asked to refrain from going in and out of the room during the meeting (except where required under declaration of interest provisions) and that adequate breaks in the meeting be provided for refreshments, comfort breaks, phone calls home etc.

List of Appendices:

- A - Email dated 8 December 2016 from the complainant to the Monitoring Officer, setting out the details of the complaint;
- B - Transcript from the meeting of Full Council on 8 December 2016;
- C - Voting records from the meeting of Full Council on 8 December 2016;
- D - Summary note of a conversation between Councillor Cussons and myself on 13 January 2017;
- E - Email dated 23 January 2017 from Councillor Raper to myself;

**Simon Copley**  
**Democratic Services Manager**  
**25 January 2017**

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**Simon Copley**

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**From:** Cllr Luke Ives  
**Sent:** 08 December 2016 23:16  
**To:** Anthony Winship  
**Cc:** Janet Waggott  
**Subject:** Formal Complaint

Dear Mr Winship

I wish to make a formal complaint against Cllr Raper for casting two votes on the amendment to refer the timetabling of meetings to the Scrutiny Committee by using Cllr Cussons' voting device.

Such a course of action subverted democracy, breached the Council's Constitution and violated the Local Government Act 1972 (as amended).

In addition, I assert that Cllr Raper's behaviour fell short of the ethical standards required in the Council's Code of Conduct, including the following Nolan Principles: selflessness, integrity, openness, honesty, and leadership.

I consider the issue to be extremely serious, and I hope that you will conduct an investigation as a matter of urgency.

Yours sincerely

**Cllr Luke Ives**

Ryedale District Council | Ryedale House | Old Malton Road | Malton | YO17 7HH

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**Transcript from Full Council on 8 December 2016**

CX - Cllr Raper, did you vote for Cllr Cussons? (noises no mic used) but you did vote for somebody else, that's wrong we'll have to take that vote again.

Clark - More important than taking that vote again, it's totally unacceptable behaviour in the Council and on that basis I would like to move that for the next meeting Cllr Raper is not allowed to vote at all and if he doesn't accept that motion then he can justify what he's done tonight. It's called cheating.

Chairman - Hang on - let's go to the vote again (think it's Janet in the background saying "We'll do that first and then.....")

Clark - You can't do that Chair - have I got a seconder for that?

Ives - I can imagine you'll have requisitions for extraordinary meetings on this cos it's going to cause absolute uproar if we take the vote again after what was tampering with the vote it's fraudulent. You saw the hell that was caused at the Planning Cttee when the vote was changed let alone voting for another member. This could be huge, I ask the Council...

CX - We are going to deal with the issue that has been raised. We are going to deal with that. We are just trying to manage the business and remember where we are in terms of getting that vote and then we can address what has been proposed.

Clark - I have moved that Cllr Raper as a matter of urgency is not allowed to vote at the next meeting.

Winship - The position is that the Chairman has made a decision to go to the vote. There has been a problem with the vote, so the Chairman has asked for the vote to be taken again. The Chairman has the power as the Chairman of the Council to do that. If any member wishes to make a complaint about another member's conduct there is a procedure for doing that. The procedure is that a written complaint is sent to the Monitoring Officer so Chairman I think you're fully within your right as the Chairman of the Council to go to the vote on this matter.

Clark - I am not prepared to take a vote in this Council, whilst somebody who's blatantly cheated or any other sort of cheated in front of everybody here and you haven't suspended him, slung him out, done whatever else is necessary. Of course you can take the vote again but not while he is here. That as far as I'm concerned is totally unacceptable and it overrules all legal niceties that the Chairman has called for the vote and we will do it again. That is blatant cheating, blatant abuse of democracy and the rest and on that basis will you please evict him. It says somewhere in your standing orders and I can't remember the number, that you can ask a member to leave and leave forthwith and you can do that and get rid of him. Then anybody who wants to can go through the Standards Cttee process. As of now he should be told by you Chair or by Full Council to leave now.

Chairman - Cllr Clark I am going to take the solicitor's advice, I wish the vote to be taken on the substantive motion. Please take the vote.

Clark - Chair if you do that I will move a motion of no confidence in you immediately after you have taken that vote. Please don't do it that was a complete breaking of every piece of local government legislation going.

Chairman - On further discussion I do think that Cllr Raper in the circumstances it would be best if you didn't vote on the amendment and we need to take that again so if you could withdraw from the meeting or withdraw from voting anyway.

subject	startDateTi	id	number	stopDateTi	voting_Id
Tble of Mtg	#####	10-38a2	1	#####	0

  

result_Id	voting_Id
0	0

  

legend	present_Te	result_Id
Present	25	0

  

legend	voted_Text	result_Id
Voted	25	0

  

legend	notvoted_1	result_Id
Not voted	0	0

  

legend	yes_Text	result_Id
FOR	13	0

  

legend	no_Text	result_Id
AGAINST	12	0

  

legend	abstain_Te	result_Id
ABSTAIN	0	0

  

legend	dnpv_Text	result_Id
DNPV	0	0

  

participant	result_Id
0	0

  

name	cast_Text	participants_Id
BC		0
CL		0
HS		0
CHAIRMAN	FOR	0
ACOMB	AGAINST	0
ANDREWS	AGAINST	0
ANDREWS	AGAINST	0
ARNOLD S	FOR	0
ARNOLD V	FOR	0
BAILEY	AGAINST	0
BURR	AGAINST	0
CLARK	AGAINST	0
CLEARY	FOR	0
COWLING	FOR	0
CUSSONS	FOR	0
DUNCAN	AGAINST	0
FRANK		0
GOODRICK	AGAINST	0
IVES	AGAINST	0

JAINU-DEE	FOR	0
JOWITT	AGAINST	0
KEAL	FOR	0
OXLEY	FOR	0
POTTER	AGAINST	0
RAPER	FOR	0
SHIELDS	FOR	0
THORNTON	AGAINST	0
WAINWRIGHT	FOR	0
WINDRESS	FOR	0

subject	startDateTi id	number	stopDateTi	voting_Id
Tble of Mtg	#####	Oct-38	1 #####	0

result_Id	voting_Id
0	0

legend	present_Te	result_Id
Present	19	0

legend	voted_Text	result_Id
Voted	18	0

legend	notvoted_1	result_Id
Not voted	1	0

legend	yes_Text	result_Id
FOR	10	0

legend	no_Text	result_Id
AGAINST	7	0

legend	abstain_Te	result_Id
ABSTAIN	1	0

legend	dnpv_Text	result_Id
DNPV	0	0

participant	result_Id
0	0

name	cast_Text	participants_Id
BC		0
CL		0
HS		0
CHAIRMAN FOR		0
ACOMB		0
ANDREWS AGAINST		0
ANDREWS AGAINST		0
ARNOLD S FOR		0
ARNOLD V FOR		0
BAILEY FOR		0
BURR		0
CLARK AGAINST		0
CLEARY FOR		0
COWLING FOR		0
CUSSONS AGAINST		0
DUNCAN AGAINST		0
FRANK		0
GOODRICK ABSTAIN		0
IVES AGAINST		0

JAINU-DEEN		0
JOWITT	AGAINST	0
KEAL	FOR	0
OXLEY		0
POTTER		0
RAPER	FOR	0
SHIELDS		0
THORNTON		0
WAINWRIG	FOR	0
WINDRESS	FOR	0

**Summary note of a conversation held on 13 January 2017 between Simon Copley, Democratic Services Manager (investigator) and Cllr David Cussons**

- *Owing to the lateness of the meeting on 8 December 2016, Cllr Cussons had to leave before the end.*
- *Cllr Cussons did not ask Cllr Raper to cast his vote in his absence.*
- *Cllr Cussons had already left the room before the vote on Cllr Keal's amendment took place.*

Appendix

General & specific information related to the project. The project is a research study on the effects of a new drug on patients with a specific condition. The study is being conducted at a hospital in a major city. The project is being funded by a grant from the National Institutes of Health. The project is being led by a team of researchers from the hospital and the university. The project is expected to last for 12 months. The project is expected to result in a publication in a peer-reviewed journal. The project is expected to have a significant impact on the treatment of the condition.



**Simon Copley**

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**From:** Cllr John Raper  
**Sent:** 23 January 2017 17:06  
**To:** Simon Copley  
**Subject:** Voting review.

Hello Simon, thank you for the conversation.

I accept your evidence without question. I have no further information to add. I accept that I did something wrong on the spur of the moment.  
Kind regards.

John R.

Appendix A

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Year	Value
1990	1.0
1991	1.1
1992	1.2
1993	1.3
1994	1.4
1995	1.5
1996	1.6
1997	1.7
1998	1.8
1999	1.9
2000	2.0
2001	2.1
2002	2.2
2003	2.3
2004	2.4
2005	2.5
2006	2.6
2007	2.7
2008	2.8
2009	2.9
2010	3.0
2011	3.1
2012	3.2
2013	3.3
2014	3.4
2015	3.5
2016	3.6
2017	3.7
2018	3.8
2019	3.9
2020	4.0