

# Southend-on-Sea Borough Council

Department of the Chief Executive

John Williams - Director of Democratic & Legal Services

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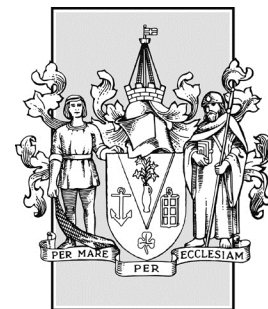
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Dear Committee Member

## STANDARDS COMMITTEE - TUESDAY, 21ST NOVEMBER, 2017

Please find enclosed, for consideration at the next meeting of the Standards Committee taking place on Tuesday, 21st November, 2017, the following report(s) that were unavailable when the agenda was printed.

Agenda No	Item
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| 4. | <b>Requests for dispensations (Pages 1 - 56)</b><br>Report of the Principal Democratic Services Officer (to follow). |
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Yours faithfully

Tim Row  
Principal Democratic Services Officer

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# Southend-on-Sea Borough Council

Agenda  
Item No.

4

Report of the Chief Executive

to

**Standards Committee**

on

**21<sup>st</sup> November 2017**

Report prepared by: Robert Harris  
Principal Democratic Services Officer

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## **Requests for Dispensations**

### ***A Part 1 Public Agenda Item***

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#### **1. Purpose of Report**

For the Standards Committee to consider and determine applications for dispensations under S.30 Localism Act 2011 submitted by eight Councillors.

#### **2. Recommendations**

**That the Standards Committee determines:**

- **Whether the dispensations are required;**
- **Whether to grant the dispensations and the terms of the dispensations;**
- **Whether the dispensations should extend to voting as well as participation in debate; and**
- **The length of time the dispensations should operate for.**

#### **3. Background**

- 3.1 The Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 introduced “Disclosable Pecuniary Interests” (“DPI”) and new rules on the grant of dispensations to allow Councillors to take part in or vote on matters in which they have a DPI.
- 3.2 At its meeting on the 19<sup>th</sup> July 2012, the Council agreed the new standards regime for Councillors and co-opted members pursuant to the provisions of the Localism Act 2011 (**Appendix 1**).

The new regime included:

- A new Members’ Code of Conduct (“The Code”) which is attached at **Appendix 2**;

- Some standard dispensations applicable to all Councillors so they can debate and vote on matters where many Members are likely to have a DPI, such as setting the Council Tax and approving the Members' Allowances Scheme - see **Appendix 1** and Footnote 2 to paragraph 10.1 of the Code.
- An arrangement for a Councillor to apply to the Standards Committee to be granted an individual dispensation to debate and / or vote on a matter when he/she has a DPI. (The ability for Councillors to apply to the Standards Committee for individual dispensations existed under the old standards regime, but no requests were ever made).

### 3.3 The Code sets out rules relating to the registration and declaration of interests.

In summary these provisions are as follows:

- (a) Disclosable Pecuniary Interests (DPI's) as defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and section 6 of the Code:
  - Councillor must register all such interests of himself and spouse / partner.
  - Councillor must disclose all such interests of himself and spouse / partner if it relates to business to be considered at any Council meeting.
  - After having declared a DPI a Councillor must not participate in the matter and must withdraw – unless a dispensation is granted by the Standards Committee under S.33 of the Localism Act 2011 - see section 10.1(a) of the Code.
- (b) Other Pecuniary Interests as defined in section 7 of the Code  
The same rules apply as with DPI's although the rules only apply to the Councillor's interests, not his spouse / partner.
- (c) Non-Pecuniary Interests as defined in section 8 of the Code
  - Councillor must register all such interests of himself.
  - Councillor must disclose all such interests of himself if it relates to business to be considered at any Council meeting.
  - After having declared a non-pecuniary interest, a Councillor can then participate in the Council meeting and vote unless:  
*“a member of the public with knowledge of the relevant facts would reasonably regard your interest as so significant that it is likely to prejudice your judgment of the public interest or your interest may give rise to a perception of conflict of interest or bias in which case you must withdraw”* (see section 10.3 of the Code).

### 3.4 The Standards Committee has previously granted dispensations to Councillors appointed to the Board of South Essex Homes Ltd to permit them to participate and vote on matters relating to the future management of the Council's housing stock and the ALMO.

### 3.5 The applications now before the Committee have been submitted by Councillors who own residential properties in the Borough which they let out. Such

Councillors have been unable to participate in recent Opposition Business debates relating to the possible introduction of a Compulsory Licensing Scheme and rent controls on private sector lettings. This is because the Councillors affected have DPI's under section 6.2(iv) of the Code.

- 3.6 At Council on 19<sup>th</sup> October 2017 the Opposition Business was debated and it was resolved as follows:

*"1. That Cabinet be recommended to introduce a compulsory licensing scheme for all residential landlords in the Borough, such scheme to supersede the voluntary arrangements with South East Alliance of Landlords (SEAL).*

*2. That Cabinet be recommended to lobby the Government for changes in the law so that there are rent controls on private sector landlords letting properties to tenants and those rent controls to have the effect of reducing the private sector rents to the level of social housing rents over the life time of parliament (i.e. 5 years)."*

- 3.7 At Cabinet on 7<sup>th</sup> November 2017 the following decisions were made:

*"1. That the proposal to introduce a compulsory licensing scheme be referred to the Policy & Resources Scrutiny Committee for consideration by way of pre-Cabinet scrutiny.*

*2. That the Deputy Chief Executive (People) be requested to write to the Secretary of State for Communities and Local Government to ascertain the Government's view on the introduction of rent controls on private sector landlords letting properties to tenants."*

- 3.8 Accordingly, the subject matter of the Opposition Business is still live and as a consequence 8 Members (out of the 9 affected) have now applied for a dispensation to enable them to speak and vote at future meetings where the matters will be considered. The applications are attached at **Appendix 3**.

- 3.9 The applications can be split into two categories in terms of the business for which a dispensation is sought:

(a) 5 Members have sought a dispensation in respect of the Opposition Business, as set out above.

(b) 3 Members (Councillors Boyd, Hadley and Waterworth) have sought a wider dispensation to cover not only the Opposition Business, but any future landlord and tenant matters where they might otherwise be disqualified.

- 3.10 In terms of the reasons advanced by the 8 applicants, these refer directly or by implication to one or more of Grounds B, C and E as set out in section 4.2.1 below.

- 3.11 The applicants are entitled to make oral representations to the Committee.

#### **4. Matters for the Standards Committee to consider and relevant considerations**

##### **4.1 The first thing the Committee needs to decide is whether dispensations are required at all**

The answer to this is yes, for the reason set out in section 3.5 above.

##### **4.2 The second issue is whether the applications should be granted and the terms of the dispensations**

In reaching a decision on this matter the Committee needs to consider:-

##### **4.2.1. The five circumstances in which a dispensation can be granted, as set out in S.33 Localism Act 2011:**

**Ground A** That so many members of the decision making body have disclosable pecuniary interests in a matter that it would “impede the transaction of the business”;

Comment: This ground has little relevance as meetings will not be made inquorate, even if the applicants could not attend.

**Ground B** That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the likely outcome of any vote on the matter.

Comment: This ground (which has been pleaded by a number of the applicants) is relevant in terms of the Council’s overall decision making process. It is the case that both elements of the Opposition Business are “Executive Matters” for the Cabinet to decide and the Cabinet is drawn from one political party (with only one of its members affected). Nevertheless, the matters are likely to be considered by Policy & Resources Scrutiny Committee and Full Council before Cabinet makes a final decision and at these meetings proportionality will be significantly affected.

**Ground C** That the authority considers the dispensation is in the interests of person living in the authority’s area.

Comment: This ground requires a value judgement and is for the Committee to decide. This ground has been pleaded by several of the applicants who submit that it is in the interests of persons living in the Borough to allow them to speak and vote so they can represent residents and landlords in the Borough.

**Ground D** That, without the dispensation, no member of the Cabinet would be able to participate on this matter.

Comment: This ground has little relevance as only one Cabinet member is affected.

**Ground E** That the authority considers that it is otherwise appropriate to

grant a dispensation.

Comment: This ground requires a value judgement and is for the Committee to decide. One applicant has referred to this ground in the context of having special knowledge of housing matters.

#### 4.2.2 The terms of the dispensations:

As stated in section 3.9 above, three Councillors have applied for a wider dispensation to cover not only the Opposition Business, but any future landlord and tenant matters where they might otherwise be disqualified.

The Committee needs to decide whether to limit any dispensations granted to the specific Opposition Business, or whether to grant a much wider general dispensation to those 3 Members who have applied, to cover future issues which may arise, even though they are unknown at this stage.

#### 4.2.3 Material Considerations

Although the Localism Act 2011 changed the rules, guidance issued by the now defunct Standards Board for England, is still useful in this regard:

##### **Considerations for dealing with dispensation requests**

Q *Is the nature of the Member's interest such that allowing them to participate would not damage public confidence in the conduct of the authority's business?*

It is unlikely that it would be appropriate to grant a dispensation to a Member who has a prejudicial interest arising as a result of an effect on their personal financial position or on that of a relative. The adverse public perception of the personal benefit to the Member would probably

outweigh any public interest in maintaining the political balance of the committee making the decision. This is especially where an authority has well-established processes for members on committees to be substituted by members from the same political party.

Q. *Is the interest common to the member and a significant proportion of the general public?*

For example, the member might be a pensioner who is considering an item of business about giving access to a local public facility at reduced rates for pensioners. Some cautious members might regard this as a possible prejudicial interest. However, as a significant proportion of the population in the area are also likely to be pensioners, it might be appropriate to grant a dispensation in these circumstances.

Q. *Is the participation of the member in the business that the interest relates to justified by the member's particular role or expertise?*

For instance, a member might represent the authority on another public body – such as a fire or police authority – and have particular expertise in the work of that body. Therefore it may be appropriate for that member to be allowed to address the decision-making body, even where there is no right for the public to do so. This would mean that the body would have the benefit of the member's expertise before making a decision which would benefit it financially.

Q. *Is the business that the interest relates to about a voluntary organisation or a public body which is to be considered by an overview and scrutiny committee? And is the member's interest not a financial one?*

In circumstances such as these, the Standards Committee might believe that it is in the interests of the authority's inhabitants to remove the incapacity from speaking or voting.

4.3 The third issue is if dispensations are granted, whether they should extend to participation in debate only, or participation and voting

This is a value judgment to be made by the Committee.

It should be noted that in 2015 the dispensations relating to South Essex Homes Ltd. extended to participation and voting.

4.4 The fourth issue is the length of time the dispensations should operate for

Any grant of dispensation would need to specify how long it lasts for, up to a maximum of 4 years.

If the applications are approved they clearly need to be granted for a reasonable period and it would be very cumbersome to keep reverting back.

## 5. **Summary/Conclusions**

5.1 The Committee needs to make a decision on the four matters set out in the Recommendations in section 2 above.

5.2 The Committee needs to carefully weigh up the arguments and determine whether the applications fulfil the relevant grounds as set out in section 4 above. If the Committee is satisfied that the grounds have been met, it then needs to consider the terms of the dispensations and whether the dispensations should extend to participation in the debate only or participation and voting. Clear reasons need to be given for the decisions made.

5.3 In principle, if the dispensations are granted, the Members concerned could decide not to exercise the dispensation in a particular instance, particularly if the matters became "too close to home." However the Committee should not take much notice of this possibility.

5.4 The views of the Independent Persons who attend meetings of the Standards Committee will be useful to help the Committee decide what to do.



## **6. Other Options**

The Committee can agree the applications as it thinks fit.

## **7. Reasons for Recommendations**

To enable the Committee to focus on the matters to be decided.

## **8. Corporate Implications**

### **8.1 Contribution to Council's Vision & Corporate Priorities**

Excellent Council / Good Governance

### **8.2 Financial Implications - None**

### **8.3 Legal Implications - As set out in the report**

### **8.4 People Implications - None**

### **8.5 Property Implications - None**

### **8.6 Consultation - Not applicable**

### **8.7 Equalities and Diversity Implications - No issues**

### **8.8 Risk Assessment - The Committee must determine the applications properly**

### **8.9 Value for Money - No issues**

### **8.10 Community Safety Implication - No issues**

### **8.11 Environmental Impact - No issues**

## **9. Background Papers**

Localism Act 2011

## **10. Appendices**

**Appendix 1 – Report to the Standards Committee held 11<sup>th</sup> July 2012  
(without the Appendices) and associated Minutes**

**Appendix 2 – Members' Code of Conduct**

**Appendix 3 – Applications for Dispensations from Councillors Ayling, Boyd, Evans, J Garston, Habermel, Hadley, Salter and Waterworth.**

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Council – 19<sup>th</sup> July 2012

Minute 167 - Standards Committee held 11<sup>th</sup> July 2012 (extract)

Resolved:

That the minutes of this meeting be noted and the recommendations set out in Minute 124 be adopted, subject to the following amendment to the preamble to now read:

'recommended the new Standards Committee should consist of 9 rather than 7 Members (recommendation 1.1).'

Standards Committee – 11<sup>th</sup> July 2012Minute 124 Extract

The Committee considered a report of the Corporate Director Support Services which informed Members of the provisions of the Localism Act 2011 as it relates to the Standards regime and invites the Standards Committee to make recommendations to Council on a new regime.

The Monitoring Officer explained the background in respect of the proposed changes and made a further recommendation to grant the general dispensations referred to in (6) below.

The Committee was content with all the recommendations in the submitted report although it:

- recommended the new Standards Committee should consist of 7 rather than 9 Members (recommendation 1.1); and
- made an amendment to recommendation 3.6.

Recommendations:-

(1) New Standards Committee

1.1 That the Council establishes a new Standards Committee consisting of 9 Members of the Council and to which proportionality shall apply.

1.2 That Leigh-on-Sea Town Council be invited to nominate 2 Town Councillors to be co-opted as non-voting Members on the Standards Committee.

1.3 That the Independent Persons (see 4 below) be invited to attend Standards Committee meetings, but without voting rights.

1.4 That the Terms of Reference of the Standards Committee to be as set out in Appendix 1 of the submitted report and Article 9 of Part 2 and Section 7 of Part 3 Schedule 2 of the Constitution be amended accordingly. In addition necessary consequential amendments be made to the Constitution, particularly to references in Parts 5(b), 5(d) and 5(h).

(2) New Code of Conduct

That the Council adopts a new Code of Conduct in the form set out in Appendix 3 of the submitted report.

### (3) Dealing with Misconduct Complaints

3.1 That the Monitoring Officer be appointed as the Proper Officer to receive complaints for failure to comply with the Code of Conduct.

3.2 That the Monitoring Officer be given delegated power, after consultation with the Independent Person, to determine whether a complaint merits formal investigation and to arrange such investigation. The Monitoring Officer be instructed to seek resolution of complaints without formal investigation wherever practicable, and that he be given discretion to refer decisions on investigation to the Standards Committee where he feels that it is inappropriate for him to take the decision, and to report to the Standards Committee on the discharge of this function from time to time.

3.3 That where the investigation finds no evidence of a failure to comply with the Code of Conduct, the Monitoring Officer be instructed to close the matter, providing a copy of the report and findings of the investigation to the complainant and to the Member concerned and to the Independent Person, and reporting the findings to the Standards Committee for information.

3.4 That where the investigation finds evidence of a failure to comply with the Code of Conduct, the Monitoring Officer in consultation with the Independent Person be authorised to seek a resolution in appropriate cases, with a summary report for information to the Standards Committee. Where such resolution is not appropriate or not possible, the Monitoring Officer is to report the investigation findings to the Hearings Sub-Committee of the Standards Committee for a hearing.

3.5 That the Council delegates to the Standards Hearing Sub-Committee such of its powers as can be delegated to take decisions in respect of a Member who is found on hearing to have failed to comply with the Code of Conduct.

3.6 That the Council:

(a) adopts the new Complaints against Members Rules as set out in Appendix 4 of the submitted report to replace the existing Rules in Part 4(i) of the Constitution subject to the deletion of paragraph 1.3 in Annex E of Appendix 4 and a consequential amendment to the terms of reference of the Hearings Sub-Committee in Appendix 1 by adding the words "and its Chairman" after "Sub-Committee" in paragraph 7.6; and

(b) that the delegations to the Monitoring Officer in Part 3 Schedule 3 to the Constitution be amended as per Appendix 5 of the submitted report with the addition of the following bullet point "To appoint members of the Hearings Sub-Committee and its Chairman after consultation with the Chairman of the Standards Committee".

#### (4) Independent Person(s)

4 1 That the 3 independent members on the old Standards Committee be appointed as Independent Persons for an initial period of 12 months

4.2 That the Independent Persons continue to receive the allowances which they currently receive as an independent member and that such payments be reviewed in due course by the Standards Committee

#### (5) Registering and Disclosing Interests and Withdrawal

5 1 That the arrangements for registering and declaring interests as set out above be agreed and that the Monitoring Officer maintains a Register of Members' Interests for Southend Councillors and Leigh-on-Sea Town Council and ensures these are available for inspection as required. The delegations be amended to reflect these obligations as per Appendix 5 of the submitted report

5 2 That the Monitoring Officer ensures that all Members are informed of their duty to register interests by 19th August 2012 and that the template at Appendix 6 of the submitted be agreed for this purpose

5 3 That Standing Order 20 be amended as per Appendix 7 of the submitted report to require a Member to withdraw from the room where the meeting is being held including from the public gallery, during the whole of consideration of any item of business in which he / she has a DPI or other pecuniary interest or specified non-pecuniary interest (except where the Member is permitted to remain as a result of the grant of a dispensation)

#### (6) Dispensations

That the following dispensations be granted to permit a Member to participate in debate on a matter and to vote in the following circumstances notwithstanding the fact that he/she may have a DPI, other pecuniary interest or non-pecuniary interest;

(i) where the matter relates to the housing functions of the Council and the Member is a tenant of the Council (provided that the matter does not relate particularly to the Member's tenancy or lease)

(ii) school meals or school transport and travelling expenses, where the Member is 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) an allowance, payment or indemnity given to Members

(iv) any ceremonial honour given to Members

(v) setting Council Tax or a precept under the Local Government Finance Act 1992

(vi) where an Executive Councillor attends a meeting of a Scrutiny Committee in respect of executive matters, including call-in and pre-Cabinet Scrutiny items

(7) That the Monitoring Officer should arrange training on the new Code for all Members

(8) That the Council places on record its appreciation of all the work undertaken by the 3 independent members under the old regime

#### Reason for Decision

A new standards regime needs to be introduced to comply with the law.

#### Other Options

The adoption of a different regime and the areas of discretion were outlined in the submitted report



# Southend-on-Sea Borough Council

Agenda  
Item No.

**3**

Report of Corporate Director Support Services

to  
**Standards Committee**

on  
**11<sup>th</sup> July 2012**

Report prepared by: John Williams,  
Head of Legal & Democratic Services

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## **Standards and the Localism Act 2011**

### ***A Part 1 Public Agenda Item***

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#### **1. Purpose of Report**

This report is to inform Members of the provisions of the Localism Act 2011 as it relates to the Standards regime and invites the Standards Committee to make recommendations to Council on a new regime.

#### **2. Recommendations**

The recommendations are set out in sections 3.2, 3.3(f), 3.4(h), 3.5(f) and 3.6(f) below.

#### **3. Background**

##### **3.1 The Localism Act 2011**

The Localism Act 2011 ("the Act") makes fundamental changes to the system of regulation of standards of conduct for elected and co-opted Members. The Government's intention is that a new more proportionate standards regime should come into effect after 1<sup>st</sup> July 2012, although the Standards Board for England was abolished on 31<sup>st</sup> March 2012.

The Council will remain under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted Members.

This report describes the changes and recommends the actions required for the Council to implement the new regime.



### 3 2 Standards Committee

The Act repeals Section 55 of the Local Government Act 2000, which provides for the current statutory Standards Committee

However the Council must still deal with standards issues and casework, so a Standards Committee needs to be appointed by the Council under S.101 of the Local Government Act 1972

It will be a normal Committee of Council, without the unique features conferred by the previous legislation. As a result.

- The composition of the Standards Committee will be governed by political proportionality,
- The present restriction permitting only one member of the Executive on the Standards Committee will cease to apply;
- The current co-opted independent members will cease to hold office. However, the Act establishes a new category of Independent Persons who must be consulted at various stages under the new arrangements and this matter is dealt with further in 3 5 below,
- The Council will continue to have responsibility for dealing with standards complaints against elected and appointed Members of Leigh-on-Sea Town Council, but their representatives on the current Standards Committee cease to hold office. However the Council can choose whether it wants to continue to involve Town Council representatives and if so how many representatives it wants. It is recommended that the Council has 2 co-opted non-voting Town Council representatives on the Standards Committee, so it can make recommendations in respect of Town Councillors. The alternative of establishing a Joint Committee with the Town Council is not recommended as it involves complex delegations of powers.

#### **Recommendations:**

**That the Council establishes a new Standards Committee consisting of 7 Members of the Council and to which proportionality shall apply.**

**Leigh-on-Sea Town Council be invited to nominate 2 Town Councillors to be co-opted as non-voting Members.**

**The Independent Persons be invited to attend Standards Committee meetings, but without voting rights.**

**The Terms of Reference of the Standards Committee to be as set out in Appendix 1 and Article 9 of Part 2 and Section 7 of Part 3 Schedule 2 of the Constitution be amended accordingly. In addition necessary consequential amendments be made to the Constitution, particularly to references in Parts 5(b), 5(d) and 5(h).**

### 3 3 The Code of Conduct

- (a) The current Members' Code of Conduct in Part 5(a) of the Constitution (which followed the nationally prescribed model Code) is repealed and Members will no longer have to give an undertaking to comply with the Code.
- (b) However the Council is required to adopt a new Code of Conduct governing elected and co-opted Member's conduct when acting in that capacity. The Council's new Code must, viewed as a whole, be consistent with the following seven "Nolan Principles". Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership
- (c) There is no prescribed national model Code, although clearly there is advantage in a consistency of approach.
- (d) In April 2012 the Local Government Association finally produced a template Code and a day later the Government issued some illustrative text. Copies of these documents are attached at **Appendix 2**. However not only did these documents come very late in the day, but neither sets out specific obligations or incorporates the detailed rules on "Disclosable Pecuniary Interests" ("DPIs") set out in the Relevant Authority (Disclosable Pecuniary Interests) Regulations 2012 made under the Act on the 6<sup>th</sup> June 2012.
- (e) I am pleased to report that at the request of the Essex Chief Executives & Leaders Group, a new Code of Conduct has been developed by the Public Law Partnership. PLP is the legal services partnership of authorities in Essex, Hertfordshire and Suffolk who work together to share resources and ensure legal support is provided to all member authorities. A copy of this new Code is attached at **Appendix 3** which I updated slightly.

This new Code.

- incorporates a clear set of obligations,
- incorporates all the statutory requirements relating to Disclosable Pecuniary Interests (DPI's),
- requires registration of DPI's, other pecuniary interests and certain non-pecuniary interests
- requires disclosure of DPI's, other pecuniary interests and non-pecuniary interests at meetings,
- requires withdrawal at a meeting if a Member has a DPI or other pecuniary interest (and has not obtained a dispensation) or in the case of certain non-pecuniary interests, and
- covers gifts and hospitality

The latest information is that most Councils in Essex will be adopting this Code, although it will be subject to regular review.

A consistency of approach has a number of advantages

- It will mean that the standards of conduct expected of Members in this area will be the same;
- A proliferation of different Codes would be confusing for members of the public wishing to know what standards are expected of their representatives,
- It will assist those Members who sit on more than one authority e.g. this Council and the Fire Authority, who will only have to follow one set of rules,
- It will make joint training events much easier,
- It will facilitate one authority assisting another with investigations and interpretation

(f) **Recommendation**

**That the Council adopts a new Code of Conduct in the form set out in Appendix 3.**

3.4 Dealing with Misconduct Complaints

(a) “Arrangements”

- The Act requires the Council to adopt “arrangements” for dealing with complaints of breaches of the Code of Conduct by Southend Borough Councillors and by Leigh on Sea Town Councillors
- The “arrangements” must set out in some detail the process for dealing with complaints of misconduct and the actions which may be taken against a Member who is found to have failed to comply with the Code of Conduct
- The Act repeals the requirements for separate Assessment, Review and Hearing Sub-Committees and enables the Council to establish its own process, which can include delegation of decisions on complaints. As the statutory provisions no longer give the Standards Committee or Monitoring Officer special powers to deal with complaints, it is necessary for Council to delegate appropriate powers to the Standards Committee and to the Monitoring Officer

(b) Decision whether to investigate a complaint

- It is sensible to take advantage of the new flexibility to delegate to the Monitoring Officer the initial decision on whether a complaint requires investigation (subject to consultation with the Independent Person) and the ability to refer particular complaints to the Standards Committee where the Monitoring Officer feels that it would be inappropriate for him to take a decision on it e.g. where he has previously advised the Member on the matter or the complaint is particularly sensitive.

- These arrangements would also offer the opportunity for the Monitoring Officer to seek to resolve a complaint informally, before taking a decision on whether the complaint merits formal investigation
- If this function is delegated to the Monitoring Officer, it is right that he should be accountable for its discharge. For this purpose it would be appropriate that the Monitoring Officer reports to the Standards Committee from time to time on the number and nature of complaints received and draws to the Committees attention areas where training or other action might avoid further complaints

(c) "No Breach of the Code" finding on investigation

- Where a formal investigation finds no evidence of a failure to comply with the Code of Conduct, the current requirement is that this is reported to the Hearings Sub-Committee which takes the decision to take no further action. In practice, it would be reasonable to delegate this decision to the Monitoring Officer, but with the power to refer a matter to the Standards Committee if he feels appropriate.
- It would be sensible if copies of all investigation reports were provided to the Independent Person to enable him or her to get an overview of current issues and pressures and that the Monitoring Officer provides a summary report of each such investigation to the Standards Committee for information

(d) "Breach of the Code" finding on investigation

- Where a formal investigation finds evidence of a failure to comply with the Code of Conduct, there may yet be an opportunity for local resolution, avoiding the necessity for a local hearing. Sometimes the investigation report can cause a Member to recognise that his / her conduct was at least capable of giving offence, or identify other appropriate remedial action, and the complainant may be satisfied by recognition of fault and an apology or other remedial action. However it is suggested that at this stage it would only be appropriate for the Monitoring Officer to agree to this as a resolution after consultation with the Independent Person and where the complainant is satisfied with the outcome, and subject to summary report for information to the Standards Committee

- In all other cases, where the formal investigation finds evidence of a failure to comply with the Code of Conduct, it would be necessary for the Standards Committee (in practice a Hearings Sub-Committee of the Standards Committee) to hold a hearing at which the Member against whom the complaint has been made can respond to the investigation report, and the Sub-Committee can determine whether the Member did fail to comply with the Code of Conduct and what action, if any, is appropriate as a result
- (e) Action in response to a Hearing finding of a failure to comply with the Code

The Act does not give the Council or its Standards Committee powers to impose sanctions on a Member such as suspension or an apology. So, where a failure to comply with the Code of Conduct is found, the range of actions available to the Standards Committee is limited to

- Censuring or reprimanding the Member;
- Reporting its findings to the Council (or Town Council) for information;
- Recommending to the Member's Group Leader that he / she be removed from any or all Committees or Sub-Committees of the Council,
- Recommending to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities,
- Asking the Monitoring Officer to arrange training for the Member,
- Removing the Member from all outside appointments to which he / she has been appointed or nominated by the Council;
- Withdrawing facilities provided to the Member by the Council, such as a computer, website and / or email and internet access; or
- Excluding the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

The Act does not give the Standards Committee power to do any more in respect of a Member of a Town Council than make a recommendation to the Town Council on action to be taken in respect of the Member. Town Councils will be under no obligation to accept any such recommendation. The only way round this would be to constitute the Standards Committee and Sub-Committee as Joint Sub-Committees with the Town Council but this is not recommended as stated in 3.2 above.

- (f) Appeals

The Act does not provide for any appeals mechanism against such decisions by either the complainant or Member and it is not recommended to establish such a mechanism. A decision would be open to judicial review by the High Court if it was patently unreasonable or if it was taken improperly or if it sought to impose a sanction which the Council had no power to impose.

- (g) The Public Law Partnership has developed revised Complaints against Members Rules so that complaints alleging misconduct can be dealt with. These Rules are attached at **Appendix 4**. It is recommended that these Rules are adopted and the case for having standard processes across neighbouring authorities is very strong.

**(h) Recommendations**

- (i) That the Monitoring Officer be appointed as the Proper Officer to receive complaints for failure to comply with the Code of Conduct.
- (ii) That the Monitoring Officer be given delegated power, after consultation with the Independent Person, to determine whether a complaint merits formal investigation and to arrange such investigation. The Monitoring Officer be instructed to seek resolution of complaints without formal investigation wherever practicable, and that he be given discretion to refer decisions on investigation to the Standards Committee where he feels that it is inappropriate for him to take the decision, and to report to the Standards Committee on the discharge of this function from time to time.
- (iii) Where the investigation finds no evidence of a failure to comply with the Code of Conduct, the Monitoring Officer be instructed to close the matter, providing a copy of the report and findings of the investigation to the complainant and to the Member concerned and to the Independent Person, and reporting the findings to the Standards Committee for information.
- (iv) Where the investigation finds evidence of a failure to comply with the Code of Conduct, the Monitoring Officer in consultation with the Independent Person be authorised to seek a resolution in appropriate cases, with a summary report for information to the Standards Committee. Where such resolution is not appropriate or not possible, the Monitoring Officer is to report the investigation findings to the Hearings Sub-Committee of the Standards Committee for a hearing.
- (v) That Council delegates to the Standards Hearing Sub-Committee such of its powers as can be delegated to take decisions in respect of a Member who is found on hearing to have failed to comply with the Code of Conduct.
- (vi) That the Council adopts the new Complaints against Members Rules as set out in **Appendix 4** to replace the existing Rules in Part 4(i) of the Constitution and that the delegations to the Monitoring Officer in Part 3 Schedule 3 to the Constitution be amended as per **Appendix 5**.

### 3 5 Independent Person(s)

- (a) The arrangements for dealing with Complaints referred to in 3 4 above, must include provision for the appointment of at least one Independent Person.

- whose views must be sought, and taken into account, by the Council before it makes a decision on an allegation that it has decided to investigate; and
- whose views may be sought by the Council in relation to an allegation in other circumstances or by a Member (or Co-opted Member) whose behaviour is subject to the allegation.

Independent Persons cannot be voting members of the Standards Committee but may be invited to attend meetings and this is recommended (see 3.2)

- (b) An Independent Person must not:

- Be a Member, co-opted Member or officer of the Council, or Leigh-on-Sea Town Council
- Be a relative or close friend, of such a person There is a wide ranging definition of "relative"
- Have been a Member, co-opted Member or officer of the Council or Leigh-on-Sea Town Council in the last five years.

- (c) The Act prescribes the process for the appointment of Independent Persons and they must be approved by a majority of the Members of the Council

- (d) Transitional arrangements permit the appointment as an "Independent Person" of a former independent member of the Council's Standards Committee and it is recommended that the Council appoints the 3 independent members on the old Standards Committee to be Independent Persons initially for a period of 12 months

- (e) Remuneration

As an Independent Person will not a Member of the Council or of its Committees or Sub-Committees, the remuneration of the Independent Person no longer comes within the Scheme of Members' Allowances, and can therefore be determined without reference to the Independent Remuneration Panel

- (f) **Recommendations**

- **That the 3 independent members on the old Standards Committee be appointed as Independent Persons for an initial period of 12 months.**

- That the Independent Persons continue to receive the allowances which they currently receive as an independent member and that such payments be reviewed in due course by the Standards Committee.

### 3.6 The Register of Members' Interests, Disclosure of Interests & Withdrawal

- (a) The Act abolishes the concepts of personal and prejudicial interests, introduces new "Disclosable Pecuniary Interests" and changes the registration and declaration requirements
- (b) Disclosable Pecuniary Interests (DPI's)

The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 ("the Regulations") define specific Disclosable Pecuniary Interests (DPI's) that Members and co-opted Members must register and disclose

S 34 of the Act provides that where a Member has a DPI it is a criminal offence.

- to fail to register that interest (or to provide information which is false or misleading);
- to fail to disclose it at a meeting (unless already registered),
- to participate on a relevant item of business (unless the Member has a dispensation), or
- to take any action on the matter as an Executive Councillor

So what is a "Disclosable Pecuniary Interest"? The Act says that

- It is an interest of the Member in question, or his or her spouse or civil partner, or of someone with whom the Member is living as husband and wife or as if they were civil partners – these are all called "relevant persons" in the Regulations;
- It must be an interest of which the Member is aware, and
- It must be of a kind specified in the Regulations

In summary the Regulations specify the following to be DPI's:

- The relevant person's employment, office, trade, profession or vocation, carried on for profit or gain (actually they say "vacation", but you will not have to register your summer holidays!)
- Sponsorship – any payment of expenses as a Member, or your election expenses.
- Any contract between the relevant person, or a body in which the relevant person has a beneficial interest, and the Council, for the provision of goods or services or the execution of works, which has not been fully discharged
- Any beneficial interest in land in the Council's area
- Any licence to occupy land in the Council's area for a month or longer
- Any tenancy where the Council is the landlord and the relevant person has a beneficial interest in the body that is the tenant



- Any beneficial interest in securities in a body over a prescribed value where the body has a place of business or land in the Council's area.

These DPI's are effectively a rehash of the interests listed in paragraph 8(1)(a) of the old model code, but without reference to membership of outside bodies, charities or other public bodies, or to gifts and hospitality. On the other hand, Members previously only had to register their own interests, not those of other "relevant persons", although they would have had to declare such interests.

(c) The Register of Members' Interests

- The Monitoring Officer is required to maintain a Register of Members' Interests which must be available for public inspection and put on the Council's website.
- The Monitoring Officer is also responsible for maintaining a Register for Leigh-on-Sea Town Council and for making it available for public inspection on the Town Council's website.
- The Act requires Members and co-opted Members to notify the Monitoring Officer of their DPIs (and the DPI's of relevant persons) within 28 days of becoming a Member and these must be entered on the Register. Failure by the Member to do so is a criminal offence as referred to above, but it would not prevent the Member acting. The Regulations do not clearly address existing Members, but the new Code provides for Registration within 28 days of the Council adopting the Code i.e. by 19<sup>th</sup> August 2012.
- In addition Members and co-opted Members must notify the Monitoring Officer within the same time frame of any other pecuniary or non-pecuniary interests which the new Code of Conduct requires to be registered pursuant to S 29(2) of the Act.

The new Code at **Appendix 3** requires registration of several other pecuniary interests and certain non-pecuniary interests of the Member (but not of relevant persons). Failure to comply is not a criminal offence, but can be dealt with as a breach of the Code.

- A template for the registration of Members' Interests is attached at **Appendix 6**.
- The Act does not impose any continuing requirement for a Member to keep the Register up to date, except on re-election or re-appointment, but the new Code requires this. When additional notifications are given, the Monitoring Officer has to ensure that they are entered into the Register.

(d) Disclosure of Interests

- The duty to disclose arises whenever a Member attends any meeting of Council, Cabinet, Committee or sub-committee and is aware that he / she has an interest specified in the Code (DPI, other pecuniary interest or non-pecuniary interest) in any matter being considered at the meeting. So the duty applies even if the Member would be absent from that part of the meeting where the matter in question is under consideration
- The new Code provides that such a disclosure must be made even if the Member has already registered the matter in the Register of Interests or sent off a request to the Monitoring Officer to register it (a "pending notification").
- Failure to disclose a DPI is a criminal offence. Failure to disclose an other pecuniary interest or non-pecuniary interest is a breach of the Code

(e) Non-Participation and Withdrawal

- If a member has a DPI in any matter, the Act requires that he / she must not
  - (a) Participate in any discussion of the matter at the meeting. The Act does not define "discussion" but this would appear to preclude making representations as currently permitted under paragraph 12(2) of the model Code of Conduct, or
  - (b) Participate in any vote on the matter,

unless the Member has obtained a dispensation to allow him/her to speak and / or vote – see 3.8 below

Failure to comply is a criminal offence. In addition the new Code requires withdrawal from the room when the matter is considered.

- If a Member has an Other Pecuniary Interest, the Code imposes the same obligations on the Member. Failure to comply is a breach of the Code
- If a Member only has a non-pecuniary interest, then the Code provides that he or she can participate and vote (provided that interest has been declared), unless 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 the Member's judgement of the public interest or may give rise to a perception of conflict of interest or bias, in which case the Member must withdraw

- The requirement to withdraw from the meeting room needs to be reinforced by Standing Orders. Standing Order 20 already covers this matter but needs amendment to refer to the new Code (see Appendix 7)

(f) **Recommendations**

- (i) That the arrangements for registering and declaring interests as set out above be agreed and that the Monitoring Officer maintains a Register of Members' Interests for Southend Councillors and Leigh-on-Sea Town Council and ensures these are available for inspection as required. The delegations be amended to reflect these obligations as per Appendix 5.
- (ii) That the Monitoring Officer ensures that all Members are informed of their duty to register interests by 19<sup>th</sup> August 2012 and that the template at Appendix 6 be agreed for this purpose.
- (iii) That Standing Order 20 be amended as per Appendix 7 to require a Member to withdraw from the room where the meeting is being held including from the public gallery, during the whole of consideration of any item of business in which he / she has a DPI or other pecuniary interest or specified non-pecuniary interest (except where the Member is permitted to remain as a result of the grant of a dispensation).

3.7 Sensitive Interests

- (a) The Act effectively re-enacts the existing Code of Conduct provisions on Sensitive Interests.
- (b) Where a Member is concerned that disclosure of the detail of an interest (either a DPI or any other interest which he / she would be required to disclose) at a meeting or on the Register of Members' Interests, would lead to the Member or a person connected with him/her being subject to violence or intimidation, he / she may request the Monitoring Officer to agree that the interest is a "sensitive interest"
- (c) If the Monitoring Officer agrees, the Member then merely has to disclose the existence of an interest, rather than the detail of it, at a meeting, and the Monitoring Officer can exclude the detail of the interest from the published version of the Register of Members' Interests

### 3.8 Dispensations

- (a) The provisions on dispensations are significantly changed by the Act. In future, a dispensation can be granted to allow a Member to participate in a matter even though he/she has a DPI in the following circumstances:
- That so many Members of the decision-making body have DPIs in a matter that it would “impede the transaction of the business”. In practice this means that the decision-making body would be inquorate as a result,
  - That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter. This assumes that Members are predetermined to vote on party lines on the matter, in which case, it would be inappropriate to grant a dispensation to enable them to participate,
  - That the dispensation is in the interests of persons living in the authority’s area,
  - That, without a dispensation, no member of the Cabinet would be able to participate on this matter, or
  - That it is otherwise appropriate to grant a dispensation
- (b) Any grant of a dispensation must specify how long it lasts for, up to maximum of 4 years
- (c) Under the Local Government Act 2000 dispensations had to be granted by the Standards Committee. The Act gives discretion for this power to be delegated to an officer, but this is not recommended

### 3.9 Transitional Arrangements

*Regulations under the Act provide for*

- (a) Independent members on the old Standards Committee to be appointed as Independent Members under the new regime as explained in 3.5
- (b) Any unresolved complaints to be resolved using the new arrangements

## 4. **Other Options**

The adoption of a different regime and the areas of discretion are outlined in this report.

## **5. Reasons for Recommendations**

A new standards regime needs to be introduced to comply with the law

## **6. Corporate Implications**

### **6 1 Contribution to Council's Vision & Corporate Priorities**

Excellent Council

### **6 2 Financial Implications**

The costs of setting up and administering the new standards regime will be no less onerous than the previous regime

### **6.3 Legal Implications**

As set out in the report

### **6 4 People Implications**

The new standards regime will affect all Members and officers involved in administration.

### **6.5 Property Implications**

None

### **6 6 Consultation**

None

### **6 7 Equalities and Diversity Implications**

No significant implications are envisaged

### **6.8 Risk Assessment**

Risks have been assessed as an integral part of the report preparation

### **6 9 Value for Money**

The Council is obliged to introduce a new standards regime

## **7. Background Papers**

The Localism Act 2011 and Regulations made under the Act

## **8. Appendices**

<b>Appendix 1</b>	Revised Terms of Reference of the Standards Committee (Part 2 – Article 9 and Schedule 2 Part 3 – Section 7)
<b>Appendix 2</b>	LGA Template & Illustrative Text issued by the Government (April 2012)
<b>Appendix 3</b>	Proposed new Members Code of Conduct (Part 5(a) of the Constitution)
<b>Appendix 4</b>	Revised Complaints against Members Rules (Part 4(i) of the Constitution)
<b>Appendix 5</b>	Amendment of Monitoring Officer Delegations in Part 3 Schedule 3 to the Constitution
<b>Appendix 6</b>	Template for Registering Interests
<b>Appendix 7</b>	Amended Standing Order 20 (Part 4(a) of the Constitution)

## Part 5(a) – Members’ Code of Conduct

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# Part 5(a) – Members’ Code of Conduct

## General Provisions

### Introduction and Interpretation

As a Member you are a representative of Southend-on-Sea Borough Council (“the Authority”) and the public will view you as such. Therefore your actions impact on how the Authority as a whole is viewed and your actions can have both positive and negative impacts on the Authority.

This Code as a whole is consistent with “Nolan Principles” which are set out in **Appendix 1** and the provisions of S29(1) Localism Act 2011.

In this Code

“**meeting**” means any meeting of

- (a) The Authority,
- (b) The Executive of the Authority,
- (c) Any of the Authority’s or its Executive’s Committees, Sub-Committees, Joint Committees, Joint Sub-Committees or Areas Committees whether or not the press and public are excluded from the meeting in question by virtue of a resolution of Members,
- (d) Any briefings by officers and site visits organised by the Authority

“**relevant period**” means the period of 12 months ending with the day on which you give notification to the Authority’s monitoring officer of any disclosable pecuniary interests you had at the time of the notification.

“**profit or gain**” includes any payments or benefits in kind which are subject to Income Tax.

“**beneficial interest**” means having an economic benefit as a legal owner or holding it on trust for the beneficial owner, having a right to the income from the land or securities or a share in it or the right to the proceeds of sale or share of part of the proceeds of sale.

“**Member**” includes a co-opted member.

### 1. Who does the Code apply to?

- 1.1 This Code applies to all Members of the Authority including co-opted members.
- 1.2 It is your responsibility to comply with the provisions of this Code.

### 2. What does the Code apply to?

- 2.1 You must comply with this Code whenever you
  - (a) Conduct the business of the Authority, or
  - (b) You are acting as a representative of the Authority.
- 2.2 This Code has effect in relation to your conduct in your official capacity.



**2.3** Where you act as a representative of the Authority

- (a) On another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct, or
- (b) On any other body, you must, when acting for that other body, comply with the Authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject

**3. General Obligations**

**3.1** You must treat others with respect

**3.2** You must uphold the law

**3.3** You must not

- (a) Do anything which may cause the Authority to breach any of the equality enactments
- (b) Bully any person
- (c) Intimidate or attempt to intimidate any person who is or is likely to be
  - (i) a complainant,
  - (ii) a witness, or
  - (iii) involved in the administration of any investigation or proceedingsin relation to an allegation that a Member (including yourself) has failed to comply with the Authority's code of conduct, or
- (d) Do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority

**4. Confidential Information**

You must not

- (a) Disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where
  - (i) you have the consent of a person authorised to give it,
  - (ii) you are required by law to do so,
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person, or
  - (iv) the disclosure is
    - (aa) reasonable and in the public interest, and
    - (bb) made in good faith and in compliance with the reasonable requirements of the Authority
- (b) Prevent another person from gaining access to information to which that person is entitled by law

**5. Conferring an Advantage or Disadvantage**

You must

- (a) Not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage,
- (b) When using or authorising the use by others of the resources of the Authority
  - (i) act in accordance with the Authority's reasonable requirements,
  - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes),
- (c) Have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986

## **Members' Interests**

### **6. Disclosable Pecuniary Interests<sup>1</sup>**

**6.1** You have a Disclosable Pecuniary Interest in any business of the Authority if it is of a description set out in 6.2 below and is either

- (a) An interest of yours, or
- (b) An interest (of which you are aware) of a spouse, civil partner or a person you are living with as a spouse or civil partner (known as "Relevant Persons")

**6.2** A Disclosable Pecuniary Interest is an interest which relates to or is likely to affect

- (i) Any employment, office, trade, profession or vocation carried on by you or a Relevant Person for profit or gain,
- (ii) Any payment or provision of any other financial benefit (other than from the Authority) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a Member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992,
- (iii) Any contract for goods, services or works which has not been fully discharged between you or a Relevant Person and the Authority or a body in which you or they have a beneficial interest,
- (iv) A beneficial interest in any land in the Authority's area,
- (v) A licence of any land in the Authority's area (alone or jointly with others) that you or a Relevant Person occupy for a month or longer,
- (vi) Any tenancy where to your knowledge
  - (a) the landlord is the Authority, and
  - (b) the tenant is a body in which you or a Relevant Person has a beneficial interest,

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<sup>1</sup> The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 set out the pecuniary interests specified for the purposes of Chapter 7 of Part 1 Section 30(3) of the Localism Act 2011

- (vii) Any beneficial interest in securities of a body where
  - 1. that body (to your knowledge) has a place of business or land in the area of the Authority and
  - 2. either
    - a. the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or
    - b. the beneficial interest exceeds one hundredth of the total issued share capital of the share capital of that body, if of more than one class, the total nominal value of the shares of any one class

## 7. Other Pecuniary Interests

You have an Other Pecuniary Interest in any business of the Authority where it relates to or is likely to affect

- (i) any person or body who employs or has appointed you,
- (ii) any contract for goods, services or works made between the Authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specific in paragraph 6.2 (vii) which has been fully discharged within the last 12 months

## 8. Non-Pecuniary Interests

You have a non-pecuniary interest in any business of the Authority where

- (i) It relates to or is likely to affect any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Authority,
- (ii) It relates to or is likely to affect any body
  - 1. exercising functions of a public nature,
  - 2. directed to charitable purposes, or
  - 3. 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) It relates to or is likely to affect the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50 within the last 3 years,
- (iv) a decision in relation to that business might reasonably be regarded as affecting your wellbeing or the wellbeing or financial position of a friend, relative or close associate to a greater extent than the majority of
  - (a) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision, or
  - (b) (in all other cases) other council tax payers, ratepayers or inhabitants of the Authority's area

**Note:** Only items (i) – (iii) are registerable non-pecuniary interests

## **9. Disclosure of Interests (Disclosable Pecuniary Interests, Other Pecuniary Interests and Non-Pecuniary Interests)**

- 9.1** Subject to sub-paragraphs 9.2 to 9.3, where you have a Disclosable Pecuniary Interest, Other Pecuniary Interest or Non-Pecuniary Interest in any business of the Authority and you are present at a meeting of the Authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your Register of Interests or for which you have made a pending notification
- 9.2** Sub-paragraph 9.1 only applies where you are aware or ought reasonably to be aware of the existence of the Interest
- 9.3** Where you have an interest in any business of the Authority which would be disclosable by virtue of paragraph 9.1 but by virtue of paragraph 12 (Sensitive Information) details of the interest are not registered in the Authority's published Register of Members' Interests and the interest is a Disclosable Pecuniary Interest or Other Pecuniary Interest you need not disclose the nature of the interest to the meeting
- 9.4** Where you have a Pecuniary Interest in any business of the Authority which would be Disclosable by virtue of paragraph 9.1 and a function of the Authority may be discharged by you acting alone in relation to that business, you must ensure you notify the Authority's monitoring officer of the existence and nature of that interest within 28 days of becoming aware that you will be dealing with the matter even if more than 28 days before you will actually deal with the business
- 9.5** Where you have an interest in any business of the Authority which would be disclosable by virtue of paragraph 9.1 and you have made an executive decision in relation to that business you must ensure that any written statement of that decision records the existence and nature of that interest. In this paragraph "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000

## **10. Effect of Interests on Participation**

### **10.1 Disclosable Pecuniary Interests**

- (a) If you are present at a meeting of the Authority or of any committee, sub-committee, joint committee or joint sub-committee of the Authority and you or a Relevant Person has a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at the meeting and you are aware of that Interest
- (i) You must not participate, or participate further, in any discussion of the matter at the meeting, or participate in any vote, or further vote, taken on the matter at the meeting,
- (ii) You must withdraw from the room or chamber where the meeting considering the business is being held unless you have received a dispensation from the Standards Committee or the Authority's proper officer <sup>2</sup>
- (b) If you have a Disclosable Pecuniary Interest in any business of the Authority you must not
- (i) exercise executive functions in relation to that business, or
- (ii) seek improperly to influence a decision about that business
- (c) If a function of the Authority may be discharged by a Member acting alone and you have a Disclosable Pecuniary Interest in any matter to be dealt with or being dealt with in the course of discharging that function you may not take any steps or any further steps in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by yourself)

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<sup>2</sup> On 11 July 2012 the Standards Committee granted the following general dispensations and these were endorsed by Council on 19th July 2012 -

- i) where the matter relates to the housing functions of the Council and the Member is a tenant of the Council (provided that the matter does not relate particularly to the Member's tenancy or lease)
- ii) school meals or school transport and travelling expenses, where the Member is 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) an allowance, payment or indemnity given to Members
- iv) any ceremonial honour given to Members
- v) setting Council Tax or a precept under the Local Government Finance Act 1992
- vi) where an Executive Councillor attends a meeting of a Scrutiny Committee in respect of executive matters, including call-in and pre-Cabinet Scrutiny items

## **10.2. Other Pecuniary Interests**

If you have an Other Pecuniary Interest in any business of the Authority and you are present at a meeting of the Authority at which such business is to be considered or is being considered you must

- (i) Disclose the existence and nature of the interest in accordance with paragraph 9 1 (but subject to paragraph 9 3), and
- (ii) Withdraw from the room or chamber where the meeting considering the business is being held

## **10.3 Non-Pecuniary Interests**

After having declared an interest in accordance with paragraph 9 1 you may then participate and vote unless a member of the public with knowledge of the relevant facts would reasonably regard your interest as so significant that it is likely to prejudice your judgment of the public interest or your interest may give rise to a perception of conflict of interest or bias in which case you must withdraw

## **11. Registration of Members' Interests**

- (a) Subject to paragraph 12, you must, within 28 days of

- (i) This Code being adopted by or applied to the Authority, or
- (ii) Your election, re-election or appointment or re-appointment to office (where that is later), or co-opted onto the Authority

register in the Authority's Register of Members' Interests (maintained by the Monitoring Officer under Section 29(1) of the Localism Act 2011) details of

- i. Disclosable Pecuniary Interests as referred to in paragraph 6 that you or a Relevant Person has in so far as you are aware of their interests at that time,
  - ii. Other Pecuniary Interests referred to in paragraph 7 that you have, and
  - iii. Non-pecuniary interests referred to in paragraph 8 (sub paragraphs (i) – (iii)) that you have
- (b) You must keep your register of interests up to date by notifying the Monitoring Officer of any changes to your interests referred to in (a) above within 28 days of the change occurring or becoming aware of the change

## **12. Sensitive Information**

- 12.1** Where you have a Disclosable Pecuniary Interest referred to in paragraph 6 or Other Pecuniary Interest referred to in paragraph 7 and the nature of the interest is such that you and the Authority's monitoring officer consider that disclosure of details of the interest could lead to you or a person connected with you being subject to violence or intimidation if the interest is entered in the Authority's Register then copies of the register available for inspection and any published version of the Register should not include details of the interest but may state that you have an interest details of which are withheld under s32(2) of the Localism Act 2011 and/or this paragraph
- 12.2** You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 12 1 is no longer sensitive information, notify the Authority's Monitoring Officer
- 12.3** In this Code "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subject to violence or intimidation

### **13. Register of Gifts and Hospitality**

- 13.1** You must within 28 days of receipt, notify the Authority's 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
- 13.2** The Monitoring Officer will place your notification on a public register of gifts and hospitality
- 13.3** This duty to notify the monitoring officer does not apply where the gift, benefit or hospitality comes within any description approved by the Authority for this purpose

**The Nolan Principles (as revised by the Committee on Standards in Public Life in January 2013) and Section 28(1) of the Localism Act 2011**

**Selflessness**

Holders of public office should act solely in terms of the public interest

**Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

**Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

**Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

**Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

**Honesty**

Holders of public office should be truthful.

**Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

**Endnotes**

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AYLING

## Application for Dispensation to the Standards Committee

Under Section 33 of the Localism Act 2011 Councillors and co-opted Members of the Council may, in limited circumstances, apply to the Standards Committee for a dispensation to speak and vote on a matter to be considered by the Council or one of its Committees despite having a Disclosable Pecuniary Interest (DPI) in it. Such a dispensation may only be granted by the Standards Committee if it fulfils one of the grounds set out below:-

- (a) without the dispensation the number of persons prohibited by Section 31(4) Localism Act 2011 from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business (i.e. the meeting would be inquorate);
- (b) without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
- (c) granting the dispensation is in the interests of persons living in the Council's area;
- (d) without the dispensation each member of the Council's Executive (The Cabinet) would be prohibited by Section 31(4) of the Localism Act 2011 from participating in any particular business to be transacted by the Council's Executive;
- (e) it is otherwise appropriate to grant a dispensation.

Any member who wishes to apply for such a dispensation from the Council is requested to complete the attached form and return it to the Director of Legal & Democratic Services.

Please return your completed form by email to [committeesection@southend.gov.uk](mailto:committeesection@southend.gov.uk) or to Robert Harris, Principal Democratic Services Officer, Floor 2, Civic Centre, by 5.00pm on **Monday 13<sup>th</sup> November 2017.**

## Southend-on-Sea Borough Council Standards Committee Dispensation Request Form

Please give full details of the following in support of your application for a dispensation.

If you need any help completing this form please contact the Monitoring Officer.

Your name	Brian Ayling
Decision-making body in respect of which you require a dispensation	Full Council
Details of your membership of that body	Member
The business for which you require a dispensation (refer to agenda item/minute number if appropriate)	Opposition Business – Rent Controls
Details of your interest in that business	Private sector landlord
Date of meeting or time period (up to 4 years) for which the dispensation is sought	T B A
Dispensation requested to participate, or participate further, in any discussion of that business by that body	YES
Dispensation requested to participate in any vote, or further vote, taken on that business by that body	YES
Full reasons why you consider a dispensation is necessary and which particular ground(s) of Section 33 the Localism Act you are referring to in your application (use additional sheet if necessary)	I am not a renting business as such as I have one flat rented to my son and his family at below affordable rate and I am the Treasurer of a Charity that rents one flat out but I also believe my experiences as a Landlord are relevant to the subject matter and thus giving any debate a democratic input

--	--

Signed ..*Brian Ayling* . . . . . Dated 06 Nov  
2017 . . . . .

**Please send your completed form for the attention of:**  
**Robert Harris (Principal Democratic Services Officer)**  
**Southend-on-Sea Borough Council**  
**Civic Centre (floor 2)**  
**Victoria Avenue**  
**Southend-on-Sea**  
**Essex SS2 6ER**  
**Or by email to: [committeesection@southend.gov.uk](mailto:committeesection@southend.gov.uk)**

09 NOV 2017

Please give full details of the following in support of your application for a dispensation.

If you need any help completing this form please contact the Monitoring Officer.

Your name	Helar Boyd
Decision-making body in respect of which you require a dispensation	Full Council. Place Scrutiny.
Details of your membership of that body	Council member
The business for which you require a dispensation (refer to agenda item/minute number if appropriate)	All Council meetings relating to discussion of landlord's interests
Details of your interest in that business	member with a pecuniary interest
Date of meeting or time period (up to 4 years) for which the dispensation is sought	For 4 years
Dispensation requested to participate, or participate further, in any discussion of that business by that body	<input checked="" type="radio"/> YES / <input type="radio"/> NO
Dispensation requested to participate in any vote, or further vote, taken on that business by that body	<input checked="" type="radio"/> YES / <input type="radio"/> NO
Full reasons why you consider a dispensation is necessary and which particular ground(s) of Section 33 the Localism Act you are referring to in your application (use additional sheet if necessary)	<p>As a member I want to represent <u>all</u> my residents and that includes landlords. my personal situation is a former home which I let to a lady at an agreed rent.</p> <p>There would be an imbalance at meetings if we landlords were excluded, especially as we are proportionately from the Conservatives in greater numbers.</p>

	There would not be a balance in all representative parties if the dispensation were not granted.
--	--

Signed: Rob Bayd .....

Dated: 7/11/17 .....

Please send your completed form for the attention of:

Robert Harris (Principal Democratic Services Officer)

Southend-on-Sea Borough Council

Civic Centre (floor 2)

Victoria Avenue

Southend-on-Sea

Essex SS2 6ER

Or by email to: [committeesection@southend.gov.uk](mailto:committeesection@southend.gov.uk)



## Southend-on-Sea Borough Council Standards Committee Dispensation Request Form

Please give full details of the following in support of your application for a dispensation.

If you need any help completing this form please contact the Monitoring Officer.

Your name	M. FAY EVANS
Decision-making body in respect of which you require a dispensation	COUNCIL DEMOCRATIC PROCESS
Details of your membership of that body	COUNCILLOR MEMBER
The business for which you require a dispensation (refer to agenda item/minute number if appropriate)	OPPOSITION BUSINESS LICENCING/RENT CONTROL
Details of your interest in that business	PRIVATE SECTOR LANDLORD
Date of meeting or time period (up to 4 years) for which the dispensation is sought	FOUR YEARS
Dispensation requested to participate, or participate further, in any discussion of that business by that body	YES
Dispensation requested to participate in any vote, or further vote, taken on that business by that body	YES
Full reasons why you consider a dispensation is necessary and which particular ground(s) of Section 33 the Localism Act you are referring to in your application (use additional sheet if necessary)	WITHOUT THE DISPENSATION THE REPRESENTATION OF DIFFERENT POLITICAL GROUPS ON THE BODY TRANSACTING ANY PARTICULAR BUSINESS WOULD BE SO UPSET AS TO ALTER THE LIKELY OUTCOME OF ANY VOTE RELATING TO THE BUSINESS

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Signed: Lay Evans

Dated: 10th NOVEMBER 2017

**Please send your completed form for the attention of:**

**Robert Harris (Principal Democratic Services Officer)**

**Southend-on-Sea Borough Council**

**Civic Centre (floor 2)**

**Victoria Avenue**

**Southend-on-Sea**

**Essex SS2 6ER**

**Or by email to: [committeesection@southend.gov.uk](mailto:committeesection@southend.gov.uk)**

**Southend-on-Sea Borough Council Standards Committee  
Dispensation Request Form**

10 NOV 2017  
Rec'd [Signature]

Please give full details of the following in support of your application for a dispensation.

If you need any help completing this form please contact the Monitoring Officer.

Your name	SONATHAN GARSTON
Decision-making body in respect of which you require a dispensation	Full Council
Details of your membership of that body	Elected member
The business for which you require a dispensation (refer to agenda item/minute number if appropriate)	compulsory licensing scheme and Rent Controls
Details of your interest in that business	Landlord of 3 properties in Southend
Date of meeting or time period (up to 4 years) for which the dispensation is sought	any meeting that discusses this issue up until 31/12/19
Dispensation requested to participate, or participate further, in any discussion of that business by that body	<input checked="" type="radio"/> YES / NO
Dispensation requested to participate in any vote, or further vote, taken on that business by that body	<input checked="" type="radio"/> YES / NO
Full reasons why you consider a dispensation is necessary and which particular ground(s) of Section 33 the Localism Act you are referring to in your application (use additional sheet if necessary)	Although I am a landlord I still represent residents and wish to do this with the compulsory licensing scheme



## **Application for Dispensation to the Standards Committee**

Under Section 33 of the Localism Act 2011 Councillors and co-opted Members of the Council may, in limited circumstances, apply to the Standards Committee for a dispensation to speak and vote on a matter to be considered by the Council or one of its Committees despite having a Disclosable Pecuniary Interest (DPI) in it. Such a dispensation may only be granted by the Standards Committee if it fulfils one of the grounds set out below:-

(a) without the dispensation the number of persons prohibited by Section 31(4) Localism Act 2011 from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business (i.e. the meeting would be inquorate);

(b) without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;

(c) granting the dispensation is in the interests of persons living in the Council's area;

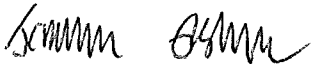
(d) without the dispensation each member of the Council's Executive (The Cabinet) would be prohibited by Section 31(4) of the Localism Act 2011 from participating in any particular business to be transacted by the Council's Executive;

(e) it is otherwise appropriate to grant a dispensation

Any member who wishes to apply for such a dispensation from the Council is requested to complete the attached form and return it to the Director of Legal & Democratic Services.

Please return your completed form by email to [committeesection@southend.gov.uk](mailto:committeesection@southend.gov.uk) or to Robert Harris, Principal Democratic Services Officer, Floor 2, Civic Centre, by 5.00pm on **Monday 13<sup>th</sup> November 2017.**

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Signed:  ..

Dated 10/11/17 .

**Please send your completed form for the attention of:**

**Robert Harris (Principal Democratic Services Officer)**

**Southend-on-Sea Borough Council**

**Civic Centre (floor 2)**

**Victoria Avenue**

**Southend-on-Sea**

**Essex SS2 6ER**

**Or by email to: [committeesection@southend.gov.uk](mailto:committeesection@southend.gov.uk)**

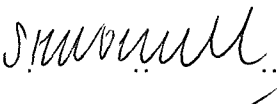
## Southend-on-Sea Borough Council Standards Committee Dispensation Request Form

Please give full details of the following in support of your application for a dispensation.

If you need any help completing this form please contact the Monitoring Officer.

Your name	CLAR STEPHEN JOHN HABERMAEL
Decision-making body in respect of which you require a dispensation	ANY MEETING WITHIN THE COUNCIL'S DEMOCRATIC PROCESS RELATING TO BELOW BUSINESS
Details of your membership of that body	ELECTED MEMBER OF SOUTHEND BOROUGH COUNCIL
The business for which you require a dispensation (refer to agenda item/minute number if appropriate)	OPPOSITION BUSINESS - RENT CONTROLS AND INCREASING OF LANDRORDS
Details of your interest in that business	PRIVATE SECTOR LANDRORD
Date of meeting or time period (up to 4 years) for which the dispensation is sought	4 YEARS
Dispensation requested to participate, or participate further, in any discussion of that business by that body	YES / <del>NO</del>
Dispensation requested to participate in any vote, or further vote, taken on that business by that body	YES / <del>NO</del>
Full reasons why you consider a dispensation is necessary and which particular ground(s) of Section 33 the Localism Act you are referring to in your application (use additional sheet if necessary)	<p>TO PARTICIPATE ON BEHALF OF RESIDENTS AND RESIDENT LANDRORDS AMKE.</p> <p>TO MAINTAIN PROPORTIONAL REPRESENTATION AND FAIRNESS ACROSS THE COUNCIL IN DEMOCRATIC DEBATE.</p>

--	--

Signed: 

Dated 10/11/2017 ..

**Please send your completed form for the attention of:**

**Robert Harris (Principal Democratic Services Officer)**

**Southend-on-Sea Borough Council**

**Civic Centre (floor 2)**

**Victoria Avenue**

**Southend-on-Sea**

**Essex SS2 6ER**

**Or by email to: [committeesection@southend.gov.uk](mailto:committeesection@southend.gov.uk)**

## Southend-on-Sea Borough Council Standards Committee Dispensation Request Form

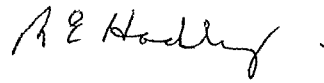
Please give full details of the following in support of your application for a dispensation.

If you need any help completing this form please contact the Monitoring Officer.

Your name	ROGER HADLEY
Decision-making body in respect of which you require a dispensation	Full Council and all relevant Committees
Details of your membership of that body	Councillor
The business for which you require a dispensation (refer to agenda item/minute number if appropriate)	Landlords ad Tenants
Details of your interest in that business	Landlord
Date of meeting or time period (up to 4 years) for which the dispensation is sought	4 Years
Dispensation requested to participate, or participate further, in any discussion of that business by that body	YES
Dispensation requested to participate in any vote, or further vote, taken on that business by that body	YES
Full reasons why you consider a dispensation is necessary and which particular ground(s) of Section 33 the Localism Act you are referring to in your application (use additional sheet if necessary)	As a Councillor I represent all my constituents including landlords

--	--

Signed . Coucillor Roger Hadley



.....

Dated 9<sup>th</sup> Nov ...2017. . . . .

**Please send your completed form for the attention of:**

**Robert Harris (Principal Democratic Services Officer)**

**Southend-on-Sea Borough Council**

**Civic Centre (floor 2)**

**Victoria Avenue**

**Southend-on-Sea**

**Essex SS2 6ER**

**Or by email to: [committeesection@southend.gov.uk](mailto:committeesection@southend.gov.uk)**

**Southend-on-Sea Borough Council Standards Committee**  
**Dispensation Request Form**

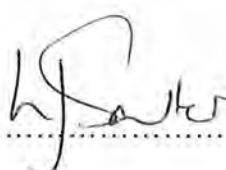
rec'd  
**10 NOV 2017**  
 TRP

Please give full details of the following in support of your application for a dispensation.

If you need any help completing this form please contact the Monitoring Officer.

Your name	LESLEY SALTER
Decision-making body in respect of which you require a dispensation	COUNCIL'S DEMOCRATIC PROCESSES (SCRUTINY + CABINET)
Details of your membership of that body	COUNCIL MEMBER
The business for which you require a dispensation (refer to agenda item/minute number if appropriate)	OPPOSITION BUSINESS RENT CONTROLS / LICENSING
Details of your interest in that business	PRIVATE SECTOR LANDLORD
Date of meeting or time period (up to 4 years) for which the dispensation is sought	4 YEARS
Dispensation requested to participate, or participate further, in any discussion of that business by that body	YES / <del>NO</del>
Dispensation requested to participate in any vote, or further vote, taken on that business by that body	YES / <del>NO</del>
Full reasons why you consider a dispensation is necessary and which particular ground(s) of Section 33 the Localism Act you are referring to in your application (use additional sheet if necessary)	GROUND B - POLITICAL BALANCE COULD BE UPSET DURING COUNCIL'S DEMOCRATIC PROCESSES - SCRUTINY, CABINET, FULL COUNCIL. GROUND C - THESE PROPOSALS AFFECT MANY PEOPLE ACROSS THE BOROUGH - AS AN ELECTED REPRESENTATIVE I SHOULD BE ABLE TO REPRESENT THEM. GROUND E - AS THE PORTFOLIO HOLDER

	FOR HOUSING WHEN SELECTIVE LICENSING WAS FIRST CONSIDERED, AND WHEN SEAL WAS INITIALLY SET UP, I SHOULD BE ABLE TO MAKE USE OF MY EXPERIENCE TO CONTRIBUTE TO THE DEBATE
--	---

Signed:  .....

Dated: 10. 11. 17 .....

**Please send your completed form for the attention of:**

**Robert Harris (Principal Democratic Services Officer)**

**Southend-on-Sea Borough Council**

**Civic Centre (floor 2)**

**Victoria Avenue**

**Southend-on-Sea**

**Essex SS2 6ER**

**Or by email to: [committeesection@southend.gov.uk](mailto:committeesection@southend.gov.uk)**



## Southend-on-Sea Borough Council Standards Committee Dispensation Request Form

Please give full details of the following in support of your application for a dispensation.

If you need any help completing this form please contact the Monitoring Officer.

Your name	CLAIR FLOYD WATERWORTH
Decision-making body in respect of which you require a dispensation	S.O.S. BOROUGH COUNCIL
Details of your membership of that body	COUNCILLOR
The business for which you require a dispensation (refer to agenda item/minute number if appropriate)	DEBATES IN RESPECT OF HOUSING, RENTS, DEVELOPMENT ETC.
Details of your interest in that business	PRIVATE LANDLORD
Date of meeting or time period (up to 4 years) for which the dispensation is sought	UP TO 4 YEARS
Dispensation requested to participate, or participate further, in any discussion of that business by that body	<input checked="" type="radio"/> YES / <input type="radio"/> NO
Dispensation requested to participate in any vote, or further vote, taken on that business by that body	<input checked="" type="radio"/> YES / <input type="radio"/> NO
Full reasons why you consider a dispensation is necessary and which particular ground(s) of Section 33 the Localism Act you are referring to in your application (use additional sheet if necessary)	GROUND (b). POLITICAL BALANCE MAY BE UPSET.

--	--

Signed: 

Dated: ...19... OCT. 2017

**Please send your completed form for the attention of:**

**Robert Harris (Principal Democratic Services Officer)**

**Southend-on-Sea Borough Council**

**Civic Centre (floor 2)**

**Victoria Avenue**

**Southend-on-Sea**

**Essex SS2 6ER**

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