

Public Document Pack

Steve Atkinson MA(Oxon) MBA FIoD FRSA
Chief Executive



Date: Deadline(pubagenda)

Hinckley & Bosworth
Borough Council

A Borough to be proud of

Dear Sir/Madam

I hereby summon you to attend a meeting of the Hinckley & Bosworth Borough Council in the MeetingLocation at these offices on **MEETINGDATE** at **MeetingTime**

Yours faithfully

A handwritten signature in black ink, appearing to read 'RK Owen'.

Miss RK Owen
Democratic Services Officer

AGENDA

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(a)

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COUNCIL – 19 JUNE 2012

**REPORT TITLE: THE LOCALISM ACT - STANDARDS
REPORT OF MONITORING OFFICER**

WARDS AFFECTED: ALL WARDS



Hinckley & Bosworth
Borough Council

A Borough to be proud of

1. **PURPOSE OF REPORT**

To update members of the changes to the system of regulation of standards of conduct for elected members of Councils following the Council meeting in April and the creation of the cross party working group. The report highlights changes and seeks Members agreement to the arrangements to implement the new regime.

2. **RECOMMENDATION**

2.1 That Council adopt the attached Code of Conduct at appendix 1.

2.2 That Council appoint a Committee to deal with the administration of complaints about Councillors and include the current remit of the Personnel Committee. Some options for names of this Committee and its constitution are referred to in para 3.3. Members are also asked to decide whether parish councillors should be co opted onto the Committee where complaints about parish councillors are being considered.

2.3 That Council adopt the process in flow chart form for dealing with complaints in appendix 2 and delegate the expansion and identifying the detail of this process to the Cross party working group chaired by the relevant Executive lead.

2.4 That Council appoints at least one "Independent person(s)" in accordance with paragraph 3.6 and appendix 3.

2.5 That Council note the attached Regulations concerning Pecuniary Interests appendix 4 and note the requirements relating to the completion of a register of interests within 28 days of 1 July 2012 identifying such interests. Council is asked to agree the contents of the attached register at appendix 5.

3. **BACKGROUND TO THE REPORT**

3.1 Chapter 7 of the Localism Act 2011 sets out the provisions in respect of the conduct of members under the new legislation. Chapter 7 is now in force in part to allow for the preparation of the new regime which comes into force on 1 July 2012. The Commencement Order and Regulations were laid on 8 June 2012. This has meant that the cross party working group has only been able to meet once before the Council meeting on 19 June 2012 and this report has had to be prepared at short notice as the 19 June Council meeting is the last meeting prior to the commencement and there is no other scheduled Council meeting until 18 September 2012.

3.2 The Act requires an Authority to adopt a Code of Conduct and the Commencement Order enables an Authority to adopt a code of conduct which will take effect on or after 1 July 2012. The attached Code of Conduct has been drafted by the Cross Party Working Group. Members are asked to adopt this Code of Conduct which will come into effect from 1 July 2012.

3.2 From 1 July 2012 the Standards Committee will cease to exist however the authority needs to put in place arrangements for dealing with complaints about councillors. It is a Council function, so the Council must either deal with it itself, appoint a Committee (politically balanced) or delegate the function to an officer. It is recommended by the

cross party working group that this be a Committee and that an existing Committee be expanded to incorporate the new role.

- 3.3 It is recommended that Personnel Committee be removed and a new Committee established incorporating the Terms of Reference of Personnel Committee and the responsibilities under this legislation. Members are asked to appoint 9 Members to this Committee with a political balance of 5 Liberal Democratic Councillors and 4 Conservative Councillors. The suggested names are
- People Resource Committee or
 - Ethical Governance and Personnel Committee
 - Member and Officer Conduct and Policy Committee
- 3.4 The Borough Council will continue to have responsibility for dealing with complaints about elected and co opted members of Parish and Town Council's in the Borough's area. As such the Council can choose to co opt non voting Parish Members on to any Committee delegated to carry out this function.
- 3.5 The Borough Council is responsible for administering the complaints process, and attached at appendix 2 is a flow chart as to how that should operate. This is the bones of the process, Council is asked to adopt this skeleton and delegate responsibility to flesh it out to the cross party working group. A brief description of the flow chart is as follows:
1. Informal Complaint received
 2. Monitoring Officer looks to resolve matter informally
 3. If there can not be a resolution - Initial fact finding by the Monitoring Officer to see if the member has a case to answer. This could include speaking to complainant and subject member, potentially speaking to the Parish Clerk and obtaining minutes of meetings.
 4. The Monitoring Officer drafts a report and makes a recommendation as to what should happen next in consultation with the Independent Person. This may be that the MO determines that there is No Action.
 5. Where the MO has not determined that there is No Action in line with the delegation to the MO, the fact finding report would be considered by a committee of the authority to determine whether or not the member has a case to answer
 6. Where there is no case to answer that would be the end of the matter. The Committee could decide that other action is warranted.
 7. Where there is a case to answer the committee can determine either that further investigation is needed or that a hearing of members of the Authority be arranged to consider whether there has been a breach.
 8. Where a hearing is arranged to consider whether there has been a breach the Subject Member and any relevant witness can be called and the Committee can then determine the matter and impose any necessary sanction
 9. The member would have a right of appeal against the sanction
- 3.6 Hinckley and Bosworth Borough Council must also appoint at least one Independent Person. Members are asked to appoint as many of the Independent Persons recommended by the Monitoring Officer as being eligible and suitable as possible. Thirteen applications were received and all applicants were interviewed. Nine individuals are recommended for appointment. All of those recommended are eligible, live in Leicestershire and are considered to be suitable for appointment to the role. A list and a brief resume are attached at appendix 3, due to the personal information and the scoring against the interview questions this appendix is exempt from disclosure.
- 3.7 It is for the Authority to determine what information should be provided in the register of interests, as long as it complies with the Act. The Register must include

"Disclosable Pecuniary Interests" which are defined by Regulations. In addition 'other interests' can also be defined as disclosable. Members are asked to approve the attached register at appendix 4.

3.8 It is also a requirement of the legislation that all registers of interests are available electronically on the Borough Councils website or on the Parish Council's website where they have one.

3.9 The required Changes to the Constitution will be made immediately and the Constitution will be brought to the next meeting of the Council for approval.

The changes which are required will be

1. Removal of the Standards Committee responsibilities

2. Removal of the Personnel Committee and reallocating those duties with the new Committee. In setting up this Committee members should give due regard to the fact that if political bias is adopted in the assessment of complaints then this would undermine the process as a whole.

3. Council Procedure Rules amended to deal with declarations of Pecuniary Interests and leaving the meeting where a Member declares a Pecuniary Interest.

4. FINANCIAL IMPLICATIONS AB

None. It is anticipated the changes will be met within existing resources

5. LEGAL IMPLICATIONS LH

Contained within the body of the report

6. CORPORATE PLAN IMPLICATIONS

Strong and Distinctive Communities

7. CONSULTATION

Standards Committee, Leicestershire ACSeS.

8. RISK IMPLICATIONS

The Localism Act requires these changes to be made and as such if they are not the Authority will be acting unlawfully.

9. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

All complainants and councillors will be treated equally and fairly and in accordance with the principles of natural justice.

10. CORPORATE IMPLICATIONS

- none

Background papers: Previous standards reports and Legislation

Contact Officer: Louisa Horton x 5859
Executive Member: Councillor Bron Witherford

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CODE OF CONDUCT OF HINCKLEY AND BOSWORTH BOROUGH COUNCIL

You are a member or co opted member of Hinckley and Bosworth Borough Council and as such when performing your role as a member or co opted member you are bound by this Code of Conduct. This code also applies to you in your private life if you are convicted of a criminal offence.

1. Obligations

You will:-

- (a) Have regard to the Nolan principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- (b) Strive to establish respectful and courteous relationships with everyone you come into contact with as a Member.
- (c) Follow adopted corporate operational policies of the Council.
- (d) Not disclose or use confidential information for any other purpose other than that provided by the law.
- (e) Use council resources for the undertaking of the Council duties and not for any other purposes.

2. Disclosable Pecuniary Interests

2.1 Subject to Paragraph 5 (sensitive interests), you must within 28 days of

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

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

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

and you are aware that that person has the interest

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

2.3 You have a Disclosable Pecuniary Interest if it is of a description specified in Regulations made by the Secretary of State

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

Appendix 1 – The Nolan Principles

- (i) **Selflessness** You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family or a friend or close associate.
- (ii) **Integrity** You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
- (iii) **Objectivity** When carrying out your public business, you must make all choices, such as making public appointments, awarding contracts, or recommending individuals for rewards and benefits, on merit.
- (iv) **Accountability** You are accountable for your decisions to the public and you must cooperate fully with whatever scrutiny is appropriate to your office.
- (v) **Openness** You must be as open as possible about your decisions and actions and the decisions and actions of your Authority and should be prepared to give reasons for those decisions and actions.
- (vi) **Honesty** You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests
- (vii) **Leadership** You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

Appendix 2 - Definitions

“Meeting” means any meeting of the Authority, the Executive, Cabinet, any of the Authority’s committees, sub-committees, joint committees, joint sub-committees, or area committees;

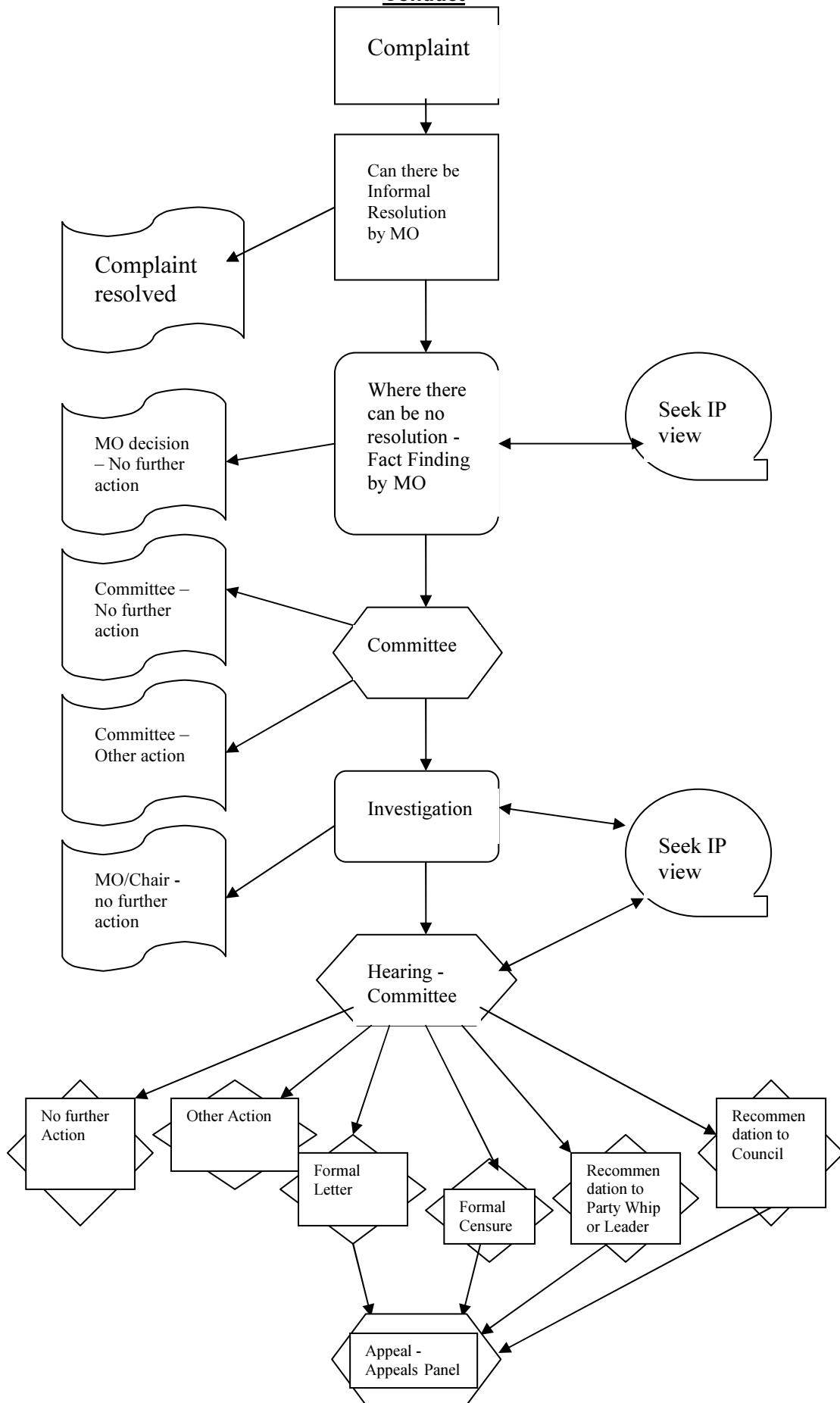
“Member” means any person being an elected or co-opted member of the Authority and any independent person appointed by the Authority to assist with the discharge of the Code of Conduct functions.

In relation to a **parish council**, references to an authority's Monitoring Officer is the Monitoring Officer of the Borough Council

In relation to **corporate operational policies** these are policies such as personnel policies, financial procedure rules, equalities policies or IT policies.

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Flow Chart for Proposed Assessment of Complaints about breaches of the Code of Conduct



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By virtue of paragraph(s) 1, 10 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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2012 No. 1464

LOCAL GOVERNMENT, ENGLAND

**The Relevant Authorities (Disclosable Pecuniary Interests)
Regulations 2012**

<i>Made</i>	- - - -	<i>6th June 2012</i>
<i>Laid before Parliament</i>		<i>8th June 2012</i>
<i>Coming into force</i>	- -	<i>1st July 2012</i>

The Secretary of State, in exercise of the powers conferred by sections 30(3) and 235(2) of the Localism Act 2011(a), makes the following Regulations.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and shall come into force on 1st July 2012.

(2) In these regulations—

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

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

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

“M” means a member of a relevant authority;

“member” includes a co-opted member;

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

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

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

(a) 2011 c.20.
(b) 2000 c. 8.

Specified pecuniary interests

2. The pecuniary interests which are specified for the purposes of Chapter 7 of Part 1 of the Act are the interests specified in the second column of the Schedule to these Regulations.

Signed by authority of the Secretary of State for Communities and Local Government

Grant Shapps
Minister of State

6th June 2012

Department for Communities and Local Government

SCHEDULE

Regulation 2

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of

(a) 1992 c. 52.

business or land in the area of the relevant authority; and

(b) either—

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 30 of the Localism Act 2011 provides that a member or co-opted member of a relevant authority as defined in section 27(6) of the Localism Act 2011, on taking office and in the circumstances set out in section 31, must notify the authority's monitoring officer of any disclosable pecuniary interest which that person has at the time of notification. These Regulations specify what is a pecuniary interest. Section 30(3) of the Act sets out the circumstances in which such an interest is a disclosable interest.

A full impact assessment has not been produced for these Regulations as no impact on the private or voluntary sectors is foreseen.

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REGISTER OF MEMBERS' INTERESTS

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

I, *(full name) (capitals)*

a Member/Co-opted Member (M) of theCouncil

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

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

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

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

(iii) Contracts – Any Contract which is made between the relevant person (or a body in which the person has a beneficial interest) and the relevant authority – (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged

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

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

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

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

OTHER INTERESTS

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

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

(b) The interests of any person from whom you have received a gift or hospitality with an estimated value of at least £100

SENSITIVE INTERESTS

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

MEMBER'S SIGNATURE

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

NOTIFICATION OF CHANGE OF CIRCUMSTANCES

A Member must, within 28 days of becoming aware of any change to the interests specified above, provide written notification to the Parish Clerk and/OR Monitoring Officer of that change at the Council Offices, Argents Mead, Hinckley, Leicestershire, LE10 1BZ

RECEIPT BY MONITORING OFFICER

Date received by the Council	
Signature of Monitoring Officer	