

# ARRANGEMENTS FOR DEALING WITH MEMBER COMPLAINTS



## 1. Context

These “Arrangements” set out how a Complainant may make a complaint that an elected or co-opted Member of Rother District Council or of a Parish or Town Council within the District has failed to comply with their authority’s Code of Conduct, and sets out how Rother District Council (“the Council”) will deal with allegations of a failure to comply with the relevant authority’s Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, (“The Act”) the Council must have in place “arrangements” under which allegations that a Member or co-opted Member of the authority or of a Parish or Town Council within the District, or of a Committee or Sub-Committee of the authority, has failed to comply with that authority’s Code of Conduct can be investigated and decisions made on such allegations.

The Council has appointed two Independent Persons, the view of one of which must be sought by the Council before it makes a decision on an allegation which it has decided shall be investigated. Their views may be sought by the Council at any other stage, or by a Subject Member, against whom an allegation has been made that they have breached the Code of Conduct, in cases when the complaint has been referred for an investigation only.

## 2. The Code of Conduct

The Council has adopted a Code of Conduct for Members, which is attached as Appendix 2 to these arrangements and is available for inspection on the District Council’s website and on request from the Community Help Point at Town Hall, Bexhill.

Each Parish or Town Council within the District is also required to adopt a Code of Conduct and, if they have a website, to publish it there. If the Complainant wishes to inspect a Parish or Town Council’s Code of Conduct, the Complainant should inspect the website operated by the Parish/Town Council or request the Parish/Town Clerk to allow the Complainant to inspect the Parish or Town Council’s Code of Conduct document.

## 3. Making a complaint

If a Complainant wishes to make a complaint, they can either complete the Members’ Code of Conduct Complaint Form which is available on request from the Council’s Community Help Point or can be found on our website at:  
<http://www.rother.gov.uk/article/369/Members-Code-of-Conduct>

and send to:

The Monitoring Officer  
Rother District Council  
Town Hall  
Bexhill-on-Sea  
East Sussex  
TN39 3JX

or: [standards@rother.gov.uk](mailto:standards@rother.gov.uk)

Complainants can also email their complaint direct to the email address above or use the on-line complaint form at the following link:

<https://www.rother.gov.uk/accessing-council-services/members-code-of-conduct/>

The Monitoring Officer has a statutory responsibility for maintaining the Register of Members' Interests and is responsible for administering the system in respect of complaints of Member misconduct for both District and Parish and Town Councillors. Copies of Members' Register of Interests are available on the Council's website and the Parish and Town Council websites where they have one.

In order to ensure that the Council has all the relevant information to process a complaint, Complainants are advised to complete and send the Complaint Form, which can be downloaded from the District Council's website, next to the Code of Conduct, and is available on request from the Council's Community Help Point. Failure to provide all the relevant information may result in a delay in processing the complaint.

The Complainant must provide their name and a contact address or email address, so that the Council can acknowledge receipt of their complaint and keep them informed of its progress. If the Complainant wishes to keep their name and address confidential, they must indicate this in the space provided on the complaint form, and if it is agreed by the Council's Monitoring Officer, in consultation with one of the Independent Persons, the Council will not disclose their name and address to the person against whom they are making the complaint (the "Subject Member"), without their prior consent. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The Monitoring Officer will acknowledge receipt of a complaint within five working days of receiving it, and will keep the Complainant informed of the progress of the complaint. The Monitoring Officer will also let the Subject Member know that a complaint has been received against them, by whom and the nature of the complaint.

#### **4. Will the complaint be investigated?**

The Monitoring Officer will review every complaint received and submit each complaint to a triage process, attached at Appendix 1. The aim of the triage process is to sift out any vexatious or frivolous complaints efficiently and at an early stage while ensuring all legitimate complaints proceed in a timely manner.

The decision at triage stage will normally be made within 7 working days of receipt of the complaint.

If the complaint proceeds beyond the triage stage, then the Monitoring Officer, or their Deputy will make a decision as to whether the complaint merits formal investigation, after consultation with one of the Independent Persons.

This decision will normally be made within 10 working days of receipt of a complaint. The Monitoring Officer will decide a complaint does not merit investigation if:

- It is about someone who is no longer a Member of the relevant Council, or
- There has been a delay of more than six months since the matter complained of occurred (unless the Monitoring Officer is of the view that exceptional circumstances exist to allow an extension of time), or
- The complaint appears to be minor, politically motivated, vexatious and malicious or it is not otherwise appropriate to warrant further action.

This list is not intended to be exhaustive and the Monitoring Officer may decide that a complaint does not merit formal investigation for any other reason which appears to them to be appropriate.

The Monitoring Officer retains the discretion to refer the decision as to whether a complaint merits an investigation to the Standards Committee if it appears appropriate to do so.

When the Monitoring Officer or the Standards Committee have made a decision, the Monitoring Officer will inform the Complainant of the decision and the reasons for it.

Where the Monitoring Officer requires additional information in order to come to a decision, they may revert to the Complainant for such information. The Monitoring Officer may also request information from the Member against whom the complaint is directed. Where a complaint relates to a Parish or Town Councillor or co-opted member, the Monitoring Officer may also inform the Parish or Town Council of that complaint and seek the views of the Parish or Town Council Clerk before deciding whether the complaint merits formal investigation.

Where it appears appropriate to do, the Monitoring Officer may seek to resolve a complaint informally, without the need for a formal investigation. Such informal resolutions may involve the Subject Member admitting that their conduct was unacceptable and offering an apology, or other remedial action being taken by the authority to resolve the complaint. Subject Members are required to respond to the Monitoring Officer within five working days of receiving a suggested local resolution. Where the Subject Member or the authority makes a reasonable offer of local resolution, but the Complainant is not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation. Also, in cases, where the Monitoring Officer suggests an informal local resolution, but the Subject Member is not willing to accept such an offer, the Monitoring Officer, in consultation with the Independent Person, will take account of this in deciding whether the complaint merits a formal investigation or if the facts are so straight forward that it should simply proceed to a Council Hearing Panel accompanied

by a report of the Monitoring Officer. In such cases the Monitoring Officer, after consulting the Independent Person, must be satisfied that no or very little additional evidence could be gained by a formal investigation and it would be in the public interest to simply proceed to a Hearing rather than incur the additional expense or resource in undertaking an investigation. It is only in these circumstances that the Monitoring Officer may refer the complaint directly to the Council's Hearing Panel.

If the complaint identifies criminal or regulatory misconduct by the Subject Member, or any other person, the Monitoring Officer may, without further reference to the Complainant, call in the Police or other regulatory agencies.

## **5. How is the investigation conducted?**

The Council has adopted a procedure for the investigation of complaints that the Code of Conduct has been breached, which is attached as Appendix 3 to these Arrangements.

If the Monitoring Officer decides that a complaint merits formal investigation, they will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. It is the responsibility of the Monitoring Officer to oversee the work of the Investigating Officer and to ensure that the investigation is carried out fairly and efficiently. The Investigating Officer will decide whether it is necessary to meet or speak to the Complainant in order to understand the nature of the complaint. They may do so in order that the Complainant can explain their understanding of events and make representations as to what documents the Investigating Officer may wish to see, and who the Investigating Officer may wish to interview.

The Investigating Officer will contact the Subject Member against whom a complaint has been made and provide them with a copy of the complaint. They will ask the Subject Member to provide their explanation of events and to identify the documents which are available to the Subject Member which the Investigating Officer may wish to see and who they may wish to interview. In exceptional cases, where it is appropriate to keep the Complainant's identity confidential or disclosure of details of the complaint to the Subject Member might prejudice the investigation, the Monitoring Officer may delete the Complainant's name and address from the papers given to the Subject Member, or delay notifying the Subject Member until the investigation has progressed to a point where it is appropriate to do so.

At the end of their investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to the Complainant and the Subject Member concerned, to give both an opportunity to identify and make representations on any matter in the draft report which they disagree with or which they believe requires more consideration.

Having received and considered any comments which the Complainant and Subject Member may make on the draft report, the Investigating Officer will send their final report to the Monitoring Officer.

6. **What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**

The Monitoring Officer will review the Investigating Officer's report and, if they are satisfied that the Investigating Officer's report identifies and addresses all relevant issues relating to the complaint, the Monitoring Officer will write to the Complainant and the Subject Member concerned (and to the Parish or Town Council, where the complaint relates to a Parish or Town Councillor), notifying them that they are satisfied that no further action is required and give them both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly they may ask the Investigating Officer to reconsider their report or make other arrangements to review the investigation.

7. **What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?**

The Monitoring Officer will review the Investigating Officer's report and, after consulting the Independent Person, either seek local resolution or refer the matter to the Council's Hearing Panel.

7.1 Local Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, they will consult with the Independent Person and the Complainant and seek to agree fair resolution and which also ensures high standards of conduct for the future. Such resolution may include the Subject Member accepting that their conduct was in breach of the Code of Conduct and, for example, offering an apology, and/or agreeing to other remedial action – such as training, mentoring or mediation. If the Subject Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee (and, where appropriate, to the Parish or Town Council for information), but will take no further action. However, if the Complainant tells the Monitoring Officer that they do not consider any suggested resolution would be adequate, the Monitoring Officer may decide to refer the matter for a local hearing.

7.2 Local Hearing

If the Monitoring Officer considers that local resolution is not appropriate, or the Complainant is not satisfied by the result of the attempt at Local Resolution and the Monitoring Officer agrees with the Complainant's representations, or the Subject Member concerned is not prepared to undertake the proposed remedial action, then the Monitoring Officer will refer the Investigating Officer's report to the Hearings Panel – which will conduct a local hearing before deciding whether the Subject Member has failed to comply with the Code of Conduct and, if so, whether and what action to take (if any) in respect of the non-compliance of the Subject Member.

The Council has agreed a procedure for local hearings, which is attached as Appendix 4 to these arrangements.

In summary, the Monitoring Officer will conduct a “pre-hearing process”, requiring the Subject Member to give their response to the Investigating Officer’s report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing. In conjunction with the Monitoring Officer, the Chair of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted.

Where a hearing is considered necessary, the Investigating Officer will present their report, call such witnesses as they may consider necessary and make representations to support their conclusion that the Subject Member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask the Complainant, and their witnesses, to attend and give evidence to the Hearings Panel. The Subject Member will then have an opportunity to give their evidence, to call witnesses and to make representations to the Hearings Panel as to why they believe that they have not failed to comply with the Code of Conduct.

Having heard evidence the Members of the Hearing Panel may consider their view in public or retire to do so privately. During such deliberations the voting members of the Hearing Panel will consult with and seek the view of the Independent Person (and, where the Subject Member is a member of a Parish or Town council, with the Parish/Town Council representative on the Hearing Panel).

If the Hearing Panel concludes that the Subject Member did not fail to comply with the Code of Conduct, they will dismiss the complaint. Alternatively, if the Hearing Panel concludes that the Subject Member breached the Code of Conduct, the Chair will inform the Subject Member of this finding and the Hearing Panel will then consider what, if any action, the Hearing Panel should take as a result of the Subject Member’s failure to comply with the Code of Conduct. In doing so the Chair will give the Investigating Officer and Subject Member an opportunity to make representations to the Hearing Panel. When considering what, if any, further action will be taken, the voting members of the Hearing Panel will consult with and take the view of the Independent Person into account (and, where the Subject Member is a member of a Parish or Town Council, with the Parish/Town Council representative on the Hearing Panel).

## **8. Membership of the Hearing Panel**

The Hearing Panel is a Sub-Committee of the Council’s Standards Committee. It will generally consist of three District Councillors. The full Standards Committee also includes two Independent Persons. Under the terms of the Act, there is a mandatory requirement for the Monitoring Officer to consult one of the Independent Persons when considering whether a complaint will be investigated – as detailed at paragraph 4. Additionally, the Independent Person who sits on the Hearing Panel does not have a right to vote on decisions made at the Hearing, their views will be sought and taken into account both when the Hearing Panel makes a decision on whether the Subject Member’s conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct. The full Standards Committee also includes two Parish/Town Council representatives. Where the Hearing Panel is dealing with a complaint against a Parish or Town Councillor one of the Parish/Town Council members of the

Standards Committee will also be present. Although the Parish/Town Council representative does not have a right to vote on decisions made by the Hearing Panel, their views will be sought in a similar way to those of the Independent Person.

**9. Who are the Independent Persons?**

The Act requires the Council to appoint at least one Independent Person to assist the Monitoring Officer, as a consultee, during the pre-investigation, investigation, pre-hearing and hearing process. The same Independent Person will be used throughout each case to ensure consistency and knowledge of the complaint at each stage of the process, as necessary. The role of the Independent Person is to represent the public interest and not to provide advice to or represent the Subject Member. The Independent Persons may also assist the Council by acting as a broker between parties in cases where there is dissatisfaction on one or both sides to a complaint, where an attempt has been made to resolve a complaint by a local resolution.

The Council has appointed two such Independent Persons in order that the business of the Standards Committee can be dealt with efficiently and to reduce the likelihood of a conflict of interest causing delay. Such Independent Persons applied for the post following public advertisement of the vacancy, and have been appointed by a positive vote from a majority of all the Members of the Council. The current term of office of an Independent Person is four years.

The definition in the Act of an Independent Person is anyone who is not currently:

- (i) a Member, co-opted Member or officer of the authority,
- (ii) a Member, co-opted Member or officer of a Parish or Town Council of which the authority is the principal authority, or
- (iii) a relative, or close friend, of a person within sub-paragraph (i) or (ii) above.

**10. What action can the Hearing Panel take where it has found that the Subject Member has failed to comply with the Code of Conduct?**

The Council has delegated to the Hearing Panel its powers to take action in respect of complaints against individual Members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearing Panel may:

- 10.1 Publish its findings in respect of the Subject Member's conduct.
- 10.2 Write a formal letter to the Subject Member found to have breached the Code.
- 10.3 Report its findings to the Council or to the Parish or Town Council for information.
- 10.4 Seek formal censure by motion.
- 10.5 Recommend to the Subject Member's Group Leader (or in the case of Subject Members who do not belong to a political group recommend to

Council or to Committees) that they be removed from any or all Committees or Sub-Committees of the Council.

- 10.6 In the case of a District Councillor recommend to the Leader of the Council that the Subject Member be removed from the Cabinet, or removed from particular Portfolio responsibilities.
- 10.7 Instruct the Monitoring Officer to, or recommend that the Parish or Town Council arrange mentoring, training, mediation or other appropriate remedy, for the Subject Member.

The Hearing Panel has no power to suspend or disqualify the Subject Member from office or to withdraw their Basic or any Special Responsibility Allowances.

## **11. What happens at the end of the Hearing?**

Having heard all the evidence, the Chair will state the decision of the Hearing Panel as to whether the Subject Member has been found to have failed to comply with the Code of Conduct. If such a finding has been made, and having heard representations from the Investigating Officer and the Subject Member, the Chair will state the actions which the Hearing Panel resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer will prepare a formal Decision Notice, to be signed by the Chair of the Hearing Panel. The Monitoring Officer will send a copy to the Complainant, Subject Member and, where applicable, to the Parish or Town Council. The Monitoring Officer will also make the Decision Notice available for public inspection and report the decision to the next meeting of the Council's Standards Committee.

## **12. Appeals**

There is no right of appeal for the Complainant or for the Subject Member against a decision of the Monitoring Officer or of the Hearings Panel.

If complainants feel that the Council has failed to deal with any aspect of the complaint properly, they may make a complaint to the Local Government and Social Care Ombudsman.

Reviewed: December 2025



### **Rother District Council Triage Procedure for Minor, Malicious and Vexatious Complaints**

This Procedure is to provide guidance for the Monitoring Officer in assessing whether a complaint against an elected Member should be dismissed at an early stage and intends to sift out any vexatious or frivolous complaints efficiently, while ensuring all legitimate complaints proceed in a timely manner.

This triage stage will be considered before the initial assessment stage of the arrangements for dealing with Member complaints and will be undertaken by the Monitoring officer or their deputy without the involvement of the Independent Person.

#### **Triage Criteria.**

- The complaint must be against an elected Member (Subject Member)
- The elected Subject Member was in office at the time
- The seriousness of the complaint and motivation e.g. tit for tat, politically motivated or motivated by local disagreements
- Does the complaint refer to a matter which has been subject to a similar complaint in the last six months
- Does the complaint relate to a matter which occurred over six months ago
- Does the complaint relate to a matter which should have been dealt with at a local level at the time of the incident e.g. the Chair should have sought an apology at the time
- It would not be in the public interest to proceed with the matter

If the Monitoring Officer, or their deputy, considers that the complaint should be dismissed at the triage stage, then the Complainant will be advised of the same and the Subject Member will also be advised that a complaint was received, but that it was rejected at the triage stage.

There will be no right to appeal the decision, but the parties will be advised that they can refer any concerns regarding the handling of the complaint to the Local Government Ombudsman.



# MEMBERS' CODE OF CONDUCT

## DEFINITIONS

For the purposes of this Code of Conduct, a “Councillor” means a Member or Co-opted Member of a Local Authority or a directly Elected Mayor. A “Co-opted Member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who:

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “Local Authority” includes County Councils, District Councils, London Borough Councils, Parish Councils, Town Councils, Fire and Rescue Authorities, Police Authorities, Joint Authorities, Economic Prosperity Boards, Combined Authorities and National Park Authorities.

## PURPOSE OF THE CODE OF CONDUCT

The purpose of this Code of Conduct is to assist you, as a Councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow Councillors, Local Authority officers and the reputation of Local Government. It sets out general principles of conduct expected of all Councillors and your specific obligations in relation to standards of conduct. The Local Government Association encourages the use of support, training and mediation prior to action being taken using the Code of Conduct. The fundamental aim of the Code of Conduct is to create and maintain public confidence in the role of Councillor and Local Government.

## GENERAL PRINCIPLES OF COUNCILLOR CONDUCT

Everyone in public office at all levels; all who serve the public or deliver public services, including Ministers, Civil Servants, Councillors and Local Authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of Councillor.

**In accordance with the public trust placed in me, on all occasions:**

- I act with integrity and honesty.
- I act lawfully.
- I treat all persons fairly and with respect; and

- I lead by example and act in a way that secures public confidence in the role of Councillor.

### **In undertaking my role:**

- I impartially exercise my responsibilities in the interests of the local community.
- I do not improperly seek to confer an advantage, or disadvantage, on any person.
- I avoid conflicts of interest.
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my Local Authority's requirements and in the public interest.

## **APPLICATION OF THE CODE OF CONDUCT**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Councillor or attend your first meeting as a Co-opted Member and continues to apply to you until you cease to be a Councillor.

This Code of Conduct applies to you when you are acting in your capacity as a Councillor which may include when:

- you misuse your position as a Councillor; and
- your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a Councillor;

The Code of Conduct applies to all forms of communication and interaction, including:

- at face-to-face meetings;
- at online or telephone meetings;
- in written communication;
- in verbal communication;
- in non-verbal communication; and
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a Councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Parish and Town Councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

## **STANDARDS OF COUNCILLOR CONDUCT**

This section sets out your obligations, which are the minimum standards of conduct required of you as a Councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

## **GENERAL CONDUCT**

### **1. Respect**

#### **AS A COUNCILLOR:**

- 1.1 I treat other Councillors and members of the public with respect.**
- 1.2 I treat Local Authority employees, employees and representatives of partner organisations and those volunteering for the Local Authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the Local Authority, the relevant social media provider or the Police. This also applies to fellow Councillors, where action could then be taken under the Councillor Code of Conduct, and Local Authority employees, where concerns should be raised in line with the Local Authority's Councillor-officer protocol.

### **2. Bullying, Harassment and Discrimination**

#### **AS A COUNCILLOR:**

- 2.1 I do not bully any person.**
- 2.2 I do not harass any person.**
- 2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to

impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the Local Authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

### **3. Impartiality of officers of the Council**

#### **AS A COUNCILLOR:**

#### **3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the Local Authority.**

Officers work for the Local Authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

### **4. Confidentiality and Access to Information**

#### **AS A COUNCILLOR:**

#### **4.1 I do not disclose information:**

- a. given to me in confidence by anyone
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless
  - i. I have received the consent of a person authorised to give it;
  - ii. I am required by law to do so;
  - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
  - iv. the disclosure is:
    - 1. reasonable and in the public interest; and
    - 2. made in good faith and in compliance with the reasonable requirements of the Local Authority; and
    - 3. I have consulted the Monitoring Officer prior to its release.

#### **4.2 I do not improperly use knowledge gained solely as a result of my role as a Councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

**4.3 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

**5. Disrepute**

**AS A COUNCILLOR:**

**5.1 I do not bring my role or local authority into disrepute.**

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other Councillors and/or your Local Authority and may lower the public's confidence in you or your Local Authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your Local Authority into disrepute.

You are able to hold the Local Authority and fellow Councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the Council whilst continuing to adhere to other aspects of this Code of Conduct.

**6. Use of Position**

**AS A COUNCILLOR:**

**6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a Member of the Local Authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

**7. Use of Local Authority Resources and Facilities**

**AS A COUNCILLOR:**

**7.1 I do not misuse Council resources.**

**7.2 I will, when using the resources of the Local Authority or authorising their use by others:**

- a. act in accordance with the Local Authority's requirements; and**

- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the Local Authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the Local Authority to assist you in carrying out your duties as a Councillor.

Examples include: office support; stationery; equipment such as phones, and computers; transport; and access and use of Local Authority buildings and rooms.

These are given to you to help you carry out your role as a Councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the Local Authority's own policies regarding their use.

## **8. Complying with the Code of Conduct**

### **AS A COUNCILLOR:**

- 8.1 I undertake Code of Conduct training provided by my Local Authority.**
- 8.2 I co-operate with any Code of Conduct investigation and/or determination.**
- 8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**
- 8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a Councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the Local Authority or its governance. If you do not understand or are concerned about the Local Authority's processes in handling a complaint you should raise this with your Monitoring Officer.

## **Protecting your Reputation and the Reputation of the Local Authority**

### **9. Interests**

#### **AS A COUNCILLOR:**

- 9.1 I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the Authority.

You need to register your interests so that the public, Local Authority employees and fellow Councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an

interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other Councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

**Appendix B** sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## **10. Gifts and Hospitality**

### **AS A COUNCILLOR:**

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the Local Authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.**
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the Local Authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a Councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a Councillor. If you are unsure, do contact your Monitoring Officer for guidance.

## **DISPENSATION POLICY**

- 1. Where a Member is prohibited from voting on or participating in discussions on matters in which they have a disclosable pecuniary interest or other registerable interest or non-registerable interest, a Member may on written notice to the Monitoring Officer (by letter or email) request the grant of a dispensation to permit them to participate in the voting or discussions on such matters. A proforma is attached for this purpose.**



2. Any written notice given by a Member to the Monitoring Officer in accordance with paragraph 1 above must:
  - (a) Be given:
    - (i) At least five working days before a meeting at which the relevant matter falls to be discussed; or
    - (ii) At least 24 hours before a meeting at which the relevant matter falls to be discussed, exceptionally, where circumstances required, and at the absolute discretion of the Monitoring Officer.
  - (b) Provide details of the matter to be voted on or discussed at a meeting and the nature of the Member's interest in that matter.
  - (c) Specify the grounds on which the dispensation is applied for in accordance with paragraph 3 below.
  - (d) Specify whether a dispensation is requested for a single meeting or on an on-going basis (up to a maximum of four years).
3. A dispensation requested under paragraph 1 may be granted only if, after having regard to all relevant considerations, the Monitoring Officer is satisfied that one of the following grounds for the grant of dispensations applies:
  - (a) Without the dispensation the number of persons prohibited 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 (quoracy); or
  - (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 (political balance); or
  - (c) Granting the dispensation is in the interests of persons living in the authority's area; or
  - (d) Without the dispensation, each Member of the authority's executive would be prohibited by Section 31(4) of the act from participating in any particular business to be transacted by the authority's executive; or
  - (e) Considers that it is otherwise appropriate to grant a dispensation.
4. For the avoidance of doubt, a dispensation will not be granted to any Member to speak to and/or vote on any regulatory matter in which they have a Disclosable Pecuniary Interest, such as their own planning / licensing application.
5. A dispensation granted in accordance with this policy must:
  - (a) Specify the period for which it is granted which must not exceed four years; and
  - (b) Specify whether the dispensation allows the Member to take part in

discussions on and/or vote on the matter in which they have a disclosable pecuniary interests or other registerable interest or non-registerable interest.

6. Any Member who has been granted a dispensation must declare the nature and existence of the dispensation before the commencement of any business to which the dispensation relates.
7. A copy of the dispensation shall be kept with the Register of Members' Interests and reported to the next Standards Committee meeting which considered standards-related matters.

## APPLICATION FOR A DISPENSATION

<b>Councillor:</b>			
<b>Date applied:</b>		<b>Date / Meeting required:</b>	
<b>State the details of the matter / and nature of your interest:</b>			
<b>Specify the grounds you believe apply:</b>	<p>I believe I should be granted a dispensation on the following grounds (delete those that do not apply):</p> <ul style="list-style-type: none"> <li>(a) Without the dispensation the number of persons prohibited 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 (quoracy); or</li> <li>(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 (political balance); or</li> <li>(c) Granting the dispensation is in the interests of persons living in the authority's area; or</li> <li>(d) Without the dispensation each member of the authority's executive would be prohibited by Section 31(4) of the act from participating in any particular business to be transacted by the authority's executive; or</li> <li>(e) Considers that it is otherwise appropriate to grant a dispensation - give reasons here:</li> </ul>		
<b>Period:</b>	<p>I would like the dispensation to apply (please delete):</p> <ul style="list-style-type: none"> <li>(a) For the whole term of my current office (maximum 4 years); OR</li> <li>(b) For the meeting stated above only.</li> </ul>		



## THE SEVEN PRINCIPLES OF PUBLIC LIFE

The principles are:

**1. Selflessness**

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

**2. 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 disclose and resolve any interests and relationships.

**3. Objectivity**

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

**4. 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.

**5. 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.

**6. Honesty**

Holders of public office should be truthful.

**7. 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.

## REGISTERING INTERESTS

Within 28 days of becoming a Member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in “The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012”. You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

**“Disclosable Pecuniary Interest”** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**“Partner”** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A ‘sensitive interest’ is as an interest which, if disclosed, could lead to the Councillor, or a person connected with the Councillor, being subject to violence or intimidation.
3. Where you have a ‘sensitive interest’ you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

## NON-PARTICIPATION IN CASE OF DISCLOSABLE PECUNIARY INTEREST

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a Disclosable Pecuniary Interest.
5. [Where you have a Disclosable Pecuniary Interest on a matter to be considered or is being considered by you as a Cabinet Member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it].

## DISCLOSURE OF OTHER REGISTERABLE INTERESTS

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain

in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

## DISCLOSURE OF NON-REGISTERABLE INTERESTS

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects**:
  - a) your own financial interest or well-being;
  - b) financial interest or well-being of a relative or close associate; or
  - c) a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2** you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied.
9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:
  - a) to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest.

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
10. [Where you have an Other Registrable Interest or Non-Registrable Interest on a matter to be considered or is being considered by you as a Cabinet Member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it].

**TABLE 1: DISCLOSABLE PECUNIARY INTERESTS**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

<b>SUBJECT</b>	<b>DESCRIPTION</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<b>Sponsorship</b>	<p>Any payment or provision of any other financial benefit (other than from the Council) made to the Councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a Councillor, or towards his/her election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
<b>Contracts</b>	<p>Any contract made between the Councillor or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the Council:</p> <p>a) under which goods or services are to be provided or works are to be executed; and</p> <p>b) which has not been fully discharged.</p>
<b>Land and Property</b>	<p>Any beneficial interest in land which is within the area of the Council.</p> <p>'Land' excludes an easement, servitude, interest or right in or over land which does not give the Councillor or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
<b>Licenses</b>	Any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer.
<b>Corporate tenancies</b>	<p>Any tenancy where (to the Councillor's knowledge):</p> <p>a) the landlord is the council; and</p> <p>b) the tenant is a body that the Councillor, or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
<b>Securities</b>	<p>Any beneficial interest in securities* of a body where:</p> <p>a) that body (to the Councillor's knowledge) has a place of</p>



SUBJECT	DESCRIPTION
	<p>business or land in the area of the Council; and</p> <p>b) either:</p> <ul style="list-style-type: none"> <li>i. the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</li> <li>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 Councillor, or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.</li> </ul>

\* 'director' includes a member of the committee of management of an industrial and provident society.

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

## TABLE 2: OTHER REGISTRABLE INTERESTS

You must register as an Other Registerable Interest:

- a) any unpaid directorships.
- b) any body of which you are a Member or are in a position of general control or management and to which you are nominated or appointed by your Authority.
- c) Anybody
  - i. exercising functions of a public nature;
  - ii. directed to charitable purposes or;
  - iii. 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.

# INVESTIGATIONS PROCEDURE

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## Introduction

1. This document sets out the procedure which will be followed once a decision has been taken that an allegation of misconduct by a Member (the “Subject Member”) should be investigated.

## Appointment of the Investigating Officer

2. Upon deciding to refer an allegation for investigation, the Monitoring Officer will appoint an Investigating Officer and instruct them to conduct an investigation into the allegation and report on it. The Monitoring Officer may appoint a replacement if the Investigating Officer is unable to complete the investigation. The Investigating Officer may be an Officer of the Council or another authority or an external Investigating Officer. Although the Monitoring Officer is responsible for overseeing and ensuring the fairness and effectiveness of the Investigating Officers work, the Investigating Officer is responsible for the day to day management of the investigation. The Investigating Officer will remain independent of the Monitoring Officer and the Standards Committee throughout the investigation.

## The Role of the Investigating Officer

3. The role of the Investigating Officer is to ensure, as far as reasonably possible, that all the information which is relevant to the allegation is identified, reviewed and presented in their report.
4. Subject to the agreement of the Monitoring Officer, the Investigating Officer may appoint a person(s) to assist them in the conduct of their functions and may obtain such professional advice as may be necessary for the proper conduct of the investigation.

## Notification Requirements

5. Following the appointment of an Investigating Officer, the Monitoring Officer will notify the Complainant and Subject Member that the matter has been referred for investigation and inform them who is conducting the investigation. The Monitoring Officer will also advise the Complainant and Subject Member that they, and their witnesses, may be contacted by the Investigating Officer in relation to the investigation process.

## Conduct of the Investigation

6. The Investigating Officer has a broad discretion as to how they conduct the investigation.
7. The Investigating Officer may request that the Subject Member and the Complainant provide them with information and/or documents which are relevant to the investigation. They may request them to provide details of

witnesses or other persons who may be able to assist with the investigation. If such requests are not complied with the Investigating Officer may seek further instructions from the Monitoring Officer. If the Subject Member fails to co-operate and the matter is subsequently referred to a Hearing Panel, the Hearing Panel may take that lack of co-operation into account when considering the matters before them.

8. It may assist the Investigating Officer to set out a plan for how they are going to conduct the investigation. The Investigating Officer may consult the Monitoring Officer at any stage of the investigation on any matter that the Investigating Officer considers to be relevant to the proper conduct of the investigation.
9. The Investigating Officer may request any party connected to the investigation to attend for interview with them, or arrangements to obtain information – including by telephone conference, remote meeting platforms and/or for any party to provide them with documents or other material relevant to the investigation.
10. Any person who is interviewed by the Investigating Officer may arrange to have a friend or qualified legal representative attend with them – provided they are not connected to the matter under investigation.
11. The Investigating Officer will take a note of any interviews that they conduct.
12. The Monitoring Officer may, at their discretion, agree that the Council may pay such reasonable expenses, fees or allowances to any persons connected to the investigation who provides documents, information, advice or explanation, or who travels to see the Investigating Officer, as they consider appropriate.

### **Referral to the Monitoring Officer**

13. The Investigating Officer may refer the matter under investigation back to the Monitoring Officer for review if it appears to them appropriate to do so. For example, if the Complainant, Subject Member or a witness is seriously ill or it is appropriate to re-consider the investigation in the light of new evidence.

### **Deferral of Investigation**

14. The Monitoring Officer has discretion to defer the investigation if it appears appropriate to do so. For example, if there is a criminal investigation taking place, or one of the parties involved is so unwell that the progress of the investigation is likely to be significantly delayed.

### **Confidentiality**

15. The Investigating Officer will request that any party involved in the investigation treat the matter as confidential, in order to maintain the integrity of the process. Should the matter be referred to a Hearing Panel the failure of any party to do so will be brought to the attention of the Hearing Panel.

## **Draft Report**

16. When the Investigating Officer is satisfied that they have sufficient information, or has obtained as much information as is reasonably practicable to obtain, they shall prepare a confidential draft report setting out the details of the allegation, the relevant sections of the Code of Conduct, a summary of the allegation, the response of the Subject Member, the information, documents and evidence taken from all parties during the course of the investigation, a statement of their draft findings, and the Investigating Officer's conclusion as to whether the Subject Member has breached the Code of Conduct.
17. The draft report will be sent to the Monitoring Officer, the Complainant and the Subject Member for their comments. Following liaison with the Monitoring Officer the Investigating Officer may wish to conduct further investigations once they have received those comments, before producing their final report.

## **Final Report**

18. The final report will include the same sections as the draft report and will conclusively confirm the Investigating Officer's view as to whether or not there has been a breach of the Code of Conduct.
19. Where appropriate, to assist the Monitoring Officer, the Investigating Officer may include a chronology, summary of disputed facts and/or to append witness statements or other documents to the final report.

## **Action on Receipt of Final Report**

20. If the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct, the Monitoring Officer will review the report, consult with the Independent Person, and, if satisfied that the report addresses all relevant issues, will write to the Complainant and the Subject Member notifying them that no further action is to be taken and enclose a copy of the final report.
21. If the Monitoring Officer is not satisfied that the investigation addresses all relevant issues, or fails to deal with the matter comprehensively or has not been conducted properly, they will, following consultation with the Independent Person, ask the Investigating Officer to reconsider their report, or the Monitoring Officer may make other arrangements to review the investigation.
22. If the report concludes that there is evidence of a failure to comply with the Code of Conduct the Monitoring Officer will, after consulting the Independent Person, either seek local resolution or refer the matter to the Council's Hearing Panel.
23. More information on the local resolution of complaints can be found in the separate document referring to the "Arrangements for dealing with Member Complaints".
24. More information on the Hearing Panel process can be found in the separate document referring to the "Hearing Procedure".



# HEARINGS PROCEDURE

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1. Where an Investigating Officer has concluded that there is evidence that the Subject Member has failed to comply with the Code of Conduct, and following consultation with one of the Independent Persons, the Monitoring Officer may decide that the matter should be dealt with before a Hearing Panel. The procedures for doing so are as follows:

## Pre-Hearing Process

2. The Monitoring Officer will, arrange for a Sub-Committee of the Standards Committee – known as the Hearing Panel to meet to hear the complaint, in accordance with the agreed Arrangements for Dealing with Member Complaints. The Hearing Panel will deal with the matter as soon as is reasonably convenient for all parties and, subject to exceptional circumstances arising, will aim to do so within three months of receiving the Investigating Officer's report. After the Monitoring Officer has consulted with the Independent Person and taken the view that a Hearing Panel should be convened the Monitoring Officer will contact all parties and seek to establish a convenient date for the hearing. All parties will be expected to respond promptly (and in no more than 14 days) to the Monitoring Officers' request – in order that the date the Hearing Panel sits can be arranged promptly and at the convenience of all parties.
3. As soon as a suitable date has been identified all parties will be notified of it. Where a Hearing Panel may sit for more than one day, the Monitoring Officer will aim to arrange sittings on consecutive days. If a party becomes unavailable to attend the Hearing Panel after the date of the hearing has been fixed, the Monitoring Officer will expect to receive prompt notification and brief reasons for the unavailability. Based on that information the Monitoring Officer will exercise their discretion as to whether the date the Hearing Panel sits should be re-arranged.
4. The Standards Committee are subject to the normal requirements on confidential and exempt information as apply to any other Committee under ss100 A to K and Schedule 12A of the Local Government Act 1972. The Monitoring Officer will consider whether these provisions apply in advance of the hearing and may consult one of the Independent Persons, the Chair of the Hearing Panel and any other party involved in the Hearing Panel for their views.
5. The Monitoring Officer will request that the Subject Member gives their response to the Investigating Officer's report promptly – in order to identify areas of agreement between the parties and matters that are likely to be contentious well in advance of the date that the Hearing Panel sits. If the Subject Member unreasonably delays or withholds their response the Hearing

Panel may take that lack of co-operation into account when considering the matters before them.

6. If the Subject Member wishes to rely on new evidence at the hearing that has not been considered by the Investigating Officer, for example, documents or information that have not previously been referred to or by calling new witnesses, the Subject Member will be expected to give the Monitoring Officer reasonable notice and provide the Monitoring Officer with a copy of that new material or a summary of the evidence that the new witness is likely to give.
7. Subject to the above, on the exercise of the Chair's discretion the Hearing Panel may decline to allow such new arguments, witnesses or evidence to be presented at the hearing.
8. It is the responsibility of the Monitoring Officer to oversee the work of the Investigating Officer during the evidence gathering process and the Monitoring Officer will collate and consider all the evidence available prior to placing it before the Hearing Panel. During this process the Monitoring Officer will, where they consider it necessary to do so, consult with, and take account of, the view of the Independent Person.
9. The Chair of the Hearing Panel is responsible for the conduct of the hearing. Where the Monitoring Officer considers it appropriate to do so, the Monitoring Officer may consult with the Chair of the Hearing Panel (and, if appropriate, with one of the Independent Persons), with a view to assisting the Chair in issuing pre-hearing directions to the parties involved in the hearing. The purpose of doing so is to identify relevant issues and to ensure that the business of the Hearing Panel is dealt with efficiently. The decision as to whether directions are issued is, ultimately, a matter for the Chair.
10. The Monitoring Officer may, at their discretion, agree that the authority pay the reasonable expenses of the Complainant, Subject Member and witnesses, associated with their attendance at the hearing.
11. The Monitoring Officer will consider whether it is appropriate to hear two or more complaints together. This may occur, for example, if they relate to the same Subject Member, or arise from the same or a similar set of facts or from the same incident, or have some other connection by which the Monitoring Officer considers that it is proper to link one or more complaints.
12. The Monitoring Officer will provide the Complainant, Subject Member and all members of the Hearing Panel with a copy of the Investigating Officer's final report at least two weeks after the decision has been made to refer the matter to the Hearing Panel.
13. In order to assist the Hearing Panel, following the decision to refer the matter for a hearing, the Monitoring Officer will also provide all members of the Hearing Panel with a briefing note which summarises the allegation, details the agreed and disputed facts and identifies the evidence which the Complainant, Subject Member and their witnesses are expected to give. The briefing note will be prepared as soon as reasonably practicable following the decision to refer the matter to the Hearing Panel and may also contain, for example, a chronology and copies of documents the Monitoring Officer considers may be relevant.

14. In addition to assisting in preparing the members of the Hearing Panel for the hearing, the purpose of the briefing note prepared by the Monitoring Officer is to enable members of the Hearing Panel in identifying any conflict of interest or potential conflict of interest that may arise. Members of the Hearing Panel will familiarise themselves with the relevant issues and, where necessary, notify the Monitoring Officer of any conflict of interest or potential conflict of interest, as a matter of priority.
15. The Monitoring Officer will act as a point of contact for the Subject Member, the Complainant, and any witnesses who will give evidence.

## **The Hearing**

16. There is a presumption that the deliberations of the Hearing Panel will take place in public. The parties to the hearing may make representations to the Chair on this point and should do so, via the Monitoring Officer, in good time prior to the hearing. The Chair may issue directions in advance on this point or, in the interests of transparency, deal with the issue at the commencement of the Hearing Panel.
17. The Independent Person who has been involved with the earlier stages of the complaint will be invited to attend the Hearing Panel. Where an Independent Person takes part in the Hearing Panel they will be consulted and their view sought during the process and, save that they are not entitled to vote on the decision as to whether there has been a breach of the Code of Conduct and, if so, what action to take, they will be treated as an equal member of the Hearing Panel.
18. If the Subject Member does not attend the hearing, the Hearing Panel may at the discretion of the Chair, adjourn the hearing or continue to hear evidence and reach a decision on the basis of the Investigating Officer's report and any evidence they may hear.
19. The Hearing Panel sits as a Sub-Committee of the Standards Committee. As such it is a meeting of the Council, not a court of law. Where a Hearing Panel sits the burden is on the Complainant, through the Investigating Officer, to prove that there has been a breach of the Code of Conduct. That burden is to the civil standard, the allegation must be proved on the balance of probabilities. Evidence is not heard on oath. However, all parties are expected to have proper regard for the seriousness of the proceedings and the public interest in ensuring the business of the Hearing Panel is conducted fairly and efficiently.
20. In order to assist the Hearing Panel in dealing with matters fairly and efficiently the Chair of the Hearing Panel may, at their discretion, allow the Investigating Officer and the Subject Member to make opening remarks and/or closing arguments.

## **Representation**

21. The Subject Member may arrange to have a friend or qualified legal representative attend the hearing with them, provided that they are not connected to the matter under investigation. The Hearing Panel may refuse to allow the friend or representative to remain at the hearing if they are disruptive.

## **Evidence**

22. All matters relating to the evidence and procedure at the hearing are within the discretion of the Chair of the Hearing Panel. The Chair may, at any time, seek advice from the Monitoring Officer.
23. Subject to the exercise of the Chair's discretion to manage the hearing, the Subject Member is entitled to present their case as they see fit.
24. Where the Chair of the Hearing Panel may consider exercising their discretion as to the management of the proceedings the Chair will have regard to any relevant submissions made by the Investigating Officer and Subject Member.
25. It will be the general expectation of the Hearing Panel that all witnesses of fact relevant to the disputed issues will attend in person to give their evidence and to be questioned. Less weight may be placed on the evidence of witnesses of fact where they do not attend before the Hearing Panel, because they are not available to be questioned by the other party. It is the expectation that witnesses as to character will normally provide their evidence in writing, such evidence will be read to the Hearing Panel by the party who wishes to rely on that evidence.
26. In addition to the information detailed at paragraph 19 above, it will be the expectation of the Hearing Panel that the Complainant, Subject Member and all witnesses behave courteously both throughout the pre-hearing stage and at the hearing. Parties who behave unreasonably, are rude or who seek to disrupt the hearing will be asked to leave and the Chair may exercise their discretion to proceed without hearing that person's evidence. Alternatively, the hearing may be adjourned.
27. Subject to the Chair exercising their discretion, the general procedure at a hearing will be that the Investigating Officer will present their final report, call such witnesses as they consider necessary and make representations to support their conclusions. Following the Investigating Officer calling each witness the Subject Member will be entitled to question that witness. Thereafter the Subject Member will have the opportunity to give their evidence, call witnesses and to make representations to the Hearing Panel as to why they believe they have not failed to comply with the Code of Conduct. The Investigating Officer may question the Subject Member and each of the Subject Member's witnesses, after they have given their evidence. The Complainant, Investigating Officer, Subject Member and all witnesses may be questioned by all members of the Hearing Panel during the proceedings. If it appears to the Monitoring Officer that a relevant question or issue has not been raised by either party the Monitoring Officer may bring that point to the attention of the Chair.
28. The onus is on the Subject Member to ensure the attendance of all witnesses they wish to call to give evidence on their behalf at the Hearing Panel. The Chair of the Hearing Panel will consider the relevance of the potential evidence that a witness may give, both in liaison with the Monitoring Officer at the pre-hearing stage (when the Chair may issue directions) and throughout the hearing. By applying the test of relevance, the Chair may limit the number of witnesses to be called by either party and/or the issues that may be covered by them.



29. No party to the proceedings has the power to compel any witness to attend to give evidence before the Hearing Panel.

### **Role of Monitoring Officer at the Hearing**

30. The role of the Monitoring Officer is to ensure that the pre-hearing stage and hearing are conducted efficiently. Although they are responsible for overseeing the work of the Investigating Officer, the Monitoring Officer will remain impartial and, where asked to do so by the Chair of the Hearing Panel, may give independent advice on legal and procedural matters. The Monitoring Officer is not permitted to make findings of fact regarding any allegation that the Code of Conduct has been breached, this is a matter solely for the Hearing Panel. References to the Monitoring Officer should be read to include any representative of the Monitoring Officer.

### **Role of the Complainant at the Hearing**

31. The role of the complainant will usually be limited to being a witness and they are not a party to the proceedings. However, the Hearing Panel may wish to consult them at any stage in the hearing if they feel their comments would assist them.

### **Decision**

32. Having heard all the evidence, the Hearing Panel must decide whether or not the Subject Member has breached the Code of Conduct and, if so, what, if any, sanctions to impose.
33. The Hearing Panel will generally retire to consider in private whether they conclude that the Subject Member has breached the Code of Conduct. All members of the Hearing Panel may contribute equally to the deliberations, although only the District Councillor members of the Hearing Panel may vote. If necessary, the Chair has a casting vote.
34. Having considered whether or not the Subject Member has breached the Code of Conduct, the Hearing Panel will reconvene in public session and the Chair will advise the Subject Member of the outcome. If the Hearing Panel decides that the Subject Member has not breached the Code of Conduct then the proceedings are concluded immediately. Alternatively, if the Hearing Panel decides that the Code of Conduct has been breached, the Chair will announce this decision and give brief verbal reasons. The Investigating Officer and Subject Member may then make representations as to what, if any, sanctions are appropriate. The Hearing Panel will generally retire to consider those representations. On returning to public session the Chair will announce the sanctions, if any, to be imposed and give brief verbal reasons.
35. While the Monitoring Officer may assist the Hearing Panel during its private deliberations by, for example, reviewing the evidence heard or advising on issues of law, the Monitoring Officer is not permitted to express any view on the merits of the evidence or to attempt to influence the decision making process. Once a decision has been made, either whether or not the Code has been breached or on the imposition of sanctions, the Monitoring Officer may assist the Chair in drafting a short document containing the reasons for the relevant decision, to be announced by the Chair at the hearing.

## Sanctions

36. The Hearing Panel must consult the Independent Person before imposing any sanction and give the Subject Member the opportunity to make representations.
37. When making its decision on the sanctions that may be imposed the Hearing Panel will consider the seriousness of the breach of the Code of Conduct and its actual and potential consequences. In doing so it will also have regard to any mitigating or aggravating factors, such as:

### Mitigating Factors

- An honest but mistaken belief that the action was not a breach of the Code of Conduct.
- A previous record of good public service.
- An offer to apologise for the breach, particularly if it is made at an early stage in the overall proceedings.
- Evidence of ill health at the time of the breach.

### Aggravating Factors

- Dishonesty.
  - Continuing to deny the breach.
  - An attempt to blame others.
  - Evidence of a failure to follow earlier advice or warnings.
  - Previous breaches – particularly where they are of a similar nature.
38. When imposing sanctions the primary objective of the Hearing Panel will be to ensure that the Subject Member is dealt with in a way that prevents a further breach of the Code of Conduct and maintains public confidence in the General Principles of Public Life and ethical local governance.
  39. The sanctions available to the Hearing Panel are to:
    - Publish its findings in respect of the Subject Member's conduct.
    - Write a formal letter to the Subject Member.
    - Report its findings to Council for information.
    - Seek formal censure by motion.
    - Recommend to the Subject Member's Group Leader (or, in the case of Subject Members who do not belong to a political group, recommend to Council or to Committees) that they be removed from any or all Committees or Sub-Committees of the Council.
    - In the case of a District Councillor recommend to the Leader of the Council that the Subject Member be removed from the Cabinet, or removed from particular Portfolio responsibilities.
    - Instruct the Monitoring Officer to arrange mentoring, training, mediation or other appropriate remedy for the Subject Member.

## **Notice of Decision**

40. As soon as is reasonably practicable after the hearing the Monitoring Officer will prepare a formal Decision Notice. The Decision Notice will confirm the decision of the Hearing Panel. Where the Code of Conduct has been found to have been breached, and if sanctions have been imposed, the Decision Notice will contain written reasons. A copy of the Decision Notice will be sent to the Complainant and the Subject Member. The Decision Notice will be made available for public inspection and a report of the decision will be made to the next Standards Committee meeting.