



**Resources Department
Town Hall, Upper Street, London, N1 2UD**

AGENDA FOR THE STANDARDS COMMITTEE

A meeting of the Standards Committee will be held in Committee Room 2, Town Hall, Upper Street, N1 2UD on **9 July 2024 at 7.00 pm.**

Enquiries to : Philippa Green
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Despatched : 1 July 2024

Membership

Substitute Members

Councillors:

Councillor Sara Hyde (Chair)
Councillor Satnam Gill OBE
Councillor Ruth Hayes
Councillor Rosaline Ogunro

Substitutes:

Independent Persons:

Mr L Rigg
Mr R Milne

Quorum: is 3 Councillors

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The next meeting of the Standards Committee will be on 21 November 2024

Please note all committee agendas, reports and minutes are available on the council's website: www.democracy.islington.gov.uk

Agenda Item 3

London Borough of Islington

Standards Committee - Thursday, 16 November 2023

Minutes of the meeting of the Standards Committee held at Committee Room 2, Town Hall, Upper Street, N1 2UD on Thursday, 16 November 2023 at 7.30 pm.

Present: **Councillors:** Khurana (Chair), Gill, Jackson and Craig
Also Present: **Independent Persons:** Robert Milne and Luke Rigg
Officers: Marie Rosenthal, Interim Director of Law and Governance
 Sonal Mistry, Senior Governance Lawyer

Councillor Anjna Khurana in the Chair

1 APOLOGIES FOR ABSENCE (ITEM NO. 1)

None.

2 DECLARATIONS OF INTEREST (ITEM NO. 2)

None.

3 MINUTES OF THE LAST MEETING (ITEM NO. 3)

RESOLVED:

That the minutes of the meeting held on 27 June 2023 be confirmed as an accurate record of the meeting and the Chair be authorised to sign them.

4 ANNUAL REPORT ON MEMBER STANDARDS AND CONDUCT (ITEM NO. 4)

The Chair introduced the report, which details complaints received about members during the 2022/23 financial year. The complaint that the committee determined last year is summarised in point 3.9 and there were three other complaints, detailed in the table under point 3.10.

The report also details the training and development undertaken by members during the 2022/23 financial year, including a comprehensive list of the training undertaken as part of induction following the election last May and details of the member development programme that followed. It was noted that the papers published for the Audit Committee meeting on 20 November include a new Member Development Strategy and that the Council is working towards achieving LGA Charter Status for member development, to ensure that members are properly equipped to undertake their roles.

Councillor Jackson suggested that there should be some form of accreditation or a certificate of achievement awarded to those councillors who have completed the full induction programme.

RESOLVED:

That the contents of the report be noted.

5 GENERAL DISPENSATIONS UNDER THE CODE OF CONDUCT (ITEM NO. 5)

The Chair introduced the paper, which proposed adding trade union membership to the established list of dispensations, to allow councillors to vote on matters relating to trade unions without the requirement for an individual dispensation to be granted.

RESOLVED:

Granting a dispensation in respect of trade union membership, as detailed in paragraph 3.5 of the report, in respect of participation in discussion and voting at meetings, with effect until the annual meeting following the next full local elections, was agreed.

MEETING CLOSED AT 7.48 pm

Chair

Legal Services, Law & Governance

Report of: Director of Law & Governance and Monitoring Officer

Meeting of: Standards Committee

Date: 9 July 2024

Subject: Review of the Council's Code of Conduct for Members

1. Synopsis

- 1.1. To update the Standards Committee on the council's Code of Conduct for Members ("the Code") and to note that it is up to date, accessible and fit for purpose.

2. Recommendations

- 2.1. To note that the Code was reviewed in 2023 for compliance with the Local Government Association Model Councillor Code of Conduct 2020 and best practice.
- 2.2. To note that the Code at **Appendix A** is legally compliant and up to date.

3. Background

- 3.1. The Standards Committee is responsible for:
 - a) Advising the council on the adoption or revision of the Code;
 - b) Considering whether complaints of breach of the Code should be investigated and hearing complaints which have been investigated.
 - c) Agreeing procedures for investigation of complaints of breach of the Code.
- 3.2. The system of regulation of standards of councillor conduct in England is governed by the Localism Act 2011. Local authorities are under a duty to promote and maintain high standards of conduct by their elected members and co-opted members. Every local authority must have a code of conduct for its members, which must be consistent with the "Seven Principles of Public Life": selflessness, honesty, integrity, objectivity, accountability, openness and leadership. The code of conduct must also make provision for the registration and disclosure of pecuniary and other interests.

- 3.3. One of the Seven Principles of Public Life is the principle of integrity, that *“holders of public office must avoid placing themselves under any obligation to people or organisations that might try to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family or their friends. They must declare and resolve any interests and relationships.”*
- 3.4. Members’ registration of personal interests should be guided by this duty. They should also give the Monitoring Officer who is responsible for the register of members’ interests any information they may request in order to keep that register up to date and any other information which members consider should be entered in the register.
- 3.5. The council has adopted a Code of Conduct for its members which is in Part 6 of the Constitution and is on the council’s website. All members need to register their disclosable interests – both disclosable pecuniary interests and other interests that must be declared and registered as required by the council’s Code of Conduct for members or by members’ duty to act in conformity of the Seven Principles of Public Life.
- 3.6. The Code was last updated by full Council on 13 July 2023. The update was in consequence of the introduction of the Local Government Association Model Code of Conduct for Councillors in 2020.
- 3.7. As reported to Standards Committee on 15 March 2023, the Code also required a review in accordance with the January 2023 Report by the Committee on Standards in Public Life titled *“Leading in Practice: A Review by the Committee on Standards in Public Life”*.
- 3.8. Officers reviewed the codes of conduct of other (London) local authorities including Kensington & Chelsea, Lambeth and Westminster and the Local Government Association’s Model Councillor Code of Conduct.
- 3.9. The Declaration of Interests provision in the Code was amended in compliance with the LGA Model Councillor Code of Conduct to extend the definition of personal interests to apply to councillors’ family members, as follows:
- “...my partner, spouse, civil partner and/or a person with whom I am living as husband or wife or as if we are civil partners...”*
- 3.10. Officers therefore recommended a slightly revised version of the Code to the Committee and obtained approval of the final version at Full Council on 13 July 2023.

4. Implications

4.1. Financial Implications

There are no financial implications.

4.2. Legal Implications

Section 28 Localism Act 2011 states as follows:

“(6) A relevant authority other than a parish council must have in place –

(a) Arrangements under which allegations can be investigated and

(b) Arrangements under which decisions on allegations can be made.

(7) Arrangements put in place under subsection (6)(b) by a relevant authority must include provision for the appointment by the authority of at least one independent person –

(a) whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and

(b) whose views may be sought –

(i) by the authority in relation to an allegation in circumstances not within paragraph (a),

(ii) by a member, or co-opted member, of the authority if that person’s behaviour is the subject of an allegation, and

(iii) by a member, or co-opted member, of a parish council if that person’s behaviour is the subject of an allegation and the authority is the parish council’s principal authority...”

4.3. Environmental Implications and contribution to achieving a net zero carbon Islington by 2030

There are no environmental implications.

4.4. Equalities Impact Assessment

The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

There is no impact on equalities at this stage.

5. Conclusion and reasons for recommendations

- 5.1. The Committee is asked to note that the Code was updated last year and to note that no further amendments are required for legal compliance to date.

Appendices: Appendix A: Code of Conduct for Members

Background papers: None

Final report clearance:

Authorised by: **Alison Stuart, Director of Law & Governance and Monitoring Officer**

Date: 1 July 2024

Legal Implications Author: **Sonal Mistry, Senior Lawyer (Governance)**

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ISLINGTON CODE OF CONDUCT FOR MEMBERS

Islington Code of Conduct for Members

Introduction:

The councillor's role is a vital part of our democracy and it is important that councillors meet public expectations of conduct and that the role attracts individuals from a range of backgrounds and circumstances, to put themselves forward to become councillors.

Members of the public trust that councillors take decisions fairly, openly, and transparently. To ensure that trust continues, councillors must demonstrate high standards of conduct and be held accountable if their conduct fails to reach the high standards required.

Councillors should not intimidate, abuse, bully or threaten anyone and it is vitally important that they can conduct their duties without being intimidated, abused, bullied or threatened by anyone, including the general public.

All councils are required to have a Councillor Code of Conduct. This Code has been designed to protect the councillor's vital democratic role, encourage good conduct and to safeguard public trust in local government.

An allegation that a councillor has breached this Code will trigger an initial investigation and if it appears that there is some substance to the allegations, it may result in an independent investigator being appointed to carry out a full investigation and ultimately in the Standards Committee being convened. A range of sanctions are available to the Standard's Committee.

Failure to comply with those parts of this Code that relate to your register of interests may amount to a criminal offence unless the member has a reasonable excuse. A member may also commit an offence if they provide information that is false or misleading and they either know that it is false or misleading or do not take reasonable and appropriate steps to ensure that the information is correct. If found guilty of a criminal offence, the member may be disqualified from being or becoming a member of Islington or other local authorities for up to five years.

This Code sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct.

The Monitoring Officer has statutory responsibility for implementation of this Code and councillors are encouraged to seek advice from the Monitoring Officer on any matters that may relate to the Code of Conduct.

Definitions:

1. References to a member or members in this Code includes all elected or co-opted members of Islington Council. 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, or;
 - c) a member appointed at any meeting;and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee"
2. References to a meeting or meetings in this Code, means any meeting of
 - (a) full Council;
 - (b) the Executive;
 - (c) any committee or sub-committee of the Council or Executive, joint committees and joint sub-committees;

Scope / Application of this Code:

It is every councillor's individual responsibility to familiarise themselves with and abide by this Code.

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.

1. You must comply with this Code whenever:
 - (a) you conduct the business of Islington Council (including the business of the office to which you are elected or appointed); or
 - (b) you act, claim to act, or give the impression you are acting as a representative of Islington Council, or
 - (c) 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
2. You must not, at any time, even when not conducting or giving the impression you are conducting the business of Islington Council, conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute
3. Where you act as a representative of Islington Council:
 - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or

- (b) on any other body, you must, when acting for that other body, comply with this code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

4. This Code applies to all forms of communication and interaction, including:

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

General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including 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:

Selflessness — you should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Integrity — you should not place yourself in situations where your integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity — you should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability — you should be accountable to the public for your actions and the manner in which you carry out your responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to your particular office.

Openness — you should be as open as possible about your actions and those of the council, and should be prepared to give reasons for those actions.

Honesty — you should be truthful in your council work and avoid creating situations where your honesty may be called into question

Leadership — you should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

To support the general principles, every councillor is required to make a commitment to comply with the following general obligations:

General Obligations

To always:

- Act with integrity and honesty
- Act lawfully
- Treat all persons fairly and with respect; and
- Lead by example and act in a way that secures public confidence in the role of councillor
- Impartially exercise my responsibilities in the interests of the local community
- Not improperly seek to confer an advantage, or disadvantage, on any person
- Avoid conflicts of interest
- Exercise reasonable care and diligence; and
- Ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

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

- 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 I respect the role they play.

Showing 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. 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.

You should treat members of the public 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 this Code and local authority employees, where concerns should be raised in line with the Protocol on Member/Officer Relations.

2. Bullying, harassment and discrimination

- 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

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 a report, if doing so would prejudice their professional integrity.

4. Confidentiality and access to information

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

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

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 your local authority and may lower the public's confidence in you or your authority. For example, behaviour that is considered dishonest 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 this Code of Conduct.

6. Use of position

- 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

- 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.

Resources 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. Examples of resources that may be made available to you include:

- office support
- stationery
- equipment such as phones and computers
- transport
- access and use of local authority buildings and rooms.

8. Complying with the Code of Conduct

- 8.1. I undertake Code of Conduct training provided by my local authority.
- 8.2. I cooperate 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 will 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 your actions open to scrutiny and that you don't undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes for managing complaints, contact the Monitoring Officer for advice.

9. Gifts and Hospitality

- 9.1. I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or give rise to a reasonable suspicion that I may show favour to someone seeking an advantage in relation to any business or transaction with the authority or influence someone else to do so.
- 9.2. I register any gift or hospitality with an estimated value of £25 or more, with Democratic Services / Member Support for publication on the website, within 28 days of its receipt.
- 9.3. I also register any significant gift or hospitality that I have been offered but have declined.

The acceptance of gifts and hospitality can influence whether or not you are seen to be acting in the public interest, or improperly acting for your own personal advantage or that of your family, friends or associates. You should therefore 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 a refusal may be difficult, particularly if it is seen as rudeness or cultural insensitivity. Under these circumstances, it may be appropriate to accept and declare the gift, or to accept and declare the gift on behalf of the Mayor's Charity.

Any gifts received by the Mayor's Charity will be auctioned or put into a raffle and the proceeds will go to whichever charity the Mayor has chosen to support that year. In the interests of transparency, all gifts accepted over the value of £25 donated to the Mayor's Charity should be included on your

register (along with the note of the donation) and published within 28 days of receipt of the offer or invitation.

Hospitality includes, but is not limited to, drinks, meals, entertainment, overnight accommodation, travel, holidays but not lifts in a private car or taxi or light refreshment in the course of your duties as a Councillor. Unsolicited generic invitations to free or subsidised places at conferences, which are sent to numerous local authority councillors and/or officers, do not need to be declared. Any gift estimated to be over £25 in value, loan, fee (except those for paid employment declared in your register of interests) or reward should also be declared. 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, or normal expenses and hospitality associated with your duties as a councillor.

By declaring gifts and hospitality, even where they have been declined, you are demonstrating that you apply high standards of conduct. If you have a gift or hospitality to declare, please contact Democratic Services / Member Support, who will arrange for this to be published on the website.

10. Decision Making

10.1. When reaching a decision on any matter, I:

- a) have due regard for any relevant advice provided to me by the council's Chief Finance Officer, the council's Monitoring Officer and/or their deputies.
- b) have due regard for any paper or report proposing the decision, including any appendices
- c) have due regard for the assessment of the impact on residents, particularly those with protected characteristics under the Equality Act 2010.
- d) I do not pre-determine decisions prior to their formal consideration.
- e) I give reasons for my decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the council.

11. Attending formal meetings

11.1. When attending a formal meeting of a committee of which I am a member, I:

- a) Will declare any relevant interest and abide by the rules relating to declarations of interest, as detailed below, such as not participating in the debate / leaving the room for the duration of the discussion, as required
- b) I do seek a dispensation prior to the meeting if I hold an interest but wish to remain present and/or participate in the debate, as per the guidance below.
- c) Follow the standing orders of any formal meetings I attend and the direction and advice of the Chair and/or the Monitoring Officer or their representative.
- d) I give reasons for my decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the council.

12. Declaration of Interests

- 12.1. I understand that I am personally responsible for deciding whether or not to disclose an interest.
- 12.2. I understand that failure to disclose a Disclosable Pecuniary Interest, as set out in Table 1, below, is a criminal offence under the Localism Act 2011, for which an individual councillor may be prosecuted.
- 12.3. I understand that, if I am aware, I must also disclose any Disclosable Pecuniary Interests, as set out in Table 1, below, held by my partner, spouse, civil partner and/or a person with whom I am living as husband or wife or as if we are civil partners and declare that they have the interest.
- 12.4. I will register any Disclosable Pecuniary Interest within 28 days of my election, re-election or being appointed as a member, in accordance with "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012".
- 12.5. I will also register and disclose any Personal Interests which fall within the categories set out in Table 2 'Other Registerable Interests' below.
- 12.6. I understand that, if I am aware, I must also disclose any Personal Interests, as set out in Table 2, below, held by my spouse, civil partner, parent, grandparent, child, grandchild, sibling, or anyone that I live with as a spouse or civil partner.
- 12.7. If, at any time, my interests change or I have a new interest, I will update my register of interests within 28 days.
- 12.8. I do review my interests annually, when requested to do so, to ensure that they remain correct.
- 12.9. I understand that if I hold a 'Sensitive Interest', which in my view, if disclosed, could lead to myself or a person connected with me to be subject to violence or intimidation, I must notify the Monitoring Officer and that the interest will be withheld from the public register, if the Monitoring Officer agrees it is sensitive.
- 12.10. If a matter arises at a meeting which directly relates to a Disclosable Pecuniary Interest held by me and included in my Register, I will disclose that I hold an interest and leave the room until the discussion and vote on the item is complete. This will be recorded in the minutes of the meeting.
- 12.11. If I wish to participate in the discussion and vote on an matter which directly relates to a Disclosable Pecuniary Interest held by me, including a Sensitive Interest, I will seek a dispensation from Standards Committee prior to the meeting at which the item I hold an interest in will be discussed. I acknowledge that dispensations may only be granted in limited circumstances.
- 12.12. If a matter arises at a meeting which directly relates to a Sensitive Interest held by me, I will disclose that I have an interest, but not provide details of what the interest is and will leave the room until the discussion and vote on the item is

complete.

- 12.13. If a matter arises at a meeting which directly relates to a Personal Interest held by me, as detailed in Table 2, Other Registerable Interests, below, I will only speak on the matter if members of the public are also allowed to speak at the meeting. Where this is not the case I will leave the room until the discussion and vote on the item is complete, unless I have been granted a dispensation by Standards Committee prior to the meeting.
- 12.14. If a matter arises at a meeting which *directly relates* to my financial interests or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or the well-being of a relative or close associate, I will disclose the interest. I will only speak on the matter if members of the public are also allowed to speak at the meeting. Where this is not the case I will leave the room until the discussion and vote on the item is complete, unless I have been granted a dispensation by Standards Committee prior to the meeting.
- 12.15. If a matter arises at a meeting which *affects* my financial interests or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or the well-being of a relative or close associate or an organisation or body in which I hold a Disclosable Pecuniary Interest, I will disclose the interest. If I consider that the matter affects my financial interest or well-being to a greater extent than it affects the financial interests of the majority of the ward or borough's residents and I consider that a reasonable member of the public, knowing all the facts, might believe that it would affect my view of the matter, I will only speak on the matter if members of the public are also allowed to speak at the meeting. Where this is not the case, I will leave the room until the discussion and vote on the item is complete, unless I have been granted a dispensation by Standards Committee prior to the meeting.
- 12.16. If a matter arises at a meeting which I hold a Disclosable Pecuniary Interest in that I have not already disclosed, I will disclose the existence and details of the interest to the meeting, leave the room until the discussion and vote on the item is complete and formally notify the interest to the Monitoring Officer within 28 days of the meeting.
- 12.17. If I hold a Disclosable Pecuniary Interest in a matter which falls to me in the exercise of a function, such as an Executive decision, I will notify the Monitoring Officer of the interest and take no further steps in the matter other than arranging for it to be dealt with by someone else.
- 12.18. If I hold a personal interest in a matter which falls to me in the exercise of a function, such as an Executive decision, I will ensure that the written record of the decision includes a record of the existence and nature of my interest.

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.

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by them in carrying out their duties as a councillor, or towards their election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

Contracts	Any contract made between the councillor or their 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 — (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 and Property	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or their 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.
Licenses	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
Corporate tenancies	Any tenancy where (to the councillor's knowledge)— (a) the landlord is the council; and (b) the tenant is a body that the councillor, or their 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.
Securities	Any beneficial interest in securities* of a body where— (a) that body (to the councillor’s knowledge) has a place of business or land in the area of the council; 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 councillor, or their spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

* ‘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 Registerable Interests

<p>You have a personal interest in any business of your authority where it relates to or is likely to affect:</p> <ul style="list-style-type: none"> 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) any body of which you are a member or in a position of general control or management <ul style="list-style-type: none"> (i) exercising functions of a public nature (ii) any body 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.
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Your register of interests allows the public, local authority employees and fellow councillors to know which of your interests might give rise to a conflict of interest. Details of your interests will be published on the website and a copy of the register will be available for inspection at the Town Hall during working hours. Publication is a legal requirement, but it also protects you by allowing you to demonstrate openness and a willingness to be held accountable and ensures that decision making is seen by the public to be open and honest.

If an interest is not already included in your published register of interests and it relates to a matter under consideration at a meeting, you must disclose it at that start of the relevant agenda item and to the Monitoring Officer within 28 days following the meeting, but it can be helpful for you to know before this time if others think that a potential conflict might arise and to allow time to seek a dispensation if you think it warranted.

If you cease to hold an interest, you should notify the Monitoring Officer who will remove the interest from your register.

13. Other Conflicts of Interest

13.1. Recordable Decisions

Executive Members are sometimes consulted before a Recordable Decision is made by an officer. If you hold an interest relevant to the decision being made, you must have obtained a dispensation from the Chief Executive in respect of the conflict of interest before taking part in the consultation and the details of your interest will be published in the Recordable Decision notice. You can, alternatively, choose not to participate in the consultation or comment on the decision being made.

14. Dispensations

14.1. In limited circumstances, in cases (a) and (d) below, Standards Committee can grant a dispensation to a member to allow them to speak and/or vote in respect of an item of business at a meeting where they have a Disclosable Pecuniary Interest under this Code.

14.2. Dispensation can only be granted where the statutory grounds apply. The statutory grounds are:

- (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,
- (b) without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
- (c) granting the dispensation is in the interests of persons living in the council's area,
- (d) without the dispensation each member of the authority's executive would be prohibited from participating in any particular business to be transacted by the Executive or a committee of the Executive, or
- (e) it is appropriate to grant a dispensation for some other reason.

14.3. A request for a dispensation must be submitted to the Council's Monitoring Officer in accordance with the council's procedure for dealing with Requests for Dispensations from Councillors. The Monitoring Officer will arrange for Standards Committee to be convened to consider requests for dispensations.

14.4. If you are a member of the Executive and the meeting is a meeting of the Executive or a committee of the Executive you will also need a dispensation from the Chief Executive under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. The Chief Executive has issued a general dispensation that applies where a dispensation in respect of your Disclosable Personal Interest has been granted under this section of the Code so you will not need to make a special application.

14.5. The Chief Executive may grant a dispensation to Executive members to allow them to speak and/or vote in respect of other conflicts of interest arising at a meeting of the Executive or a committee of the Executive.

Related documents

The Council has adopted codes and protocols which do not form part of this Code but which deal with specific activities that Members may be required to carry out in the course of their duties' as a Councillor. You are required to comply with the latest version of these from time to time and any breach may be regarded as a breach of this Code:

- (a) The Member/Officer Protocol
- (b) Use of resources
- (c) Publicity Protocol
- (d) The Council's Use of IT policies and
- (e) The Council's Data Protection polices

Guidance

If you need further advice or guidance on interpretation of this Code or to apply for a dispensation, please contact the Monitoring Officer.

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Legal Services, Law & Governance

Report of: Director of Law & Governance and Monitoring Officer

Meeting of: Standards Committee

Date: 9 July 2024

Subject: Review of Arrangements for Dealing with Standards Allegations

1. Synopsis

- 1.1. To seek the Standards Committee's approval of a revision of the council's Arrangements for Dealing with Standards Allegations (June 2012) ("the Procedure") to ensure that it is up to date, accessible and fit for purpose.

2. Recommendations

- 2.1. To approve the Procedure as set out in **Appendix A**.

3. Background

- 3.1. The Standards Committee is responsible for:
 - a) Advising the council on the adoption or revision of the council's Member Code of Conduct ("the Code");
 - b) Considering whether complaints of breach of the Code should be investigated and hearing complaints which have been investigated.
 - c) Agreeing procedures for investigation of complaints of breach of the Code.
- 3.2. The system of regulation of standards of councillor conduct in England is governed by the Localism Act 2011. Local authorities must have in place arrangements under which allegations that a member has failed to comply with the authority's code of conduct can be investigated and decisions on allegations be made. As part of those arrangements, they must appoint at least one Independent Person whose views must be sought and taken into account before making a decision on an allegation that it has decided to investigate.

- 3.3. The council has adopted a Code of Conduct for its members which is in Part 6 of the Constitution which is on the council's website.
- 3.4. The council has in place Arrangements for Dealing with Standards Allegations which sets out how allegations that one or more of its members has failed to comply with the Code can be investigated and decisions on allegations can be made. The Procedure is published on the council's website.
- 3.5. The current version of the Procedure, drafted in June 2012, was updated and approved by the Standards Committee on 27 June 2023.
- 3.6. Officers reviewed the current Procedure against the Local Government Association's Member Model Code of Conduct Complaints Handling guidance and have reviewed the Procedures of other (London) local authorities.
- 3.7. Officers brought the revised version of the Procedure to the 15 March 2023 and 27 June 2023 Committee meetings.
- 3.8. The Independent Person, Luke Rigg, was consulted in the re-drafting of the Procedure in 2023. The Independent Person also attended the Committee meeting on 15 March 2023 and provided his views.
- 3.9. Officers made further amendments to the Procedure, incorporating feedback obtained from the Committee and the Independent Person at the last meeting on 15 March 2023.
- 3.10. Officers recommend the Standards Committee to provide its approval of the current version of the Procedure at **Appendix A**.

4. Implications

4.1. Financial Implications

There are no financial implications.

4.2. Legal Implications

Under Section 28 of the Localism Act 2011, local authorities (other than parish and town councils) must have in place 'arrangements' under which allegations that an elected or co-opted councillor of the authority or of a town or parish council within the principal authority's area has failed to comply with the authority's Code of Conduct can be considered and decisions made on such allegations. It is for the principal authority to decide the details of those arrangements, but they must appoint at least one Independent Person whose views are to be taken into account before making a decision on a complaint that they have decided to investigate.

4.3. **Environmental Implications and contribution to achieving a net zero carbon Islington by 2030**

There are no environmental implications.

4.4. **Equalities Impact Assessment**

The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

There is no impact on equalities matters at this stage.

5. Conclusion and reasons for recommendations

5.1. The Committee is asked to consider and approve the Procedure.

Appendix:

Appendix A – Arrangements for Dealing with Complaints under the Members' Code of Conduct (2023)

Background papers: None

Final report clearance:

Authorised by: **Alison Stuart, Director of Law & Governance and Monitoring Officer**

Date: 1 July 2024

Legal Implications Author: **Sonal Mistry, Senior Lawyer (Governance)**

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ARRANGEMENTS FOR DEALING WITH COMPLAINTS UNDER THE MEMBER CODE OF CONDUCT

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1. INTRODUCTION

- 1.1 The system of regulation of standards of councillor conduct in England is governed by the Localism Act 2011. Local authorities are under a duty to promote and maintain high standards of conduct by their elected members and co-opted members. Every local authority must have a code of conduct for its members, which must be consistent with the 'Seven Principles of Public Life': selflessness, honesty, integrity, objectivity, accountability, openness and leadership. The code of conduct must also make provision for the registration and disclosure of pecuniary and other interests.
- 1.2 Local authorities must also have in place arrangements under which allegations that a member has failed to comply with the authority's code of conduct can be investigated and decisions on allegations can be made. As part of those arrangements, they must also appoint at least one Independent Person whose views must be sought and taken into account before making a decision on an allegation that it has decided to investigate.
- 1.3 Islington Council has adopted a Code of Conduct for its Members which is in the Constitution and is available on the council's website ([Constitution](#)) and on request from the Monitoring Officer (democracy@islington.gov.uk)
- 1.4 This document sets out Islington Council's arrangements for how allegations that one or more of its members has failed to comply with the Council's Code of Conduct for Members can be investigated and decisions on allegations can be made.

1.5 The Council's Monitoring Officer is responsible for the implementation of the Code of Conduct and the management of investigations of alleged breaches. Any reference in these arrangements to the Monitoring Officer shall include a Deputy Monitoring Officer.

1.6 Islington Council has appointed at least one Independent Person under section 28 of the Localism Act 2011, who is neither a member nor officer of the Council, to work with the Council to support them with Code of Conduct complaints and standards issues.

1.7 The timescales set out in this document are for guidance and shall be observed where practicable but may be extended by the Monitoring Officer as necessary if they cannot be complied with by any relevant party due to sickness, holidays or other reasonable cause.

2. MAKING A COMPLAINT

2.1 Anyone who considers that an elected or co-opted member of Islington Council may have breached the Code of Conduct may make a complaint to the Monitoring Officer. Formal complaints must be made in writing. This should usually be done using the Code of Conduct complaint form ([Code of Conduct Complaint Form](#)) available on the Council's website and can be sent to democracy@islington.gov.uk alternatively by hand to the Monitoring Officer at the Town Hall, Upper Street, London, N1 2UD.

2.2 Reasonable adjustments will be made where, for example, a complainant has a disability that prevents them from making their complaint in writing. In such cases, a verbal account of their complaint will be transcribed and a written copy produced for approval by the complainant or the complainant's representative.

2.3 The complaint should include the following information:

2.3.1. the complainant's name, address and other contact details;

2.3.2. who the complainant is, for example, a member of the public, fellow councillor or officer;

2.3.3. who the complaint is about; and

2.3.4. details of the alleged misconduct including, where possible, dates, witness details and other supporting information.

2.4 The Council will not normally allow anonymous complaints as that would be against the principles of transparency and fairness and make matters much more difficult to investigate. However, there may be exceptional compelling reasons why an anonymous complaint could be accepted without detriment to the process and where the allegation can be evidenced without reference to the complainant.

2.5 A complainant will only be granted confidentiality in exceptional circumstances. As a matter of fairness, the complainant's identity will normally be disclosed to the subject member.

2.6 Anonymity and confidentiality are different concepts. Anonymity means the complainant is not known whereas confidentiality means that the complainant is known to the Monitoring Officer but their identity is withheld for a specific reason.

2.7 Complaints which identify criminal conduct or a breach of other regulations by any person may be referred to the police or any other relevant regulatory agency for consideration. In such cases the Monitoring Officer may consider pausing the assessment of the complaint pending action by the other body.

Acknowledging Receipt of a Complaint

2.8 When a complaint is received by the Council, the Monitoring Officer will, within 5 working days, acknowledge its receipt and set out the process to be taken to assess the complaint with an agreed timescale.

2.9 The Monitoring Officer may also notify the subject member that a complaint has been received and invite their comments on it within an agreed timescale.

2.10 In deciding whether or not to notify the subject member the Monitoring Officer will weigh up different factors. The presumption will normally be to invite the subject member to comment as this can, for example, help the Monitoring Officer to decide whether a matter can be dealt with informally without the need for an investigation.

2.11 Examples of circumstances in which the Monitoring Officer may decide not to notify the subject member include:

2.11.1. If the complaint falls outside of the jurisdiction of the Code and there is no need to hear from the subject member;

2.11.2. If telling the subject member risks that the complainant may be intimidated or evidence destroyed;

2.11.3. If there is no legal power to disclose the information.

2.12 The impact of the Data Protection Act 2018 and UK General Data Protection Regulation (GDPR) will be considered to ensure that any personal data is processed fairly and lawfully at every stage of the process and reasonable expectations of privacy will be balanced against the public interest.

Pre-assessment enquiries and reports

2.13 When the Monitoring Officer notifies the subject member that a complaint has been made about them, and seeks any relevant comments, the subject member will be given up to 10 working days from the date of the notification in which to submit their comments.

2.14 The Monitoring Officer may contact complainants for clarification of their complaint if they are unable to understand the document submitted.

2.15 The Monitoring Officer may also carry out preliminary enquiries, for example whether the councillor was in fact present at the meeting to which the complaint relates. However, such preliminary enquiries will be limited to readily available public records and will not extend to a more formal investigation.

3. ASSESSMENT OF COMPLAINTS

3.1 The assessment of a complaint is a two-stage process:

Initial test

3.2 The first step is a jurisdictional test which assesses whether the complaint is:

- 3.2.1. against one or more named members of the Council;
- 3.2.2. the named member was in office at the time of the alleged conduct;
- 3.2.3. the complaint relates to matters where the member was acting as a councillor or representative of the Council and it is not a private matter;
- 3.2.4. the complaint, if proven, would be a breach of the Code of Conduct under which the member was operating at the time of the alleged misconduct.

3.3 The jurisdictional test will be carried out by the Monitoring Officer.

3.4 If the complaint fails one or more of these tests it cannot be investigated as a breach of the Code of Conduct, and the complainant will be informed that no further action will be taken in respect of the complaint.

3.5 If there is any doubt, however, the allegation will proceed to the second stage. For example, if it is unclear whether the member was acting 'in capacity' or not then the complaint will proceed to the second stage of the assessment criteria.

Second-stage criteria

3.6 If the jurisdictional tests have been met, the Monitoring Officer will, after consultation with the Independent Person, decide whether or not a complaint merits formal investigation.

3.7 The Monitoring Officer will use a number of criteria for assessing complaints. The Monitoring Officer may determine that an allegation does not merit any further action where, for example:

3.7.1. The complaint does not contain sufficient evidence to demonstrate a potential breach of the Members' Code of Conduct;

3.7.2. An informal resolution should be explored first;

3.7.3. Where a complaint is by one councillor against another, a greater allowance for robust political debate (but not personal abuse) may be given, bearing in mind the right to freedom of expression;

3.7.4. The complaint is, in the view of the Monitoring Officer, malicious, politically motivated, or 'tit for tat';

3.7.5. An investigation would not be in the public interest or the matter, even if proven, would not be serious enough to warrant any sanction;

3.7.6. A substantially similar complaint has previously been considered and no new material evidence has been submitted within the current administration;

3.7.7. A substantially similar complaint has been submitted and accepted;

3.7.8. The complaint relates to conduct which is more than 3 months old and there is no good reason for the delay in making the complaint;

3.7.9. The behaviour that is the subject of the complaint has already dealt with. For example, through an apology at the relevant meeting;

3.7.10. The complaint actually relates to dissatisfaction with a Council decision or service rather than the specific conduct of an individual;

3.7.11. The complaint is about someone who is no longer a councillor.

The above criteria are indicative only, and the Monitoring Officer will always take into account the public interest in taking further action on a complaint.

Assessment Decisions

3.8 The Monitoring Officer will aim to complete the above two stages of their initial assessment of an allegation within 20 working days of receiving a complaint.

3.9 Where the Monitoring Officer has asked the subject member for comment, the member will be allowed up to 10 working days to comment and the Monitoring Officer will then make their assessment normally within 5 working days of any comments being received.

3.10 Where the subject member has not commented, and the 10 working days has elapsed (and they have not provided a reasonable excuse for the delay), the assessment will nevertheless be made within 5 working days after that.

3.11 The Monitoring Officer may reach one of the three following decisions on an allegation:

3.11.1. no further action should be taken on the allegation;

3.11.2. the matter should be dealt with through a process of informal resolution in the first instance; or

3.11.3. the matter should be referred for a formal investigation.

Notification of assessment decisions

3.12 Written confirmation of the decision should be issued within five working days of the decision being made.

3.13 If the Monitoring Officer decides to take no action over a complaint then, as soon as possible after making the decision, they will notify the complainant and subject member of the decision and set out clearly the reasons for that decision, including the views of the Independent Person. There is no right of appeal against a decision by the Monitoring Officer not to take any further action.

3.14 If the Monitoring Officer decides that the complaint should be referred for formal investigation or informal resolution, they will notify the complainant and subject member, stating what further action is being taken.

3.15 In such cases the Monitoring Officer will also decide whether or not to give the subject member a copy of the full complaint and whether the complainant, where they had been granted confidentiality, should remain confidential for the time being. If only one part of a complaint has been referred for action or the complaint is against more than one member, then the Monitoring Officer may decide only to disclose the relevant parts of the complaint. Any decision to withhold information will be kept under review as circumstances change.

4. INFORMAL RESOLUTION

4.1 When dealing with allegations, the Monitoring Officer can decide that some form of action other than a formal investigation is needed. This is called an 'informal resolution'. An informal resolution is often a more proportionate way of dealing with relatively minor allegations, one-off incidents or underlying disagreements between individuals.

4.2 If a matter is recommended for informal resolution at the initial assessment stage, no finding of fact is made, as there has been no formal investigation. A referral for informal resolution does not imply that the subject member is culpable where there has been no formal investigation.

4.3 An informal resolution may also be considered part way through an investigation rather than completing an investigation if it becomes clear that the matter could be resolved amicably. Where informal resolution relates to a formal investigation the Monitoring Officer will seek the views of an Independent Person before halting or pausing the formal investigation.

4.4 The Monitoring Officer may also decide that informal resolution may be more appropriate than referring a matter to a hearing following completion of an investigation. The Monitoring Officer will seek the views of an Independent Person before taking such a course of action.

4.5 Matters which the Monitoring Officer might consider appropriate for informal resolution include:

4.5.1. the same particular breach of the Code of Conduct by many members, indicating poor understanding of the Code and the Council's procedures;

4.5.2. misunderstanding of procedures or protocols;

4.5.3. lack of experience or training;

4.5.4. allegations and retaliatory allegations from the same members;

4.5.5. allegations about how formal meetings are conducted.

4.6 The Monitoring Officer will not refer complaints for informal resolution if they believe an investigation is in the public interest, for example because of the seriousness of the allegations or because it demonstrates a pattern of behaviour. In addition, the Monitoring Officer may decide that an allegation which challenges a member's honesty or integrity may be better dealt with as a formal investigation.

4.7 If the Monitoring Officer believes that a complaint can be dealt with through informal resolution, the Monitoring Officer will consult with the Independent Person and inform the subject member and the complainant of their intention and give them the opportunity to comment before making a final decision. The parties' views will be taken into account, but they do not have a veto. The decision rests with the Monitoring Officer.

4.8 Informal resolution can take a wide range of forms and can be directed at the member who is the subject of the complaint, both the subject member and the complainant, or at the Council more generally. For example:

4.8.1. Training (whether for individual members or for all members);

4.8.2. Mentoring of particular members;

4.8.3. Asking the subject member to apologise or to withdraw a remark;

4.8.4. Mediation or the drawing up an action plan;

4.8.5. The development or review of particular Council protocols and procedures.

4.9 A time limit will be set by which the action must be taken. If, within that time limit, the Monitoring Officer is satisfied with the outcome, they will notify the relevant parties. The matter is then closed.

4.10 If the Monitoring Officer is not satisfied within the timescales, they will notify the relevant parties of whether the matter is nevertheless now closed or whether they intend to take further action. Further action may include a formal investigation or referral for a hearing. In doing so the Monitoring Officer will consult with the Independent Person.

5. INVESTIGATIONS

5.1 The Monitoring Officer may conduct an investigation themselves or may delegate an investigation to their Deputy or to any other named individual. However, if they do, the Monitoring Officer will maintain the function of overseeing the investigation unless they have a conflict of interest, in which case they will make arrangements for another suitable person (internal or external) to oversee the investigation.

5.2 The Monitoring Officer will inform the relevant parties when they delegate an investigation or make sure that the investigator has done this, so that the parties know who is dealing with the case and in case they need to provide the investigator with more information.

Principles of investigation

5.3 Investigations will be undertaken with regard to the following key principles:

5.3.1. **Proportionality:** The investigation will strive to be proportionate to the seriousness or complexity of the matter under investigation. Where a matter is straightforward or simple, for example where the facts are not in dispute, there may be no need for any formal investigation, but a report can simply be written up. Equally not all the steps in this

procedure need be followed in every instance of a formal investigation – the Monitoring Officer will make a judgment in each case based on its complexity and contentiousness.

5.3.2. **Fairness:** The investigation will ensure that the subject member knows what they are accused of and has an opportunity to make comments on the investigation, including on a draft report.

5.3.3. **Transparency:** As far as is practical and having regard to an individual's right to confidentiality, investigations will be conducted as transparently as possible and all parties will be kept up to date with progress in the case.

5.3.4. **Impartiality.** An investigator will not approach an investigation with pre-conceived ideas and will avoid being involved where they have a conflict of interest.

5.4 The investigator will inform the parties what it is they are investigating and what will happen next. They will also inform the subject member that they have the right to seek the views of the Independent Person at any time whilst the investigation is ongoing.

5.5 The investigator will have due regard to the Council's obligations under the Data Protection Act 2018, UK General Data Protection Regulations, the Human Rights Act 1998 and other relevant legislation, when carrying out an investigation.

5.6 When conducting an investigation, the investigator will make enquiries of any person they think necessary. If the investigator has difficulties obtaining a response, or if a person refuses to cooperate with the investigation, the investigation will not be delayed but the investigator will make this non-cooperation clear in any subsequent report.

5.7 The Monitoring Officer, or an investigator appointed by the Monitoring Officer, will normally:

5.7.1. Provide the subject member with a copy of the complaint;

5.7.2. Ask the subject member to provide their explanation of events;

5.7.3. Ask the subject member to identify what documents they consider the investigator needs to see;

5.7.4. Ask the subject member who they consider the investigator needs to interview.

5.8 Where it is appropriate to keep confidential the identity of the person making the allegation, the Monitoring Officer / investigator will delete the person's name and address from the papers given to the subject member.

5.9 The Monitoring Officer / investigator has absolute discretion about which are the appropriate witnesses to interview and documents to consider.

5.10 During the course of an investigation, the Monitoring Officer may reappraise if an investigation remains the right course of action, for example, if:

5.10.1. Evidence is uncovered suggesting a case is less serious than may have seemed apparent originally and that a different decision might therefore have been made about whether to investigate it or not;

5.10.2. They conclude after examining the matter in detail that in fact the matters under investigation were not done by the subject member in their role as a councillor or as a representative of the authority but rather in a private capacity;

5.10.3. They have uncovered something which is potentially more serious and the authority may want to consider referring it to the police, for example;

5.10.4. The subject member has died, is seriously ill or has resigned from the Council and the Monitoring Officer is of the opinion that it is no longer appropriate to continue with the investigation;

5.10.5. The subject member has indicated that they wish to make a formal apology which the Monitoring Officer considers should draw a line under the matter.

In this context 'seriously ill' means that the subject member has a medical condition which would prevent them from engaging with the process of an investigation or a hearing for the foreseeable future. This might be a terminal illness or a degenerative condition.

5.11 It is for the Monitoring Officer to conclude whether the investigation should continue. However, the Independent Person will be consulted before deciding to defer or end an investigation.

5.12 If the matter has been deferred or ended, the Monitoring Officer will notify the subject member and the complainant of the decision and provide timescales within which the matter will be dealt with if it has been deferred. This will not always be appropriate, however, particularly if the matter has been referred to the police.

Deferring an investigation

5.13 An investigation will be deferred when any of the following conditions are met:

5.13.1. There are ongoing criminal proceedings or a police investigation into the subject member's conduct;

5.13.2. The Monitoring Officer cannot proceed with their investigation without investigating similar alleged conduct or needing to come to conclusions of fact about events which are also the subject of some other investigation or court proceeding;

5.13.3. The investigation might prejudice another investigation or court proceeding.

5.14 An investigation may also need to be deferred:

5.14.1. when there is an ongoing investigation by another regulatory body;

5.14.2. because of the serious illness of a key party;

5.14.3. due to the genuine unavailability of a key party.

5.15 The decision to defer an investigation, whether in whole or in part, will be taken by the Monitoring Officer.

5.16 A deferred investigation will be kept under regular review, in the interests of natural justice.

5.17 Once a decision is taken to begin the investigation again, the Monitoring Officer will notify in writing:

5.17.1. the subject member;

5.17.2. the complainant; and

5.17.3. the relevant Independent Person.

Confidentiality

5.18 Any information received by the Monitoring Officer, or an investigator appointed by the Monitoring Officer, during the course of an investigation will be treated as confidential to the investigative process until the investigation is completed unless there is a statutory requirement to disclose it, for example when there are parallel criminal investigations being undertaken.

5.19 Persons interviewed during the course of an investigation, and anyone else aware of the investigation, are asked to maintain confidentiality. Members are reminded of their obligations under the Code of Conduct regarding the disclosure of information that they receive in confidence.

5.20 Members of the public are not covered by the Code of Conduct. A person making an allegation about a member is under no responsibility to the subject member to keep that complaint confidential, but if they do decide to publish the complaint and it is untrue then the complainant may well expose themselves to an action for defamation.

Timescales for an investigation

5.21 There are many factors that can affect the time it takes to complete an investigation. However, most investigations will be carried out, and a report on the investigation completed, within a maximum of six months of the original complaint being referred for an investigation. This will not always be possible, particularly where there is overlapping jurisdiction or where the investigator is waiting for a key piece of evidence from an external body.

5.22 Refusal by the subject member or other relevant party to cooperate, for example by not making themselves available for an interview without good reason, will not be a reason for delay but will be reflected in the investigation report.

5.23 If the subject member refuses to cooperate with the investigation, that of itself is a potential breach of the Code of Conduct and may be something that any decision maker may take account of.

Reports

The Draft Report

5.24 The investigator will produce a draft report, which will initially be considered by the Monitoring Officer and the Independent Person so that they can satisfy themselves that the investigation is of an acceptable standard and met the scope of the complaint. Once the Monitoring Officer is satisfied, the draft report will be sent to the relevant parties with a deadline of up to 10 working days for commenting.

5.25 The draft report is not sent to witnesses, but where criticism is made of a third party who will not otherwise have an opportunity to comment on a draft report then they will be invited to comment on those criticisms before the report is completed.

5.26 The report will cover:

5.26.1. agreed facts;

5.26.2. any disputed facts together with the investigator's view, if appropriate, as to which version is more likely;

5.26.3. whether those facts amount to a breach of the Code or not; and

5.26.4. the investigator's reasons for reaching that conclusion.

5.27 The report will make one of the following findings on the balance of probabilities:

5.27.1. that there has been one or more failure(s) to comply with the Code of Conduct;

5.27.2. that there has not been a failure to comply with the Code.

5.28 Responses to the draft report may reveal the need for further investigation, or they may add nothing of relevance. Occasionally changes may be significant enough for the issuing of a second draft. Therefore, the draft report should state that the report does not necessarily represent the investigator's final findings and that the investigator will present a final report to the Monitoring Officer once they have considered any comments received on the draft report.

The Final Report

5.29 Upon receipt of the final investigation report, the Monitoring Officer, in consultation with the Independent Person, whose comments must be given to the Monitoring Officer in writing, may decide:

5.29.1 to take no further action;

5.29.2. to seek to resolve the matter informally; or

5.29.3. to refer the matter to a hearing by the Standards Committee.

5.30 The final report will be issued by the Monitoring Officer and sent as soon as practicable to:

5.30.1. the subject member;

5.30.2. the complainant;

5.30.3. the Independent Person;

5.31 If the Monitoring Officer considers that there has been no breach of the Code, that will be the end of the matter.

5.32 If the Monitoring Officer considers that there has been a breach of the Code, the Monitoring Officer will decide what action, if any, to take and notify the relevant parties. For example, the

Monitoring Officer may decide to seek an informal resolution at this stage. In doing so the Monitoring Officer will consult with the Independent Person.

5.33 If the Monitoring Officer decides the matter should be referred for a hearing, the report will be accompanied by information explaining that a hearing will be held and the procedure to be followed.

5.34 There is no appeal against the Monitoring Officer's report. Where a potential breach has been found, and the matter has been referred to a hearing, the parties will have their chance to have their say on the investigation at that stage. Where no breach has been found, that is the end of the matter.

5.35. Where a potential breach has been found and the matter has been referred to a hearing, the Independent Person must produce a report setting out their views on the investigator's final report not less than 10 working days before the hearing.

Publication of Reports

5.36 Where the Monitoring Officer has concluded that there has been no breach, that no further action is needed, or the matter has been resolved in some other way, a copy of the investigation report will not usually be published. However, if the matter has generated local interest the Monitoring Officer may consider putting out a brief statement explaining the outcome and reasoning.

6 HEARINGS

6.1 At the end of the investigation, a hearing may be called where the investigator has concluded that there has been a breach of the Code of Conduct and the Monitoring Officer has concluded that the matter cannot otherwise be resolved informally.

6.2 For reasons of fairness and proportionality a hearing should wherever possible take place within three months of the date on which the investigator's report was completed. Where that is not possible, for example because the matter is awaiting the outcome of other matters being dealt with by outside bodies or other investigations into the subject member, the Monitoring Officer will notify the relevant parties of the reason for the delay and provide an estimated timescale.

6.3 However, the hearing will take place at least 14 calendar days after the investigation report has been issued, and at least 10 days after the Independent Person's report has been issued, unless the subject member agrees. This is to allow them sufficient time to prepare their defence and consider any witnesses they may wish to call for example.

6.4 Once a date has been set for a Hearing the Monitoring Officer will notify:

6.4.1. the subject member;

6.4.2. the investigator;

6.4.3. the Independent Person;

6.4.4. the complainant if appropriate.

6.5 The Monitoring Officer will also outline the hearing procedure; the subject member's rights and ask for a written response from the subject member within a set time. This is to find out whether the subject member:

6.5.1. disagrees with any of the findings of fact in the investigation report, including reasons for any of these disagreements;

6.5.2. wants to give evidence to the hearing, either verbally or in writing;

6.5.3. wants to call relevant witnesses to give evidence to the Standards Committee;

6.5.4. wants to request any part of the hearing to be held in private (and the reasons for this);

6.5.5. wants to request any part of the investigation report or other relevant documents to be withheld from the public (and the reasons for this).

6.6 The investigator will also be asked if they wish to call any witnesses.

6.7 If the subject member is unable to attend the specified date the Standards Committee Hearing Panel (“the Panel”) may arrange for the hearing to be held on a different date, provided that they are satisfied that the subject member has given an acceptable reason. Where the subject member does not give an acceptable reason or does not reply within a specified time, the Panel will proceed with the date and may consider the report in the subject member’s absence if the subject member does not attend the hearing. The Panel should make clear at the start of the hearing that they have considered whether they can proceed in the absence of the subject member and should record their reasons.

6.8 If one or more witnesses are unavailable on the given date, the Monitoring Officer, in consultation with the Chair of the Panel, will decide how material they would be to the hearing and whether another date needs to be looked for. Witnesses will be kept promptly informed of the relevant dates, times and location of the hearing.

6.9 Except in the most complicated cases, the Panel should aim to complete a hearing in one sitting or in consecutive sittings of no more than one working day in total.

Role of the Monitoring Officer

6.10 The Monitoring Officer will be the main adviser to the Panel unless they have an interest in the matter that would prevent them from performing this role independently. This may be because they have carried out the investigation or have another conflict. If this situation arises, the Monitoring Officer will arrange for another appropriately qualified officer to advise the Panel.

6.11 Where the Monitoring Officer has personally conducted the formal investigation of a complaint, they will delegate the role of advising the Panel and, where the Monitoring Officer intends to undertake the role of advising a potential hearing, they will delegate the investigative role. The Monitoring Officer will not undertake both roles in the same case.

6.12 The Monitoring Officer or other legal adviser's role in advising the Panel is to:

6.12.1. make sure that members of the Panel understand their powers and procedures;

6.12.2. make sure that the procedure is fair and will allow the complaint to be dealt with as efficiently and effectively as possible;

6.12.3. make sure that the subject member understands the procedures the Panel will follow;

6.12.4. provide advice to the Panel during the hearing and their deliberations;

6.12.5. help the Panel members produce a written decision and a summary of that decision.

Composition of the Panel

6.13. The Hearing Panel will comprise of members drawn from the main body of the Standards Committee.

6.14 Political proportionality applies to the Panel to the extent that it applies to the Committee.

6.15 All Panel members are required to have undertaken suitable training.

Pre-Hearing

6.16 As soon as a date has been set for a hearing, the Monitoring Officer and the Chair will hold a pre-hearing. This may be done in writing. The purpose of the pre-hearing process is to allow matters at the hearing to be dealt with more fairly and economically.

6.17 At the pre-hearing the Monitoring Officer and Chair should:

6.17.1. Decide whether any of the findings of fact in the investigation report are in dispute and, if so, how relevant they are likely to be at the hearing.

6.17.2. Consider any additional evidence it considers is required at the hearing.

6.17.3. Identify any witnesses it thinks it would want to hear from.

6.17.4. Decide if witnesses which the subject member or investigator may want to call are relevant bearing in mind the nature of the issue and the need for proportionality.

6.17.5. Consider whether there are any parts of the hearing that are likely to be held in private or whether any parts of the investigation report or other documents should be withheld from the public prior to the hearing, on the grounds that they contain 'exempt' material though the final decision will rest with the Panel on the day. The presumption will be to hold a public hearing unless there is specific exempt or confidential information as defined by Part VA of the Local Government Act 1972. The subject member will be asked for their view prior to the hearing.

6.17.6. Identify any potential conflicts of interest, for example any close associations with the people involved or potential witnesses. The Monitoring Officer will advise if any conflicts mean that a councillor should stand down from the Panel.

6.18 Panel members must not debate the merits of the case at the pre-hearing.

6.19 Once the pre-hearing has been held the Monitoring Officer will write to everyone involved in the complaint at least 5 working days before the hearing to:

6.19.1. confirm the date, time and place for the hearing;

6.19.2. list those witnesses, if any, who will be asked to give evidence; and

6.19.3. outline the proposed procedure for the hearing.

The Hearing

6.20 The decision on whether the hearing will be held in public will be at the Chair's discretion, following advice.

6.21 Evidence will not be under oath.

6.22 The Panel will decide factual evidence on the balance of probabilities.

6.23 The Panel is required at all times to act in a demonstrably fair, independent and politically impartial way.

6.24 All concerned should treat the hearing process with respect and with regard to the potential seriousness of the outcome, for the subject member, the Council and the public.

Representatives

6.25. The subject member may choose to be represented by counsel, a solicitor, or by any other person they wish. This should have been agreed at the pre-hearing and if the Panel has any concern about the person chosen to represent the subject member, they should have made that clear beforehand. The Panel does, however, have the right to withdraw its permission to allow a representative if that representative disrupts the hearing. However, an appropriate warning will usually be enough to prevent more disruptions and should normally be given before permission is withdrawn.

Evidence

6.26 The Panel, through its Chair, controls the procedure and evidence presented at a hearing, including the number of witnesses and the way witnesses are questioned.

6.27 In many cases, the Panel may not need to consider any evidence other than the investigation report and any other supporting documents. However, the Panel may need to hear from witnesses if more evidence is needed, or if people do not agree with certain findings of fact in the report.

6.28 The Panel can allow witnesses to be questioned and cross-examined by the subject member and the investigator. The Panel and the Independent Person can also question witnesses directly. It is not a legal requirement that the Independent Person attend the hearing, but it is best practice, and the Panel must have regard to their views when reaching a decision. If the Independent Person does not attend therefore, there must be an agreed mechanism for receiving their views.

6.29 If the Panel believes that questions are irrelevant, disproportionate or oppressive then the Chair may stop that particular line of questioning.

6.30 Generally, the subject member is entitled to present their case as they see fit, which includes calling the witnesses they may want and which are relevant to the matters to be heard. However, the Panel may limit the number of witnesses if the number is unreasonable.

6.31 Typically, a hearing will adopt the following format:

6.31.1 The Investigating Officer will be invited to present their Investigation Report and to call witnesses as required;

6.31.2 The Subject Member may question the Investigating Officer and any witnesses called by the Investigating Officer;

6.31.3 The Independent Person may question the Investigating Officer and any witnesses called by the Investigating Officer;

6.31.4. Members of the Panel may question the Investigating Officer and any witnesses called by the Investigating Officer;

6.31.5. The Subject Member may present their case and call witnesses as required;

6.31.6. The Investigating Officer may question the Subject Member and any witnesses;

6.31.7. The Independent Person may question the Subject Member and any witnesses called by the Subject Member;

6.31.8. Members of the Panel may question the Subject Member and any witnesses called by the Subject Member;

6.31.9. The Investigating Officer may make a closing speech;

6.31.10 The Subject Member may make a closing speech.

Making a finding

6.32 Once the Panel has heard all the relevant evidence and before retiring to consider its finding, the Chair will invite the Independent Person to give their views to the Panel which the Panel must have regard to. These views will be given in the open session.

6.33 The Chair will then suspend the hearing and the Panel will retire in private to consider its finding. Any officer who retires with the Panel is there to advise on matters of procedure and law only. If the Independent Person retires with the Panel, they should not take part in any decision making as they are not part of the formal decision-making process. In addition, they should ensure that any views they give to the Panel are also made publicly to the meeting.

6.34 The Panel may conclude:

6.34.1. that the Member did not fail to comply with the Members' Code of Conduct, and dismiss the complaint, or

6.34.2. that the Member did fail to comply with the Members' Code of Conduct.

6.35 Once the Panel has reached its decision it will reconvene to inform the Subject Member. Where a breach has been found, the Panel will invite representations as to any aggravating or mitigating factors and what action it should take.

6.36 Mitigating factors may include:

6.36.1. an honestly held, although mistaken, view that the action concerned did not constitute a failure to follow the provisions of the Code of Conduct, particularly where such a view has been formed after taking appropriate advice;

6.36.2. a member's previous record of good service;

6.36.3. substantiated evidence that the member's actions have been affected by ill-health;

6.36.4. recognition that there has been a failure to follow the Code; co-operation in rectifying the effects of that failure; an apology to affected persons where that is appropriate; self-reporting of the breach by the subject member;

6.36.5. compliance with the Code since the events giving rise to the complaint.

6.37 Aggravating factors may include:

- 6.37.1. dishonesty or breaches of trust;
- 6.37.2. trying to gain an advantage or disadvantage for themselves or others;
- 6.37.3. bullying;
- 6.37.4. continuing to deny the facts despite clear contrary evidence;
- 6.37.5. seeking unfairly to blame other people;
- 6.37.6. failing to heed appropriate advice or warnings or previous findings of a failure to follow the provisions of the Code;
- 6.37.7. persisting with a pattern of behaviour which involves repeatedly failing to abide by the provisions of the Code.

Sanctions

6.38 The Panel will seek and take into account the views of the Independent Person before retiring again to consider an appropriate sanction.

6.39 When deciding on a sanction, the Panel should ensure that it is reasonable, proportionate and relevant to the subject member's behaviour. Before deciding what sanction to issue, the Panel will consider the following questions, along with any other relevant circumstances:

- 6.39.1. What was the subject member's intention?
- 6.39.2. Did the subject member know that they were failing to follow the Code of Conduct?
- 6.39.3. Did the subject member get advice from officers before the incident? Was that advice acted on or ignored?
- 6.39.4. Has there been a breach of trust?
- 6.39.5. Has there been financial impropriety, for example improper expense claims or procedural irregularities?
- 6.39.6. What was the result or potential result of failing to follow the Code of Conduct?
- 6.39.7. How serious was the incident?

- 6.39.8. Does the subject member accept they were at fault?
- 6.39.9. Did the subject member apologise to the relevant people?
- 6.39.10. Has the subject member previously been warned or reprimanded for similar misconduct or failed to follow the Code of Conduct before?
- 6.39.11 Is the subject member likely to do the same thing again?
- 6.39.12. How will the sanction impact on the subject member's ability to carry out their role?
- 6.40 There is no definitive list of possible sanctions. Typical sanctions may include one or a combination of the following:
- 6.40.1 take no further action;
- 6.40.2 report the Panel's findings in respect of the subject member's conduct to Full Council;
- 6.40.3. issue a formal censure that may be submitted from the Panel which may also be reported to Full Council;
- 6.40.4. recommend to the subject member's group leader that they be removed from any or all committees or sub-committees of the Council;
- 6.40.5. recommend to the Leader of the Council that the subject member be removed from positions of responsibility;
- 6.40.6. instruct the Monitoring Officer to arrange training for the subject member;
- 6.40.7. recommend to Full Council that the subject member be removed from all outside appointments to which they have been appointed or nominated by the Council;
- 6.40.8. recommend to Full Council that it withdraws facilities provided to the subject member by the Council for a specified period, such as a computer, website and/or email and internet access;
- 6.40.9. in exceptional circumstances recommend to Full Council that it excludes the subject member from the Council's offices or other premises for a specified period, with the exception of meeting rooms as necessary for attending council, committee and sub-committee meetings and/or restrict contact with officers to named officers only;

6.40.10. if relevant recommend to Full Council that the subject member be removed from their role as Leader of the Council;

6.40.11. if relevant recommend to the appropriate political group that the subject member be removed as group leader or other position of responsibility;

6.40.12. Any other appropriate sanction which may be available to the Committee.

6.41 Sanctions involving restricting access to the Council's premises or equipment or contact with officers should not unnecessarily restrict the subject member's ability to carry out their responsibilities as an elected representative or co-opted member.

6.42 The Standards Committee has no power to suspend or disqualify a Member or to withdraw members' or special responsibility allowances.

Publicising the findings

6.43 Where possible, a short-written decision will be made available on the day of the hearing. The Panel will give its full written decision to the relevant parties as soon as possible after the hearing. In most cases this should be within one week of the hearing.

6.44 The relevant parties are:

6.44.1. the subject member;

6.44.2. the complainant;

6.44.3. the Independent Person.

6.45 The subject member's political group may also be informed of the decision if the sanction requires group action.

6.46 A decision notice will be published on the Council's website, and anywhere else the Panel considers appropriate.

6.47 If the Panel finds that a member did not fail to follow the Council's Code of Conduct, the public summary will state this and give reasons for the finding.

6.48 If the Panel finds that a member failed to follow the Code but that no action is needed, the public summary will:

6.48.1. state that the named subject member failed to follow the Code, but that no action needs to be taken;

6.48.2. outline what happened;

6.48.3. give reasons for the Panel's decision not to take any action.

6.49 If the Panel finds that a member failed to follow the Code and it imposed a sanction, the public summary will:

6.49.1. state that the named subject member failed to follow the Code;

6.49.2. outline what happened;

6.49.3. explain what sanction has been imposed;

6.49.4. give reasons for the decision made by the Panel.

6.50 The Panel's reports and minutes will be available for public inspection on the Council's website in the same way as other committee papers.

Appeals

6.51 There is no right of appeal against a decision on a Code of Conduct complaint.

Complaints Procedure Flowchart

