

Report of : Corporate Director of Resources

Meeting of	Date	Agenda Item	Ward(s)
Standards Committee	19 June 2012	7	All

Delete as appropriate	Exempt	Non-exempt
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Subject: Localism Act 2011 – Proposed new Islington Members Code and complaint procedure

1. Synopsis

The committee considered a report in January 2012 concerning the changes to the member standards regime made in the Localism Act 2011. The committee made observations on the possible approaches to establishing revised arrangements for the council in respect of a code of conduct, dispensations from prohibitions on participation in council business where a councillor has an interest in business on the agenda and investigation of allegations of breach. This report proposes new arrangements for consideration by the Committee before adoption by the Council in June, which take into account the previous discussion and the recent publication of draft regulations concerning member interests and of draft transitional provisions concerning Independent Persons.

2. Recommendations

- 2.1 To consider and comment on the proposed new Islington Members Code of Conduct in Appendix 1 prior to its submission to council for approval.
- 2.2 To consider and comment on the new Procedure for investigation of complaints in Appendix 2 prior to its submission to council for approval

- 2.3 To note the proposed new terms of reference for the Audit and Standards Committees contained in Appendix 3 and the revision to the Council Procedure Rules in paragraph 3.8.

3. Background Details

- 3.1 As members of the committee will recall, the Localism Act 2011 makes fundamental changes to the system of regulation of standards of conduct for elected councillors and co-opted members of committees. The council will remain under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members. The existing code of member conduct will cease to have effect and the council is obliged to adopt a new code. The Act repeals Section 55 of the Local Government Act 2000, which provides for the current statutory Standards Committee. So, there will be no requirement for a Standards Committee. However, there will still be a need to deal with standards issues and to investigate and deal with complaints.

3.2 The Code of Conduct

The current ten General Principles and Model Code of Conduct will be repealed, and members will no longer have to give an undertaking to comply with the Code of Conduct. However, the Council will be required to adopt a new Code of Conduct governing elected and co-opted members' conduct when acting in that capacity. The council's new Code of Conduct must, viewed as a whole, be consistent with the following seven principles –

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

- 3.3 The council has discretion as to what it includes within its new Code of Conduct, provided that it is consistent with the seven principles. However, regulations under the Act require the registration and, in some circumstances, disclosure of "Disclosable Pecuniary Interests" (DPIs). The DPIs specified in draft regulations are set out at paragraph 9(2) of the draft Code in Appendix 1. The provisions of the Act also require the council's code to contain appropriate requirements for the registration (and disclosure) of other pecuniary (i.e. financial) interests and non-pecuniary interests.

- 3.4 The committee indicated at its last meeting that it considered a new code which was broadly similar to the existing code would be more appropriate than a minimal or very different code. Since then the DCLG has circulated to all Local Authority Leaders "an illustrative text for a code of conduct for Members and co-opted

Members” and the LGA has produced an alternative version. These are in Appendix 4. Neither of these are in a form which provides much guidance to members about actual behaviours to adopt or avoid.

3.5 The draft new Islington Members Code of Conduct in Appendix 1 has therefore been prepared on the basis of the Committee’s previous support for a new code which was similar to the old code, but simpler where that was possible. The footnotes in the draft code would not appear in the final version but may assist members in considering the draft. The elements printed in italics) are those elements where breach will attract criminal sanctions under the Localism Act. There is some uncertainty as to how the DPs specified in the regulations will work in practice as the drafting of the regulations is not entirely satisfactory. It is hoped that the current consultation process will lead to some improvements.

3.6 The Council’s new Code of Conduct has to deal with the following matters –

- General conduct rules, to give effect to the seven principles. This corresponds broadly with Paragraphs 3 to 7 of the current Code of Conduct; and can be found in sections 1-8 of the draft new code.
- Reflecting the regulations concerning DPs – these can be found at paragraph 11 of the draft new code.
- Registration and disclosure of interests other than DPs – effectively, replacing the current personal interests provisions. The proposed requirements are contained in section 11 of the draft code.

3.7 The proposed Personal Interests to be declared in addition to DPs are only those which affect the financial position of a councillor or a member of their family or a regulatory matter concerning them, such as a planning application. The member will not be required to leave the meeting following the declaration.

3.8 The Act prohibits members with a DP from participating in authority business, and the Council can adopt a Standing Order requiring members to withdraw from the meeting room. It is considered by the Monitoring Officer that the council should adopt such a standing order and this was also the view taken by the committee when it last met. This is therefore referred to in the draft code at section 11(2). It is proposed that the new procedural rule read:

“Any member who has a Disclosable Pecuniary Interest in any business being considered at a council meeting must leave the room where the meeting is being held whenever it becomes apparent that the business is being or is about to be considered at that meeting, unless the member has obtained a dispensation under the council’s dispensation procedure.”

3.9 **Future of the Standards Committee**

As discussed at the previous meeting of the committee, there will no longer be a Standards Committee with the special status of this one. It is proposed that there continue to be a separate Standards Committee but that its terms of reference in future be concerned only with the investigation of complaints, agreeing dispensations and agreeing the complaints procedure, and that it meets on an ad

hoc basis to deal with such issues. Other functions of the Committee that still need to be carried out will become responsibility of the Audit Committee which meets on an approximately quarterly basis. The proposed terms of reference changes to achieve this are in Appendix 3. The Initial assessment and review Committees will cease to exist.

- 3.10 It is proposed that the new Standards Committee continue to have co-opted members, as indicated by the committee at its last meeting, although as it will be an ordinary committee of the council, the co-opted members will not have a vote. This will be a separate role from the Independent Persons who must be consulted under the Localism Act. Despite initial indications to the contrary, it will now be possible to appoint a former Independent member as the Independent Person provided that is done before July 1st 2013 and after an advertisement. The Independent Person must be appointed through a process of public advertisement, application and appointment by a positive vote of a majority of all members of the Council (not just of those present and voting). Arrangements for an advert and recruitment process are in hand.
- 3.11 It is proposed that the Standards Committee comprise 6 members, four councillors, three Labour and one Liberal Democrat councillor plus two non voting co-optees drawn from the existing independent members.

3.12 **Dealing with Misconduct Complaints**

The Act requires that the Council adopt “arrangements” for dealing with complaints of breach of Code of Conduct by Council members and such complaints can only be dealt with in accordance with such “arrangements”. A draft procedure is set out in Appendix 2. This has been kept shorter than the old procedure as there is less prescribed in the legislation but is broadly similar.

- 3.13 In accordance with the views of the committee when it met in January, more scope for informal resolution by the Monitoring Officer is allowed for under the draft new procedure than is currently the case and more matters are delegated to her to be dealt with, subject to consultation with the Independent Person. To ensure accountability for these decisions, it is proposed that a quarterly report be made to the Audit Committee concerning the number and nature of complaints received and to draw to the Committee’s attention areas where training or other action might avoid further complaints.
- 3.14 The more limited sanctions available to the new Committee are reflected in the draft procedure.
- 3.15 The requirement in the Localism Act that the Independent Person must be consulted by the authority before it makes a finding as to whether a member has failed to comply with the Code of Conduct or decides on action, if any, to be taken in respect of that member is reflected in the requirement that the Independent Person will produce a report for the Committee hearing the complaint and that the

Independent Person will attend the hearing and be consulted before the Committee makes its decision.

4. Implications

4.1 Legal Implications

These are contained in the body of the report.

4.2 Financial Implications

There are no financial implications arising directly from this report.

4.3 Equality Impact Assessment

There are no equalities implications arising directly from this report.

4.4 Environmental Implications

There are no environmental implications arising directly from this report.

5. Conclusion and recommendations

8.1 The Localism Act introduces a new regime for governing standards of member conduct which is significantly different from the current regime.

8.2 This report describes proposals for a new Code, and a new Investigation and Hearing Procedure.

8.3 The committee is recommended to consider and comment on the draft documents in the Appendices.

Background papers:

None.

Final Report Clearance

Signed by

Corporate Director of Resources

Date

Received by

Head of Scrutiny and Democratic Services

Date

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Appendix 1

Islington Code of Conduct for Members

Introduction and interpretation

1. (1) This Code applies to you as a member of Islington Council.
- (2) You should read this Code.
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code:

"meeting" means any meeting of—

- (a) full council;
- (b) the Executive;
- (c) any of the council's or its Executive's committees, sub-committees, joint committees or joint sub-committees;

"member" includes a co-opted or appointed member at any meeting.

Scope

2. (1) You must comply with this Code whenever you:
 - (a) conduct the business of Islington Council (which, in this Code, includes the business of the office to which you are elected or appointed); or
 - (b) act, claim to act or give the impression you are acting as a representative of Islington Council.

(2) Paragraph 5¹ will have effect even when paragraph 2(1) above does not apply where that conduct constitutes a criminal offence for which you have been convicted, including an offence you committed before the date you took office.

- (3) Where you act as a representative of Islington Council:

¹ Bringing into disrepute.

(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.

High standards of conduct

3. You must maintain a high standard of conduct, and comply with the following general conduct principles:

The General Principles²

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 aim to 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.

General Obligations

- 4 (1) You must treat others with respect.
- (2) You must not:
- (a) do anything which may cause the council to breach any of the equality enactments
 - (b) bully any person;
 - (c) intimidate or attempt to intimidate any person who is or is likely to be:
 - (i) a complainant
 - (ii) a witness

² These headings are the principles set out in the regulations; the explanation comes from the existing code

(iii) involved in the administration of any investigation or proceedings

in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.

6. You must not:

(1) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where

(a) you have the consent of a person authorised to give it; or

(b) you are required by law to do so; or

(c) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

(d) the disclosure is reasonable and in the public interest and made in good faith and in compliance with the reasonable requirements of the authority

(2) prevent another person from gaining access to information to which that person is entitled by law.

7. You:

(1) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage

(2) You must, when using or authorising the use by others of the council's resources act in accordance with the council's requirements, ensure that such resources are not used improperly for political purposes (including party political purposes); and have regard to any applicable Local Authority Code of Publicity made pursuant to the Local Government Act 1986.

8. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by:

(a) the council's chief finance officer (the Corporate Director of Finance); or

(b) the councils monitoring officer (the Corporate Director of Resources), or their deputies.

- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the council

Registration and disclosure of interests

9. (1) For the purposes of this Code, a pecuniary interest is a "disclosable pecuniary interest" in relation to you if

- (a) it is of a description specified in regulations made by the Secretary of State
- (b) it is an interest of a relevant person; and
- (c) you are aware that that other person has the interest.

- (2) The Secretary of State has specified the following disclosable pecuniary interests:

(a) Employment, office, trade, profession or vacation

Any employment, office, trade, profession or vocation carried on for profit or gain.

(b) Sponsorship

Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.

This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992⁽³⁾.

(c) Contracts

Any contract which is made between you or the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority—

- (a) under which goods or services are to be provided or works are to be executed; and
- (b) which has not been fully discharged.

(d) Land

Any beneficial interest in land which is within the area of the relevant authority.

(e) Licences

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

(f) Corporate tenancies

Any tenancy where (to M's knowledge)—

- (a) the landlord is the relevant authority; and
- (b) the tenant is a body in which the relevant person has a beneficial interest.

(g) Securities

Any beneficial interest in securities of a body where—

- (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and
- b) either:
 - (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

(3) A relevant person is

- (a) you, or
- (b)
 - (i) your spouse or civil partner,
 - (ii) a person with whom you are living as husband and wife, or
 - (iii) a person with whom you are living as if you are civil partners

(4) A pending notification is a notification of an interest to the Corporate Director of Resources which has yet to be entered onto the register

Registration of Members' Interests

10 (1) *Subject to paragraph 12⁴, you must, within 28 days of your election or appointment to office, notify the Corporate Director of Resources of any disclosable pecuniary interests⁵ which you have at the date when the notification is given*

(2) If you become a member or co-opted member as a result of re-election or re-appointment (1) above only requires you to inform the Corporate Director of Resources of any pecuniary interests not entered already on the register when the notification is given.⁶

(3) Subject to paragraph 12, you must, within 28 days of becoming aware of any new disclosable pecuniary interest or change to any pecuniary interest registered under sub section (1) or (2), notify the Corporate Director of Resources of that change or new interest⁷

⁴ Sensitive interests

⁵ What else should be included can be considered once the regulations are available.

⁶ From the legislation

⁷ The legislation only seems to require this if it comes up at a meeting as required in (4) but this seems unhelpful

- (4) If you disclose a Disclosable Pecuniary Interest in any matter under paragraph 11(1)(a) below, (and there is not a pending notification in respect of that interest) you must notify the Corporate Director of Resources of the interest before the end of 28 days beginning with the date of your disclosure of the interest at that meeting
- (5) The Corporate Director of Resources will maintain the council's register of interests, and enter onto that register all interests⁸ notified to her
- (6) Entries in the Member's register of interests will be removed should you no longer have the interest and you inform the Corporate Director of Resources of this fact and request removal or should they cease to be a member (for whatever reason)⁹
- (6) A copy of the register will be available for inspection at the Town Hall during working hours and published on the council's website.

Disclosure of Members' interests at meetings

Disclosable Pecuniary Interests:

- 11 (1) If you are present at a meeting and are aware that you have a Disclosable Pecuniary Interest in any matter to be considered or being considered at that meeting:
- (a) If the interest is not entered in the register you must disclose the interest both the existence and details of it to the meeting;
- (b) If the interest is not entered in the Council register (and there is not a pending notification in respect of that interest) you must formally notify the interest to the Director of Corporate Resources after the meeting in accordance with paragraph 10(4) above.
- (2) Where 11(1) above applies, you may neither participate or participate further in any discussion of the matter at the meeting nor participate in any vote or further vote taken on the matter at the meeting and must in accordance with the council's Rules of Procedure leave the room¹⁰
- (3) Where you have authority to discharge a function acting individually and are aware you have a Disclosable Pecuniary Interest in any matter to be dealt with or being dealt with by you:
- (a) If the interest is not entered in the register (and there is not a pending notification in respect of that interest) you must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date of when you become aware that the circumstances in this sub paragraph apply; and

⁸ The legislation says the Monitoring Officer must enter anything notified even if it isn't a DPI.

⁹ From the legislation

¹⁰ This is a choice issue. If this is included we could also carry forward the old rules which allowed participation with a prejudicial interest if the public could participate – but since it is likely to be just the most serious interests that count as PDIs, this is probably not appropriate.

(b) You must not take any steps or any further steps in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by you)

(4) You are not required to disclose Discloseable Pecuniary Interest at meetings other than in accordance with 11(1) and (3) above. Should you wish to disclose a Discloseable Pecuniary Interest that is already in the register in the interests of openness and transparency, this will be recorded in the minutes of the meeting.

Personal Interests:

(5) ¹¹ If you intend to speak or vote in relation to a matter being or to be considered at a meeting and you do not have a Discloseable Pecuniary Interest but the matter relates to or is likely to affect to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral ward, affected by the decision:

(a) the financial position (including a contract or property interest) of:

(i) you

(ii) a relevant person

(iii) another member of your family;

(iv) or any body of which you are a member or in a position of general control or management (other than as a council appointee or nominated representative); or

(b) a planning or other regulatory matter concerning any such person

you must disclose the existence and nature of that interest at the commencement of consideration of the matter, or when the interest becomes apparent.

(6) For the purposes of this Code a member of your family shall be taken to mean a full parent, child or sibling of yours.

Sensitive information

12 Where you have an interest and the nature of the interest is such that the you and the Corporate Director of Resources consider that disclosure of the details of the interest could lead to you or a person connected with you being subject to violence or intimidation:

(a) If the interest is entered in the register, copies of the register that are made available for inspection and any published version of the register will not include

¹¹ The legislation states that the Council should include the provision "the authority considers appropriate" in its code of conduct as the registration and disclosure of "interests other than pecuniary interests".

details of the interest but will say that the member has an interest the details of which are withheld pursuant to this section of this Code.

(b) The interest must still be disclosed at meetings where required by this Code, but the disclosure can be limited to the fact that the Member has a disclosable interest in the matter.

Dispensations

13.(1) In limited circumstances the Standards Committee (or the Monitoring Officer in cases (a) and (d) below) 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 Discloseable Pecuniary Interest in that business under the Islington Members' Code of Conduct.

(2) A dispensation can only be granted where the statutory grounds apply. The statutory grounds are that the Committee (or Monitoring Officer as appropriate) considers that,

(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

(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 Councillors¹²

Related documents

14. 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. Members 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:

¹² Draft was seen by the last Standards Committee meeting

- (a) Member/Officer Protocol
- (b) Use of resources
- (c) Publicity Protocol

Guidance

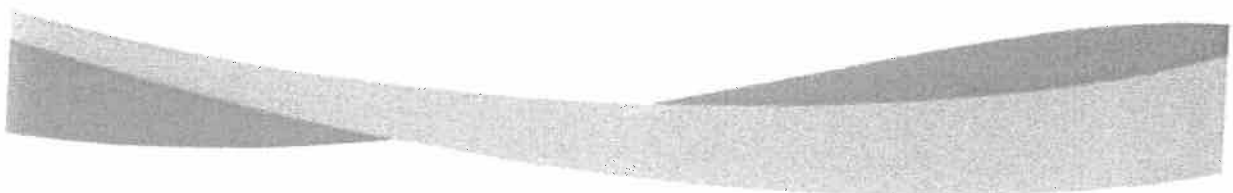
15. If you need further advice or guidance on interpretation of this Code or to apply for a dispensation, please contact :

Note – the following notes do not form part of the code and is for information purposes only

Failure to comply with those parts of the code in italics may amount to a criminal offence unless the member has a reasonable excuse. In addition a member may have committed an offence if they pursuant to those parts provide information that is false or misleading and they know that it is false or misleading or are reckless as to whether the information is true and not misleading. A person found guilty may be fined up to level 5 of the standard scale. Further a member may be disqualified for a period not exceeding five years from being or becoming a member of Camden or other local authorities.

ARRANGEMENTS FOR DEALING WITH STANDARDS ALLEGATIONS

Draft June 2012



CONTENTS

1 INTRODUCTION

2 INITIAL ASSESSMENT OF COMPLAINTS

3 INVESTIGATION OF COMPLAINTS

4 HEARING

5 APPENDICES

Appendix 1 Hearing Procedure Flowchart

**Appendix 2 Categories of Exempt Information
under the Local Government Act 1972**

**Appendix 3 Admission of Press and Public to
Standards Committee**

INTRODUCTION

- 1 The Council has a duty to ensure that its elected and co-opted Members maintain high standards of conduct. The Council must adopt a code of conduct for its Members.
- 2 The Council has a duty to adopt a code whose contents must be consistent with the seven Nolan principles of standards in public life (selflessness, integrity, objectivity, accountability, openness, honesty and leadership), and must set out the rules that the Council has agreed with regard to requiring Members to register and disclose pecuniary and non-pecuniary interests. The Council is required to put in place arrangements under which it can investigate an allegation of a breach of a code made in writing and, if it is considered that an investigation is warranted, to appoint at least one Independent Person whose views must be sought after an investigation has been undertaken and before a decision is made. Members who have had an allegation made against them may seek the views of the Independent Person if they wish.
- 3 The Council has adopted the procedure set out in the Arrangements for Dealing with Standards Allegations to govern the processes of initial assessment and review of complaints, investigation of complaints and hearing of complaints.
- 4 The hearing procedure flowchart is at Appendix 1

INITIAL ASSESSMENT OF COMPLAINTS

5 Introduction and Summary

- 5.1 The Initial Assessment of Complaints section of the Procedure sets out the procedure which will be followed where any written allegation that a Member has breached the authority's Code of Conduct (a "complaint") is received by the Monitoring Officer. No departure will be made from the procedure unless and until the Monitoring Officer has first notified the Independent Person of the proposed variation to the procedure and the reasons for that variation.
- 5.2 Where such a complaint is received, the Monitoring Officer will decide whether to seek an informal remedy from the Member which would avoid the need for a formal hearing. The Monitoring Officer may consult the Independent Person on whether it is appropriate to seek an informal resolution.

6 Pre Assessment Steps

Acknowledgement to Complainant

- 6.1 As soon as reasonably practicable after a complaint is received, the Monitoring Officer will write to the complainant to acknowledge receipt of it.

Notification to the Member and the Independent Person

- 6.2 At the same time as acknowledging receipt of the complaint the Monitoring Officer will normally notify in writing the Member against whom the complaint is made ("the Member") of the details of the complaint. The Monitoring Officer will also notify the Independent Person.

The Member may seek the views of the Independent Person, if s/he so wishes.

Anonymous Complaints

- 6.3 The Monitoring Officer will not normally process a complaint made anonymously but will have discretion to do so where the complaint includes photographic or documentary evidence indicating a possible serious breach of the code.

Informal Resolution of Complaints

- 6.4 The Monitoring Officer will use her discretion to decide whether it is appropriate to seek an informal resolution and may consult the Independent Person before coming to his/her conclusion. Where the Monitoring Officer is of the opinion that there is the potential for informal resolution of the

complaint, s/he may approach the Member and ask whether s/he is prepared to acknowledge that her/his conduct was inappropriate, and whether s/he would be prepared to offer an apology or undertake other appropriate remedial action. With the consent of the Member concerned, the Monitoring Officer may then approach the complainant and ask whether the complainant is satisfied by such apology or other remedial action.

- 6.5 Where there is no informal resolution, there are three possible courses of action open to the Monitoring Officer:
 - 6.5.1 The Monitoring Officer may decide not to investigate further, e.g. on the basis that, in the opinion of the Monitoring Officer, the complaint discloses no potential breach of the Code of Conduct, is petty or trivial or vexatious or the complainant has unreasonably rejected a reasonable offer of local resolution by the Member. The Monitoring Officer shall send the Independent Person the particulars of the case together with reasons for any decision not to investigate further.
 - 6.5.2 The Monitoring Officer may decide that a matter requires investigation. In this case, the Monitoring Officer will appoint an Investigating Officer to investigate the complaint.
 - 6.5.3 The Monitoring Officer may decide to refer the decision as to whether or not there is to be an investigation to the Standards Committee. The Monitoring Officer may decide to make such a referral, for example, where the complaint is of a sensitive nature or where the Monitoring Officer has previously advised the Member on the matter.
- 6.6 Where the Monitoring Officer (or, as appropriate, the Standards Committee) decides not to hold an investigation, no hearing will take place.

INVESTIGATION OF COMPLAINTS

7 Introduction

- 7.1 The Investigation of Complaints section of the Procedure sets out the procedure which will be followed in the investigation of allegations of misconduct by Members (under paragraphs 6.5.2 or 6.5.3 of the initial assessment section of the procedure set out above). No departure will be made from the procedure unless and until the Monitoring Officer has first notified the Independent Person of the proposed variation to the procedure and the reasons for that variation.

8 Appointment of Investigating Officer

- 8.1 The Monitoring Officer will appoint an Investigating Officer in respect of the complaint and instruct them to conduct an investigation of the complaint. The Investigating Officer may be an officer of the authority, an officer of another local authority, or an external Investigating Officer.

Notification to the Member

- 8.2 The Monitoring Officer will as soon as reasonably practicable notify in writing the Member that an investigation is being undertaken.

Notification to the Independent Person and the Standards Committee

- 8.3 At the same time as notifying the Member, the Monitoring Officer will notify the Independent Person and (except in the case of a decision taken under paragraph 6.5.3 of the Initial Assessment section of the Procedure), each Member of the Standards Committee, in writing that an investigation is being undertaken.

Notification to the Person who made the Allegation

- 8.4 At the same time as notifying the Member, the Monitoring Officer will notify the person who made the allegation ("the Complainant") in writing that an investigation is being undertaken.

Initial response of the Member

- 8.5 In notifying the Member of receipt of the allegation, the Monitoring Officer will request the Member to respond to the Investigating Officer in writing within 14 days of notification as follows:
- i. advising the Investigating Officer whether the Member admits or denies the breach of the Code which is the subject of the allegation;
 - ii. listing any documents which the Member wishes the Investigating Officer to take into account, where possible providing copies of the documents,

and informing the Investigating Officer where the original documents may be inspected;

- iii. providing the Investigating Officer with the name, address and telephone number (or any other appropriate contact details) of any person or organisation that the Member wishes the Investigation Officer to contact; and
- iv. providing the Investigating officer with details of any information that the Member wishes the Investigating Officer to seek from any person or organisation.

Supporting information from the person who made the allegation

8.6 In notifying the Complainant, the Monitoring Officer will request the person to respond to the Investigating Officer within 14 days:

- i. listing any documents that the Complainant wishes the Investigating officer to take into account, where possible providing copies of the documents, and informing the Investigating Officer where the original documents may be inspected;
- ii. providing the Investigating Officer with the name, address and telephone number (or other contact details) of any person or organisation that the Complainant wishes the Investigating Officer to contact; and
- iii. providing the Investigating Officer with details of any information which the Complainant wishes the Investigating Officer to seek from any person or organisation.

9 Conduct of Investigation

Purpose of the Investigation

9.1 The purpose of the Investigating Officer's investigation is to enable them to prepare and present to the Monitoring Officer a report which would provide her with sufficient information to determine whether the Member has acted in breach of the Code of Conduct and, where there has been a breach of the Code of Conduct, whether any action should be taken in respect of the Member in consequence.

Additional Matters

9.2 Where, in the course of their investigation, the Investigating Officer becomes aware of any other matter which appears to them to indicate a breach of the Code of Conduct by the Member other than the breach which they are currently investigating, the Investigating Officer should report the matter to the Monitoring Officer, who will decide whether that other matter is to form part of the investigation.

Production of documents, information and explanations

- 9.3 In the course of the investigation, the Investigating Officer and any person authorised on their behalf may make such enquiries of any person or organisation, and request any person or organisation to provide any document or information which is in their possession or control, or provide any explanation, as they think necessary for the purposes of carrying out the investigation.

Interviews

9.4

i. Requesting attendance

In the course of the investigation the Investigating Officer may request any person to attend and appear before them or otherwise provide any information, document or explanation, as they think necessary for the purposes of carrying out the investigation.

ii. Representation

Any person who appears before the Investigating Officer may arrange to be accompanied at their own expense by a solicitor, trade union representative or friend.

iii Expenses

- 9.5 The Investigating Officer may, where they consider that it is appropriate in order to facilitate the conduct of the investigation, pay to any person who provides any document, information, advice or explanation in response to their request, such reasonable fees or allowances as they consider to be appropriate, subject to the approval of the Monitoring Officer.

10 The Draft Report

- 10.1 When the Investigating Officer is satisfied that they have sufficient information, they will prepare a draft report.
- 10.2 The draft report should state that the report does not necessarily represent the Investigating Officer's final findings, and that the Investigating Officer will present a final report to the Monitoring Officer once they have considered any comments received on the draft report.
- 10.3 The Investigating Officer will then send a copy of their draft report in confidence to the Member and the Complainant, and request that they send any comments thereon to them.
- 10.4 The Investigating Officer may send a copy of, or relevant extracts from, their draft report in confidence to any person on whose evidence they have relied upon in compiling the draft report, and request that they send any comments thereon to them.

- 10.5 The Investigating Officer will specify a period of between 7 and 14 days (depending on the complexity of the matter) for comments to be received.

11 The Final Report

- 11.1 After the expiry of that period (or such extended period as the Investigating Officer may allow), the Investigating Officer will reconsider and amend their draft report in the light of any comments received, and produce and send their final report to the Monitoring Officer and the Independent Person. The final report should state that the report represents the Investigating Officer's definitive findings and should have appended to it copies of any documents which the Investigating Officer has relied on in reaching their conclusion, such as background documents of telephone conversations, letters and notes of interviews with witnesses.
- 11.2 The Monitoring Officer shall, as soon as reasonably practicable thereafter, send a copy of the Investigating Officer's report to:
- i. The Member;
 - ii. The Standards Committee;
 - iii. The Independent Person; and
 - iv. The Complainant.
- 11.3 Where the Investigating Officer finds that there has been no breach of the Code, the Monitoring Officer will either:
- (a) decide that she agrees that there is no breach (in which case that will be the end of the matter and the Monitoring Officer will inform the Member, the Complainant, the Independent Person and the members of the Committee accordingly); or
 - (b), at her discretion, decide to refer the matter to the Committee to determine whether or not there is a prima facie case of breach of the Code. In this case the Monitoring Officer will ask the Independent Person to produce a report setting out their view of the investigation report for the consideration of the Committee. The Monitoring Officer will provide a covering report, with a recommendation to dismiss the complaint or to hold a hearing. The Member and the Complainant will not be allowed to make submissions to the Committee or to be present at the Committee meeting. The Committee will decide whether to hold a substantive hearing (i.e. where is a prima facie breach of the Code) or to dismiss the complaint. There will be no appeal against the Committee's decision.

12 The Hearing

- 12.1 Where the Investigating Officer's report finds that there has been a failure to comply with the Code (or the Committee so decides in the circumstances set

out in paragraph 11.3 (above)), the matter should be considered at a substantive hearing before the Committee. That hearing shall take place within 3 months (or as soon as practicable thereafter) of the date on which it is decided that there will be a hearing and not less than 14 days after the final report was sent to the Member, unless the Member agrees to an earlier date.

- 12.2 The Monitoring Officer will ask the Independent Person to produce a report setting out their view on the investigation report for the consideration of the Committee (unless the Committee has already received a report from the Independent Person in the circumstances set out in paragraph 11.3).

HEARING

13 Introduction

- 13.1 Where the Investigating Officer's report under the Council's Procedure for Investigation of Complaints contains a finding that a Member failed to comply with the Code of Conduct the Hearing section of the Procedure will apply to the hearing.
- 13.2 Interpretation of terms used in the procedure is explained in paragraph 27.

14 Setting the Hearing Date

- 14.1 The Committee Support Officer, in consultation with the Chair of the Committee, will write to the Member concerned to propose a date, time and place for the hearing, outline the hearing procedure and the Member's rights and enclose a copy of this procedure.

15 Findings of Fact

- 15.1 The Standards Committee will not allow Members to dispute findings of fact in the Investigator's report at the hearing that were not raised at the draft report stage unless there are good reasons for doing so, such as new evidence becoming available.

16 Other witnesses

- 16.1 The Standards Committee may also arrange for any other witnesses to be present if it feels they may help in determining the case, including the person who made the original allegation. However, the Committee cannot order witnesses to appear or give evidence.

17 The Pre-hearing Process Summary

- 17.1 The Monitoring Officer will prepare a report which:

- Summarises the allegation(s);
 - Outlines the main facts of the case that are agreed;
 - Outlines the main facts which are not agreed;
 - Gives an explanation of those parts of the Code of Conduct which are alleged to have been breached;
 - States whether the Member has acknowledged the breach;
 - States whether the Member has agreed to give an apology and/or to undergo any training or conciliation;
 - Notes whether the Member concerned or the Investigator will go to or be represented at the hearing;
 - Lists those witnesses, if any, who will be asked to give evidence; and
 - Attaches the Independent Person's report.
- 18 At least 5 clear working days before the hearing the Committee Support Officer will circulate:
- v. the Pre-hearing Process Summary;
 - vi. an outline of the proposed procedure for the hearing; and
 - vii. the Investigator's report, the Independent Person's report, and any documents which the Member or the Investigator has indicated they wish to rely on.

The Hearing Procedure

19 General Provisions

19.1 Modification of Procedure

The Chair may decide to vary the procedure in any particular instance where s/he is of the opinion that such a variation is appropriate in the interests of fairness.

19.2 Representation

The Member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the committee, another person.

19.3 Legal Advice

The Committee may take legal advice from its Monitoring Officer or her representative at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Committee should be shared with the Independent Person and with the Member and the Investigator if they are present.

19.4 Independent Person

The Independent Person must attend the hearing. The independent Person's views must be sought, and taken into account, by the Committee before it makes its decision on a complaint.

19.5 Delay at start of hearing

The hearing will commence on the date and at the time stipulated in the notice convening the meeting but the start may be delayed by the Chair for a reasonable period if, having had regard to the advice of the officers present and any representations received from or on behalf of the parties, he or she considers such delay to be reasonable in the circumstances. The Chair will take into account the effect the delay may have on the likelihood of the hearing being concluded in one session.

19.6 Hearing procedure

The Chair will confirm that all present are aware of the procedure which the Committee will follow in determining the matter. The Chair will be responsible for regulating the proceedings and his/her ruling on any point shall be final.

19.7 Proceeding in the absence of the Member

If the Member is not present at the start of the hearing:

- i. the Chair will ask the Monitoring Officer whether the Member has indicated his/her intention not to attend the hearing;

- ii. the Committee will then consider any reasons which the Member has provided for not attending the hearing and shall decide whether it is satisfied that there is sufficient reason for such failure to attend;
- iii. if the Committee is satisfied with such reasons, it will adjourn the hearing to another date; and
- iv. if the Committee is not satisfied with such reasons, or if the Member has not given any such reasons, the Committee shall decide whether to consider the matter and make a determination in the absence of the Member or to adjourn the hearing to another date.

19.8 Exclusion of Press and Public

The Chair will ask the Member, the Investigator and the Monitoring Officer to the Committee whether they wish to ask the Committee to exclude the press or public from all or any part of the hearing. If any of them so request, the Chair shall ask them to put forward reasons for so doing and ask for responses from the others and the Committee shall then determine whether to exclude the press and public from all or any part of the hearing. Guidance on how to reach such a decision is set out in Appendix 2.

20 A failure to comply with the Code of Conduct

The Committee will then address the issue of whether the Member failed to comply with the Code of Conduct in the manner set out in the Investigator's report.

20.1 Introduction by the Monitoring Officer

The Chair will ask the Monitoring Officer to present the Pre-Hearing Summary report, highlighting any points of difference in respect of which the Member has stated that s/he disagrees with any finding of fact in the Investigator's report, including the outcome of any discussions about this. The Chair will then ask the Member, if present, to confirm that this is an accurate summary of the issues and ask the Member to identify any additional points upon which s/he disagrees with any finding of fact in the Investigator's report.

- 20.2 At any time the Members of the Committee and/or the Monitoring Officer may, with the permission of the Chair, question the Investigator, the Member or their representative or any of the witnesses.

20.3 Presenting the Investigator's report

- i. If the Investigator is present, the Chair will then ask the Investigator to present his/her report, having particular regard to any points of difference identified by the Member and why s/he concluded, on the basis of the findings of fact that the Member had failed to comply with the Code of Conduct. The Investigator may call witnesses as

necessary to address any points of difference.

- ii. If the Investigator is not present, the Committee will only conduct a hearing if they are satisfied that there are no substantial points of difference or that any points of difference can be satisfactorily resolved in the absence of the Investigator. In the absence of the Investigator, the Committee will determine on the advice of the Monitoring Officer which witnesses, if any, to call. Where such witnesses are called, the Chair shall draw the witnesses' attention to any relevant section of the Investigator's report and ask the witness to confirm or correct the report and to provide any relevant evidence.
- iii. The Member or his/her representative may ask questions of the Investigator or witnesses. The Chair shall ensure that the questioning does not become overly adversarial and may intervene if s/he considers that this is the case.
- iv. At the conclusion of the Investigator's report and/or the evidence of each witness, Members of the committee should be able to ask direct questions of them to clarify any issues.

20.4 The Member's response

- i. If the Member is present the Chair will then invite the Member to respond to the Investigator's report and to call any witnesses as necessary to address any points of difference.
- ii. At the conclusion of the Member's evidence and/or of the evidence of each witness, members of the committee should be able to ask direct questions of them to clarify any issues.
- iii. The Member or his/her representative may ask questions of the Investigator or witnesses. The Chair shall ensure that the questioning does not become overly adversarial and may intervene if s/he considers that this is the case.

20.5 Witnesses

The Committee will be entitled to refuse to hear evidence from the Investigator, the Member or a witness unless they are satisfied that the witness is likely to give evidence which will assist them to determine whether there has been a failure to comply with the code of conduct.

20.6 Determination as to whether there was a failure to comply with the Code of Conduct:

- i. At the conclusion of the Member's response, the Chair will ensure that each Member of the Committee is satisfied that s/he has sufficient information to enable him/her to determine whether there has been a failure to comply with the Code of Conduct as set out in the Investigator's report.

- ii. The Committee will seek, and take into account, the views of the Independent Person before it makes a decision on a complaint.
- iii. The Committee will then retire to another room to consider in private whether the Member did fail to comply with the Code of Conduct as set out in the Investigator's report. The Monitoring Officer for the Council and the Committee Support Officer may accompany the Committee.

21 **Reaching a decision**

- 21.1 The Committee will take its decision on the balance of probabilities based on the evidence which it has received at the hearing.
- 21.2 The Committee will seek to reach a unanimous decision but if that is not possible then the decision shall be reached by a simple majority. In the case of an equality of votes, the person presiding at the meeting shall have a second or casting vote.

22 **Action consequent upon a failure to comply with the Code of Conduct**

- 22.1 The range of actions which the Committee can take in respect of the Member is limited and must be directed to securing the continuing ability of the Council to continue to discharge its functions effectively. In practice, this is limited to the following:
 - i. Reporting its findings to Council for information and inviting Council to consider censuring the Member;
 - ii. Recommending to the Member's group leader that s/he be removed from any or all committees or sub-committees of the Council;
 - iii. Recommending to the Leader of the Council that the Member be removed from the Executive, or removed from particular portfolio responsibilities;
 - iv. Instructing the Monitoring Officer to offer training to the Member (the Member is not obliged to undertake training); or
 - v. Recommending to Council that the Member be removed from any outside appointments to which s/he has been appointed or nominated by the Council;
 - vi. Sending a formal letter to the Member setting out the Committee's findings;
 - vii. Publicising, by press release or otherwise, a decision that the Member

has breached the Council's Code of Conduct;

- viii. Where the breach of the Code involves misuse or abuse of the Council's facilities, withdrawing facilities provided to the Member by the Council, such as a computer, website and/or internet access; or
 - ix. Excluding the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, committee and sub-committee meetings.
- 22.2 Any sanction imposed will commence immediately unless the Committee direct (for any sanction other than censure) that it shall commence on any date specified by the Committee within six months of the date of the hearing.
- 22.3 It is also open to the Committee to decide that in the circumstances no action should be taken against the Member.

23 If the Member has not failed to follow the Code of Conduct

- 23.1 If the Committee determines that the Member has not failed to follow the Code of Conduct in the manner set out in the Investigator's report, they will set out their reasons for not agreeing with the Investigator's report.
- 23.2 If the Committee finds, from the evidence which they have received during the hearing, that a Member has failed to comply with the Code of Conduct in some other respect, but which has not been part of the original investigation, the Chair will outline the Committee's concerns and will then refer this additional or alternative apparent failure to the Monitoring Officer with a view to a further complaint being progressed.
- 23.3 The Chair will then set out any recommendations which the Committee is minded to make to the authority with a view to promoting high standards of conduct among Members and seek the views of the Member, the Investigator, the Independent Person and the Monitoring Officer before the Committee finalises any such recommendations.
- 23.4 Where there is a finding of no evidence of a breach, the Chair will also ask the Member whether he or she wishes the decision of the Committee to be published in the local paper.

24 The close of the hearing

- 24.1 The Committee will announce its decision on the day of the hearing and provide the Committee Support Officer with a short written statement of their decision, which the Committee Support Officer will deliver to the Member as soon as practicable after the close of the hearing.

25 **Action after the hearing**

25.1 Within two weeks after the close of the hearing, the Committee Support Officer will agree a formal written notice of the Committee's determination with the Monitoring Officer and will send it to the following people:

- the Member;
- the Monitoring Officer;
- the Independent Person;
- the Investigator;
- the Members of the Committee; and
- the person who made the allegation.

26 **Appeal**

There is no appeal against decisions taken under the Arrangements for dealing with Standards Allegations, other than through court action or a complaint of maladministration causing injustice to the Local Government Ombudsman.

27 **Interpretation**

'Independent Person' means the Independent Person as defined by section 28(7) and (8) of the Localism Act 2011. The independent person is appointed by the Council following a publicised and transparent appointment process. Councillors, officers, or their relatives or friends cannot be appointed as Independent Persons. The Independent Person's view must be sought after an investigation has been undertaken and before a decision is made. The Independent Person may be consulted at any stage. In addition, the Independent Person may be consulted by the Member against whom a complaint has been made.

'Investigator' means

the Investigating Officer appointed by the Monitoring Officer under the Procedure for Investigation of Complaints.

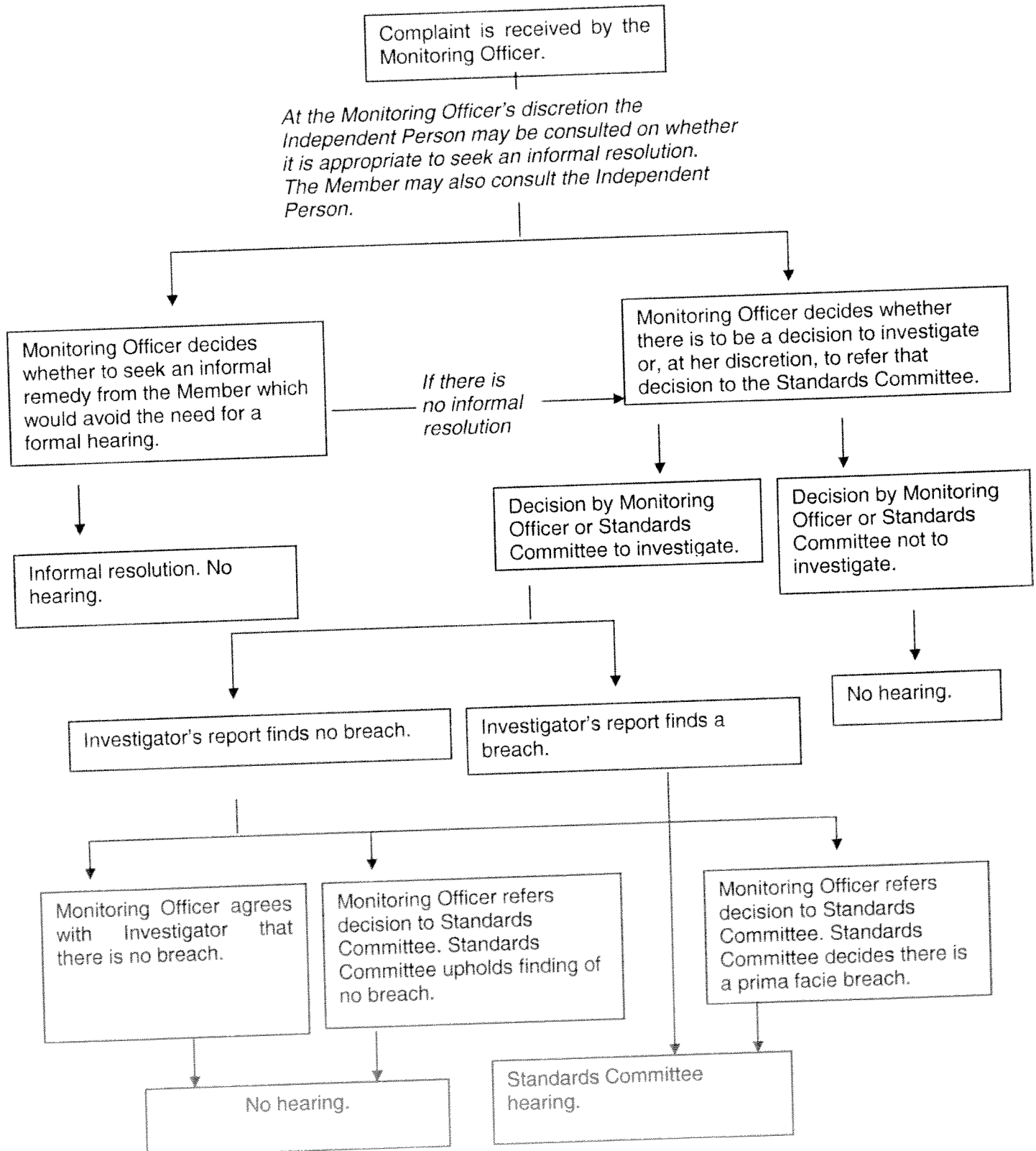
'Member' means

the Member of the authority who is the subject of the allegation being considered by the Committee, unless stated otherwise. It also includes the Member's nominated representative.

'Monitoring Officer' means	the Council's Monitoring Officer, Deputy Monitoring Officer or other legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.
'The Matter' is	the subject matter of the Investigator's report.
'The Chair' is	the person presiding at the hearing.
'The Committee' is	the Standards Committee.
'The Committee Support Officer' means	an officer of the authority responsible for Officer' supporting the Committee's discharge of its functions and recording the decisions of the Committee.

APPENDIX 1

Hearing Procedure Flowchart



APPENDIX 2

Categories of Exempt Information under the Local Government Act 1972

Category	Condition
1. Information relating to any individual.	This information is exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
2. Information which is likely to reveal the identity of an individual.	This information is exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	<p>Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under—</p> <ul style="list-style-type: none"> (a) the Companies Act 1985; (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) the Industrial and Provident Societies Acts 1965 to 1978; (e) the Building Societies Act 1986; or (f) the Charities Act 1993. <p>Information falling within paragraph 3 is exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	This information is exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Category	Condition
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	This information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
6. Information which reveals that the authority proposes - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.	This information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	This information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Appendix 3

Admission of Press and Public to Standards Committee Hearings

Hearings should be held in public where possible to make sure that the hearing process is open and fair. However, there may be some circumstances where parts of the hearing should be held in private.

- (a) At the hearing, the Committee will consider whether or not the public should be excluded from any part of the hearing, in line with Part VA of the Local Government Act 1972. If the Committee considers that 'confidential information' is likely to be revealed during the hearing, the Committee must exclude the public by law. 'Confidential information' is defined for these purposes to mean information that has been provided by a Government department under the condition that it must not be revealed, and information that the law or a court order says cannot be revealed.
- (b) The Committee also has the discretion to exclude the public if it considers that 'exempt information' is likely to be revealed during the hearing. The categories of 'exempt information' are listed above. The Committee should bear in mind Article 6 of the European Convention on Human Rights, which gives people the right to a fair trial and unbiased tribunal. The Committee also has a duty to act fairly and in line with the rules of natural justice.
- (c) Article 6 says that the public may be excluded from all or part of the hearing if it is in the interest of:
 - (i) morals;
 - (ii) public order;
 - (iii) justice;
 - (iv) national security in a democratic society; or
 - (v) protecting young people under 18 and the private lives of anyone involved.
- (d) There should be a public hearing unless the Committee decides that there is a good reason, which falls within one of the five categories above (i) to (v), for the public to be excluded.
- (e) Conflicting rights often have to be balanced against each other. The Committee must act in line with Article 8 of the European Convention on Human Rights. Article 8 says that everyone has the right to respect for their private and family life, home and correspondence. It says that no public authority (such as the Committee) may interfere with this right unless it is:-
 - (i) in line with the law; and
 - (ii) necessary in a democratic society in the interests of:

- (a) national security;
- (b) public safety;
- (c) the economic well-being of the country;
- (d) preventing crime or disorder;
- (e) protecting people's health and morals (which would include protecting standards of behaviour in public life); or
- (f) protecting people's rights and freedoms.

There is a clear public interest in promoting the probity (integrity and honesty) of public authorities and public confidence in them. For these reasons the hearing should be held in public unless the Committee decides that protecting the privacy of anyone involved is more important than the need for a public hearing.

Standards Committee should move to a private room when considering its decisions. Provided reasons for those decisions are given, and the content of any legal advice given in private is shared with the Member and Investigator, it is not considered that this will conflict with the rights under the European Convention on Human Rights or the duty to act fairly.

Appendix 3

STANDARDS COMMITTEE

Composition

The Standards Committee shall comprise 6 members, including four councillors, three from the Labour Group and one from Liberal Democrat Group and two co-opted independent members, none of whom is a councillor or officer or close friend or relative of members or officers of the Council.

Quorum

The quorum of the committee shall be three members, not including independent members.

Terms of Reference

1. To advise the Council on a local Code of Conduct for members .
2. To grant dispensations to councillors and co-opted members allowing them to vote in circumstances when they would not otherwise be entitled to do so following referral of a request by the Monitoring Officer.
- 3 To decide, if requested to do so by the Monitoring Officer, whether complaints that a member of the Council has failed, or may have failed, to comply with the Council's Members' Code of Conduct should be investigated.
- 4 To hear complaints that a member of the Council has failed, or may have failed, to comply with the Council's Members' Code of Conduct that have been referred to them by the Monitoring Officer pursuant to the Code of Conduct Complaints Procedure.
- 5 To agree relevant procedures for hearing complaints that a member of the Council has failed, or may have failed, to comply with the Council's Members' Code of Conduct;

AUDIT COMMITTEE

Composition

The membership of the committee shall not include any members of the Executive.

The membership of the Audit Committee (Advisory) shall include two independent members.

Quorum

The quorum shall be three members not including Independent members

Terms of Reference

Audit Committee (Advisory) Functions

To consider the following matters and to make recommendations concerning them to the relevant Council bodies or to officers:

1. The Head of Internal Audit's annual report and opinion and the level of assurance internal audit activity can give over the Council's corporate governance arrangements.;
2. The external auditor's annual letter, relevant reports and the report to those charged with governance on issues arising from the audit of the accounts;
3. Reports dealing with the management, performance and value for money of the providers of internal and external audit services;
4. A report from internal audit on agreed recommendations not implemented within a reasonable timescale;
5. The appointment of the Council's external auditor;
6. Work to be commissioned from internal and external audit;
7. Specific internal and external audit reports as requested;

8. The contract procedure rules and financial regulations in the Council's constitution and the Council's compliance with its own and other published standards and controls;
9. Any issue referred to it by the Council, Executive, Overview Committee or the Chief Executive;
10. The Council's arrangements for corporate governance and risk management and recommend necessary actions to ensure compliance with best practice;
11. The production and content of the authority's Annual Governance Statement;
12. The annual report from the Monitoring Officer concerning standards of member conduct, which shall include a summary of complaints received under the Code of Conduct Complaints Procedure and their outcome.
13. Any report on any matter relevant to the advisory functions of the Committee which the Committee may request from the Corporate Director of Finance or other proper officer.

Audit Committee Decision- Making Functions

Audit related matters

14. To review and agree the annual statement of accounts, including considering whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or the audit that need to be brought to the attention of the council.
15. To adopt the authority's Annual Governance Statement.
16. To agree annually the amount calculated by the Council as its tax base for the whole area of the borough, any tax base applying as special levies, and other matters associated with the tax base.

General Matters

17. To appoint a Personnel Sub-Committee, including approval of its terms of reference and membership. The Audit Committee may decide to appoint different members to the Personnel Sub-Committee in order to deal with appointments of different Corporate Director posts.
18. To appoint a Pensions Sub-Committee.
19. To appoint such other sub-committees or other bodies, including their membership and terms of reference, as the Committee deems from time to time appropriate.
20. To grant exemptions under section 3 of the Local Government and Housing Act 1989 from political restriction to holders of posts under the Council and to give

directions as to inclusion of specified posts in the list maintained by the Council under section 2(2) of that Act.

21. To make appointments between council meetings to those outside bodies and panels appointed to by the Council under Part 3 paragraph 7.2.
22. To determine matters relating to the organisation and conduct of elections, including the following:
 - (a) provision of assistance at European Parliamentary elections;
 - (b) division of the constituency into polling districts;
 - (c) division of the borough into polling districts.
23. To regulate matters affecting members, including remuneration, expenditure and training and to promote high standards of conduct amongst members.
24. To recommend to Council the introduction, amendment or revocation of byelaws.
25. To take decisions on any matter within the terms of reference of any of its sub-committees where the proper officer considers that it is necessary and reasonable to do so.
26. All other non-Executive matters specified under the relevant legislation save for those which are reserved to the Council under paragraph 1 of Part 3 of this Constitution or to the Licensing Committee or Licensing Regulatory Committee.

Appendix 4

Appendix E - LGA

Template Code of Conduct

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

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

SELFLESSNESS: Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

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

The Act further provides for registration and disclosure of interests and in *[X authority]* this will be done as follows: *[to be completed by individual authorities]*

As a Member of [X authority], my conduct will in particular address the statutory principles of the code of conduct by:

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

Appendix D – DCLG

Illustrative text for code dealing with the conduct expected of members and co-opted members of the authority when acting in that capacity

You are a member or co-opted member of the [name] council and hence you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Accordingly, when acting in your capacity as a member or co-opted member -

You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.

You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below.

You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

Registering and declaring pecuniary and non-pecuniary interests

You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

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

If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.¹³

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

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non pecuniary interest as defined by your authority.

¹³ A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

