

ARRANGEMENTS FOR DEALING WITH STANDARDS ALLEGATIONS

June 2012



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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 than 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.

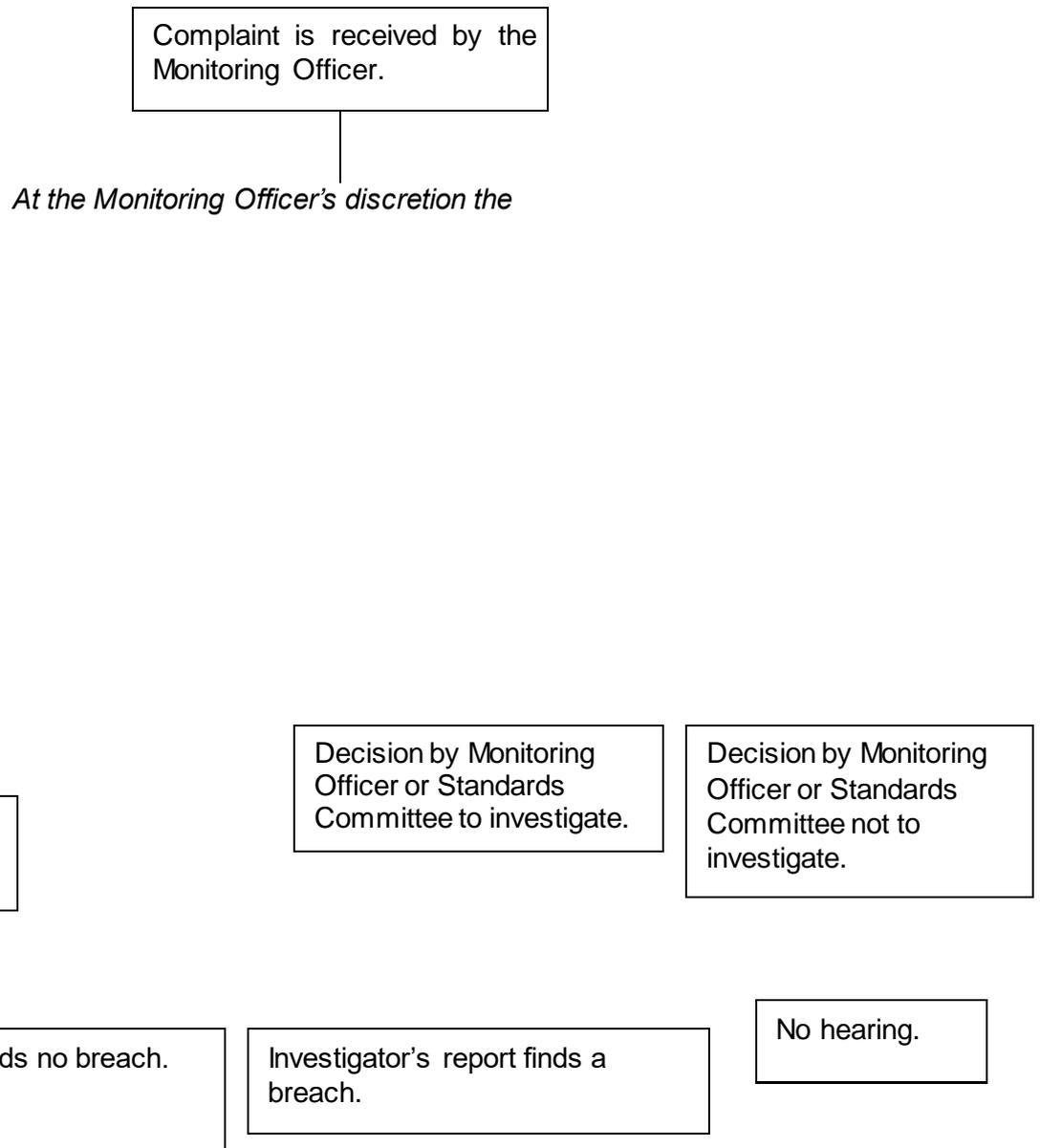
‘The Chair’ is the person presiding at the hearing.

‘The Committee’ is the Standards Committee.

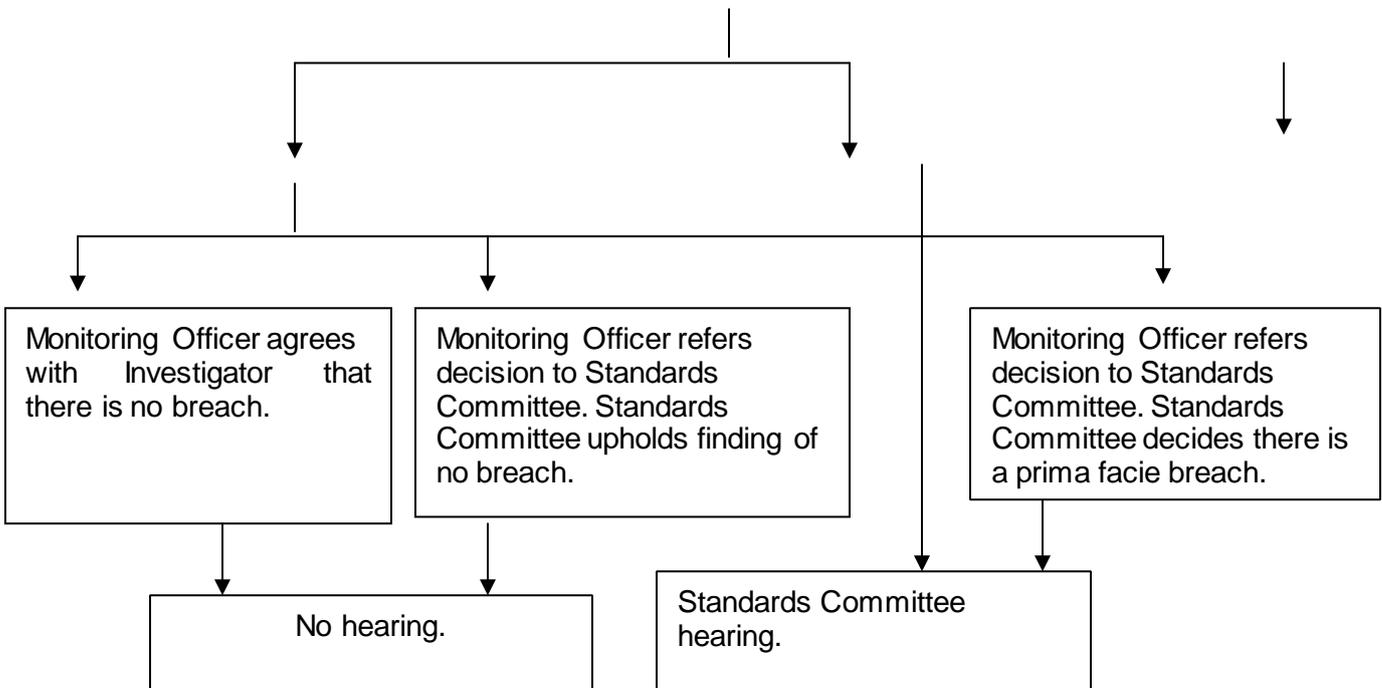
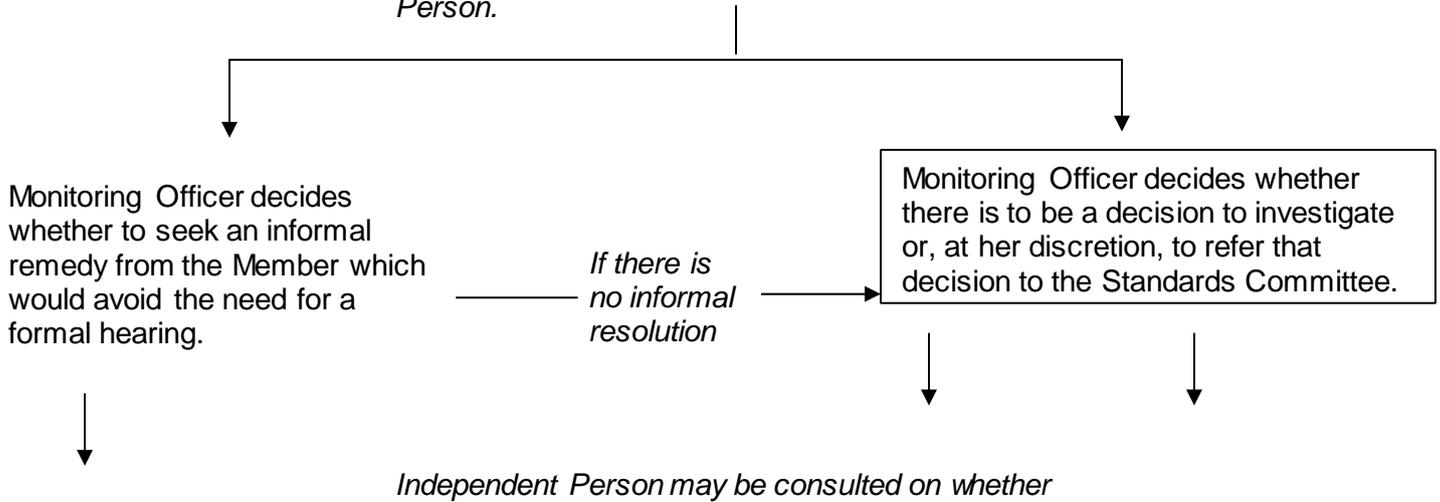
‘The Committee Support Officer’ means an officer of the authority responsible for supporting the Committee’s discharge of its functions and recording the decisions of the Committee.

APPENDIX 1

Hearing Procedure Flowchart



*it is appropriate to seek an informal resolution.
The Member may also consult the Independent
Person.*



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

Category	Condition
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<p>1. Information relating to any individual.</p>	<p>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.</p>
<p>2. Information which is likely to reveal the identity of an individual.</p>	<p>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.</p>
<p>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).</p>	<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>
<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.</p>	<p>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.</p>

Category	Condition
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<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	<p>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.</p>
<p>6. Information which reveals that the authority proposes -</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment.</p>	<p>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.</p>
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	<p>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.</p>

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.