

Standards Committee Minutes

Date: 26 March 2013

Time: 6.15 - 6.40 pm

PRESENT: Councillor Mrs L M Clarke (in the Chair)

Councillor D J Carroll, Revd G Hargrove*, Councillor J L Richards OBE, Councillor J A Savage, Councillor D A C Shakespeare OBE, Parish Cllr J Sherlock*, Parish Cllr Mrs V Smith*, Mrs E Springford* and Councillor Ms J D Wassell.

* Observers

Apologies for absence were received from Parish Cllr D Banfield, Councillor Mrs G A Jones and Councillor Ms R Knight

12 MINUTES OF PREVIOUS MEETING

The Meeting noted an error in the agenda, in that it was asked that Members consider the minutes of the meeting of the Standards Committee of 12 December 2012, when in fact the previous meeting had been 8 January 2013. The Minutes of 12 December 2012 had in fact been agreed at the 8 January 2013 meeting.

It was therefore the minutes of the 8 January 2013 which were considered.

RESOLVED: That the minutes of the meeting of the Standards Committee held on 8 January 2013 be approved as a true record and signed by the Chairman.

13 DECLARATIONS OF INTEREST

There were no declarations of interest.

14 REVIEW OF THE MEMBERS CODE OF CONDUCT AND STANDARDS ARRANGEMENTS

The meeting noted that upon adoption of the new Code of Conduct and Arrangements for dealing with standards allegations by the Committee at its 31 July 2012 meeting, a review of these had been scheduled for six months hence.

This period had passed and changes could now be considered in light of operational experience.

Members looked through the complaints which had been received since the adoption of the new Code of Conduct and Arrangements, and the outcome of those that had been processed. It was noted that the majority of these had either shown no breach of the Code, or where there had been a potential breach, this had not been considered sufficiently serious to warrant investigation.

The Monitoring Officer confirmed that though previous years had seen numerous complaints received, the previous 8 months since the change of regime had seen more still. It was evident that a training need at the parish council in respect of which the majority of these recent complaints had been received, existed.

The Meeting then turned its attention to the proposed amendment to the Code which was as follows:

- In respect of Paragraph 4 of the Code which dealt with Other Interests, in other words those that were not disclosable pecuniary interests. It was suggested that paragraph 4.2.1 would benefit by the addition of the words “body or organisation” where indicated in bold type below, so that members were clear that where they had an association with a body or organisation this should be regarded by them as an Other Interest:

“4. Other Interests

4.1 In addition to the requirements of Paragraph 3, if you attend a meeting at which any item of business is to be considered and you are aware that you have a “non-disclosable pecuniary interest or non-pecuniary interest” in that item, you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent.

4.2 You have a “non-disclosable pecuniary interest or non-pecuniary interest” in an item of business of your authority where –

*4.2.1 a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or a person, **body or organisation** with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority’s administrative area, or*

4.2.2 it relates to or is likely to affect any of the interests listed in the Table in the Appendix to this Code, but in respect of a member of your family (other than a “relevant person”) or a person with whom you have a close association and that interest is not a disclosable pecuniary interest.”

Members suggested that the word ‘**any**’ be inserted in front of the words person, body or organisation in paragraph 4.2.1. of the code. This was endorsed by the Members present.

The Meeting then considered the proposed amendments to the Arrangements which were as follows:

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2. The Code of Conduct: Paragraphs had been changed to show that these are available on website and also from Complaints Officer or Parish Clerk.

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Minor changes had been made to the first and third paragraphs to reflect Wycombe District Council procedures.

Addition of last sentence to third paragraph to advise that not every complaint would be referred for investigation and decisions would be made according to referral criteria.

Additional paragraph to advise that lengthy complaints material may take longer to be assessed. Recent experience had shown that some complainants include large volumes of material - some of which was not relevant to the complaint or could have been summarised.

Items 4. What happens next? to 6. Stage 2: rewritten and replacement for existing procedure.

Criteria were now included for the Monitoring Officer to dismiss complaints at the initial stage in certain straightforward circumstances.

Members who are the subject of complaints had nearly always wished to see and consider the complaints made about them prior to assessment by the Monitoring Officer. This applied even when Members were aware that the complaint may not have been assessed as serious enough to be investigated. Complaints procedures from other councils had therefore been reviewed and it was felt that new procedure as set out was appropriate for this Council. This included the opportunity for the subject Member to review the complaint at the initial stage and also provide their views on a suitable resolution.

The setting out of the procedure into Stages 1, 2 and 3 also provided further clarity for the benefit of the complainant and subject Member.

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Referral Criteria: These were felt to be a useful addition for the benefit of the complainant, subject member, Monitoring Officer and Independent Person to clarify whether and under which circumstances the complaint would be referred for investigation. It should be noted that some of these duplicate criteria were for the Monitoring Officer to dismiss at the initial stage, in order to leave scope for consultation with the Independent Person on the criteria if required.

Item 7 to Item 7.2: There were no changes to existing procedures, other than re-numbering.

Item 7.3: The first paragraph related to the possible actions of the Hearing Panel and as this Council received many Parish Council complaints; it was felt beneficial to separate the possible actions in the case of District Councillor or Parish Councillor referrals.

Items 7.4 to Item 10: There were no changes to existing procedure.

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Item 11: There was an additional paragraph to clarify that complaints can be withdrawn with the agreement of the Monitoring Officer.

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Appeals – additional information had been provided about LG Ombudsman jurisdiction as a result of a recent LGO decision.

The Monitoring Officer outlined a further proposed change in respect of Stage Three in that 'In exceptional cases, where **the Monitoring Officer and Independent Person consider** it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer ~~can~~ **may** delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently'. He also proposed a small change to the final paragraph of the Arrangements so that the end of the paragraph would now read: 'the Ombudsman can only consider complaints made by members of the public or those made on their behalf – this does not include complaints made by town, parish or district councillors'.

The Committee agreed that the proposed changes to the Code and Arrangements as featured in the report and further changes suggested at the meeting as featured above were in order and would make the processing of Standards Complaints in the Wycombe District more streamlined and efficient and as such should be recommended for adoption by Full Council.

Recommended: That the changes to the Members Code of Conduct and the Arrangements for dealing with Standards Allegations under the Localism Act 2011 as set out above and written into the revised Code and Arrangements in the attached Appendices A & B and as further amended at the Standards Committee Meeting of 26 March 2013 also as featured above be adopted.

The finalised new Code of Conduct and Arrangements for recommendation to Full Council, incorporating all of the above amendments are attached to these minutes as **Attachments A & B** respectively.

15 COMPLIMENTS, COMPLAINTS & COMMENTS QUARTER 3

The Committee's considered the quarterly statistics relating to compliments, complaints and comments made about the Council's services for the period 1 October – 31 December 2012 (Quarter 3). The year on year comparison of complaints and compliments was also considered.

The 99% of complaints answered within target was noted along with the two major improvements made in the housing and refuse services in response to previous complaints.

Members noted that in regards to customer requests to Councillors regarding housing complaints and issues, work was proceeding to initially obtain relevant contact details for all local housing associations from which a protocol for Councillors could be worked up. The formation of a customer panel by Red Kite Community Housing to act as a forum for complaints and customer service issues was noted.

Improvements in the Automated Phone Service system operated by the Council were noted as a result of the improved wording of some of the scripts.

RESOLVED: That the data and charts for the period 1 October to 31 December 2012 (Quarter 3) regards complaints, compliments and comments as set out in Appendices to the report be noted.

16 REFERRAL OF MINUTES OF LOCAL STANDARDS HEARING PANEL 11 JANUARY 2013

RESOLVED: That the minutes of the Local Standards Hearing Panel held on 11 January 2013 be received.

Chairman

The following officers were in attendance at the meeting:

Peter Druce	- Democratic Services
David Ruddock	- District Solicitor

Wycombe District Council

Code of Conduct for Members

1. Application

This Code of Conduct applies to you whenever you are acting in your capacity as a member of Wycombe District Council, including –

- 1.1 at formal meetings of the Council, its Committees and Sub-Committees, its Cabinet and Cabinet Committees
- 1.2 when acting as a representative of the authority
- 1.3 in taking any decision as a Cabinet member or a Ward Councillor
- 1.4 in discharging your functions as a ward Councillor
- 1.5 at briefing meetings with officers and
- 1.6 at site visits
- 1.7 when corresponding with the authority other than in a private capacity

2. General Conduct

You must –

- 2.1 provide leadership to the authority and communities within its area, by personal example and
- 2.2 respect others and not bully any person
- 2.3 observe the Council's Member-Officer Relationship Protocol and recognise that officers (other than political assistants) are employed by and serve the whole authority
- 2.4 respect the confidentiality of information which you receive as a member –
 - 2.4.1 not disclosing confidential information to third parties unless required by law to do so or where there is a clear and over-riding public interest in doing so; and
 - 2.4.2 not obstructing third parties' legal rights of access to information
- 2.5 not misconduct yourself in a manner which is likely to bring the authority into disrepute
- 2.6 use your position as a member in the public interest and not for personal advantage
- 2.7 accord with the authority's reasonable rules on the use of public resources for private and political purposes

- 2.8 exercise your own independent judgement, taking decisions for good and substantial reasons –
 - 2.8.1 attaching appropriate weight to all relevant considerations including, where appropriate, public opinion and the views of political groups
 - 2.8.2 paying due regard to the advice of officers, and in particular to the advice of the statutory officers, namely the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer and
 - 2.8.3 stating the reasons for your decisions where those reasons are not otherwise apparent
- 2.9 account for your actions, particularly by supporting the authority's scrutiny function
- 2.10 ensure that the authority acts within the law.
- 2.11 When dealing in planning matters, observe the Council's Planning Matters Guidance Note

3. Disclosable Pecuniary Interests

You must -

- 3.1 Register any disclosable pecuniary interest of yourself or a 'relevant person'¹ (as set out in the Appendix to this Code) with the Monitoring Officer within 28 days of the adoption of this Code
- 3.2 comply with the statutory requirements to register, disclose and withdraw from participating in respect of any matter in which you, or a 'relevant person' have a disclosable pecuniary interest
- 3.3 ensure that your register of interests is kept up to date and notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of your disclosable pecuniary interests
- 3.4 make verbal declaration of the existence and nature of any disclosable pecuniary interest at any meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent
- 3.5 "Meeting" means any meeting organised by or on behalf of the authority, including –

¹'relevant person' means:

- (i) your spouse or civil partner; or
 - (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; and
- You are aware that that other person has the interest

- 3.5.1 any meeting of the Council, or a Committee or Sub-Committee of Council
- 3.5.2 any meeting of the Cabinet and any Committee of the Cabinet
- 3.5.3 in taking a decision as a Ward Councillor or as a Member of the Cabinet
- 3.5.4 at any briefing by officers; and
- 3.5.5 at any site visit to do with business of the authority

4 Other Interests

- 4.1 In addition to the requirements of Paragraph 3, if you attend a meeting at which any item of business is to be considered and you are aware that you have a “non-disclosable pecuniary interest or non-pecuniary interest” in that item, you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent
- 4.2 You have a “non-disclosable pecuniary interest or non-pecuniary interest” in an item of business of your authority where –
 - 4.2.1 a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or any person, body or organisation with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority’s administrative area, or
 - 4.2.2 it relates to or is likely to affect any of the interests listed in the Table in the Appendix to this Code, but in respect of a member of your family (other than a “relevant person”) or a person with whom you have a close association
 and that interest is not a disclosable pecuniary interest.

5 Gifts and Hospitality

- 5.1 You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £50 which you have accepted as a member from any person or body other than the authority.
- 5.2 The Monitoring Officer will place your notification on a public register of gifts and hospitality.
- 5.3 This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the authority for this purpose.

Appendix

Disclosable Pecuniary Interests

The duties to register, disclose and not to participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011.

Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows –

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

person has a beneficial interest.

Securities

Any beneficial interest in securities of a body where—

(a) that body (to M's knowledge) has a place of 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.

For this purpose –

“the Act” means the Localism Act 2011;

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

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

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

“M” means a member of a relevant authority;

“member” includes a co-opted member;

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

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

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

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

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WYCOMBE DISTRICT COUNCIL

Arrangements for dealing with standards allegations under the Localism Act 2011

1 Context

These Arrangements set out how you may make a complaint that an elected or co-opted member of this Council (or of a Parish Council within its area) has failed to comply with the Council's Code of Conduct, and sets out how the Council will deal with allegations of a failure to comply with the Code.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place "arrangements" under which allegations that a member or co-opted member of the Council (or of a Parish Council within its area), or of a Committee or Sub-Committee of the Council, has failed to comply with the Council's Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the Council to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a member (or a member or co-opted member of a Parish Council) against whom an allegation as been made.

2 The Code of Conduct

The Council has adopted a Code of Conduct for members, which is available for inspection on the authority's website and on request from Reception or the Complaints Officer at the Council Offices.

Each Parish Council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council's Code of Conduct, you should ask the parish clerk to provide you with a copy of that Parish's Code of Conduct, or make arrangements to inspect it..

3 Making a complaint

If you wish to make a complaint, please write to:

Complaints Officer
Wycombe District Council
Queen Victoria Road
High Wycombe
Bucks HP11 1BB

Or email: complaints@wycombe.gov.uk, heading your email "Complaint about Councillor(s)"

The Monitoring Officer has statutory responsibility for maintaining the register of members' interests and is responsible for administering the system in respect of complaints of member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the complaint form, which can be downloaded from the authority's website, and is available on request from the Complaints Officer at the Council Offices, as well as the Code of Conduct for the relevant Council.

Please provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the member against whom you make the complaint, without your prior consent. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

We will acknowledge receipt of your complaint within seven working days of receiving it, and we will keep you informed of the progress of your complaint. Not every complaint that falls under the Code will be referred for investigation. A decision will be made using the referral criteria below.

Complaints should be summarised as much as possible. Any complaints over 20 pages in length may require an extended period of time for consideration by the Monitoring Officer.

4. What happens next?

In certain straightforward circumstances, the Monitoring Officer is entitled to dismiss your complaint at the outset. This will happen if:

- (a) the person you are complaining about is no longer a councillor;
- (b) the conduct you are complaining about happened more than 6 months before you complained;
- (c) the conduct you are complaining about happened in the councillor's private life, not when they were acting as a councillor;
- (d) the complaint is essentially against the action of the council as a whole and cannot properly be directed against individual member(s);
- (e) the complaint is made anonymously;
- (f) there is no prima facie evidence that the Code has been breached or there is not enough information to take the matter further;
- (g) the same, or substantially the same issue has been the subject of a previous Code of Conduct allegation and there is nothing further to be gained.

If your complaint is not dismissed for any of these reasons, it will then be considered in 3 stages – the aim being to reach a satisfactory resolution.

Under Stages One and Two only the details contained on your complaint form will be considered. Therefore it is very important that you set your complaint out concisely, clearly and provide at the outset all the information you wish to be considered. The information provided should only be relevant to the alleged breaches of the Code, as the Monitoring Officer cannot consider any other subject of complaint. Please identify clearly the paragraphs of the Code you believe may have been breached by the councillor(s) and under each one provide the reason why you believe it has been breached.

5. Stage One

We will tell the Member that you are complaining about that we have received a complaint and provide them with a copy, unless you have completed section 5 of the form requesting confidentiality.

The Member will be invited to respond within 20 working days, including in his or her response any suggestion to resolve the complaint.

This response will be made available to you and you will be asked if you are satisfied with it, or whether you wish your complaint to be considered further under Stage Two.. If you are satisfied with the response, no further action will be taken, or the action proposed by the Member will proceed.

6. Stage Two

Your complaint will then be considered by the Council's Monitoring Officer in consultation with a duly appointed Independent Person whose views will be taken into account. The Monitoring Officer will decide whether your complaint should be referred for investigation. This will normally happen within 20 working days of the date of the commencement of Stage Two.

Where he/she requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the member against whom your complaint is directed. Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation.

Referral Criteria

Whilst each allegation will be considered on its individual merits, the following Referral Criteria will be considered in taking the decision either to accept a complaint for investigation or to take no further action:

- the public benefit in investigating the alleged complaint
- taking into account the nature of the allegation, whether using public funds to examine the matter further would be disproportionate
- whether the information submitted is sufficient to make a decision as to whether to refer for investigation
- whether the complaint is the same or substantially the same as a previous complaint and in that case, whether there is anything further to be gained
- whether the complaint involves conduct too trivial to warrant further action
- whether the complaint is essentially against the action of the Council as a whole and cannot properly be directed against an individual member
- whether the complaint appears to be vexatious, malicious, politically motivated or a 'tit for tat' retaliation or made by a persistent complainant
- whether the matter complained of is an individual act or part of a continuous pattern of behaviour which should be cumulatively considered
- whether any steps have been taken or proposed to remedy the action complained of, for example, an apology has already been made by the member concerned
- the complainant's view of the action taken or proposed.
- where the member or the authority has made a reasonable offer of local resolution, but the complainant is not willing to accept that offer, this may be taken into account in deciding whether the complaint merits formal investigation

- whether the complainant has requested that their identity as complainant be withheld from the member, and the matter cannot reasonably be taken further in these circumstances

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

7. Stage Three

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where the Monitoring Officer and Independent Person consider it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer may delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

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

The Monitoring Officer will review the Investigating Officer's report and, if he is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned (and to the Parish Council, where your complaint relates to a Parish Councillor), notifying you that he is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider his/her report.

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

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person, seek local resolution.

(a) Local Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee (and the Parish Council) for information, but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate, the Monitoring Officer will refer the matter for a local hearing.

(b) Local Hearing

If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

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

The Monitoring Officer will conduct a pre-hearing process, requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chairman of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearings Panel. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Hearings Panel, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Hearings Panel concludes that the member did fail to comply with the Code of Conduct, the Chairman will inform the member of this finding and the Hearings Panel will then consider what action, if any, the Hearings Panel should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the member an opportunity to make representations to the Panel and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

7.3 What action can the Hearings Panel take where a member has failed to comply with the Code of Conduct?

The Council has delegated to the Hearings Panel such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearings Panel may take the following actions, as it considers appropriate:

District Councillor:

- 7.3.1 Censure or reprimand the member;
- 7.3.2 Publish its findings in respect of the member's conduct;
- 7.3.3 Report its findings to Council for information;
- 7.3.4 Recommend to the member's Group Leader (or in the case of independent members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 7.3.5 Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 7.3.6 Recommend to Council that the member be replaced as Executive Leader;
- 7.3.7 Instruct the Monitoring Officer to arrange training for the member;
- 7.3.8 Remove from all outside appointments to which he/she has been appointed or nominated by the authority or by the Parish Council;
- 7.3.9 Withdraw facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- 7.3.10 Exclude 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.

Parish Councillor:

- 7.3.11 Censure or reprimand the member;
- 7.3.12 Publish its findings in respect of the member's conduct;
- 7.3.13 Report its findings to the Parish Council for information;
- 7.3.14 Recommend that the Parish Council arranges training for the member;
- 7.3.15 Recommend to the Parish Council that the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority or by the Parish Council;
- 7.3.16 Recommend to the Parish Council that it withdraws facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- 7.3.17 Recommend that the Parish Council excludes 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

The Hearings Panel has no power to suspend or disqualify the member or to withdraw members' basic or special responsibility allowances.

7.4 What happens at the end of the hearing?

At the end of the hearing, the Chairman will state the decision of the Hearings Panel as to whether the member failed to comply with the Code of Conduct and as to any actions which the Hearings Panel resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel, and send a copy to you, to the member (and to the Parish Council), make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

8. Who are the Hearings Panel?

The Hearings Panel is a sub-committee of the Council's Standards Committee. The Standards Committee has decided that it will comprise a maximum of five members of the Committee, including not more than one member of the authority's Executive and comprising members drawn from at least two different political parties.

The Independent Person is invited to attend all meetings of the Hearings Panel and his or her views are sought and taken into consideration before the Hearings Panel takes any decision on whether the member's conduct constitutes a failure to comply with the Code of conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

9. Who is the Independent Person?

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.

A person cannot be "independent" if he/she:

- 9.1 Is, or has been within the past five years, a member, co-opted member or officer of the authority, with the exception that former Independent Members of Standards Committees can be appointed as Independent Persons for the period up to 1st July 2013;
- 9.2 Is or has been within the past five years, a member, co-opted member or officer of a parish council within the authority's area, or
- 9.3 Is a relative, or close friend, of a person within paragraph 9.1 or 9.2 above. For this purpose, "relative" means:
 - 9.3.1 Spouse or civil partner;
 - 9.3.2 Living with the other person as husband and wife or as if they were civil partners;
 - 9.3.3 Grandparent of the other person;
 - 9.3.4 A lineal descendant of a grandparent of the other person;

- 9.3.5 A parent, sibling or child of a person within paragraphs 9.3.1 or 9.3.2;
- 9.3.6 A spouse or civil partner of a person within paragraphs 9.3.3, 9.3.4 or 9.3.5;
or
- 9.3.7 Living with a person within paragraphs 9.3.3, 9.3.4 or 9.3.5 as husband and wife or as if they were civil partners.

10. Revision of these arrangements

The Council may by resolution agree to amend these arrangements, and has delegated to the Chairman of the Hearings Panel the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

11. Can I withdraw my complaint?

Complaints can be withdrawn by the complainant by agreement with Monitoring Officer at any stage in the process.

12 Appeals

There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Hearings Panel.

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman. Decisions which have been properly made according to the Council's procedure will not be overturned unless the decision making process was faulty. Please note that with regard to actions taken by this Council in respect of alleged breaches of the Code of Conduct, the Ombudsman can only consider complaints made by members of the public or those made on their behalf - this does not include complaints made by town, parish or district councillors.

Appendix Procedure for Local Standards Hearings

PROCEDURE FOR LOCAL STANDARDS HEARINGS

1. Interpretation

- (a) "Councillor" means the member of the authority who is the subject of the allegation being considered by the Panel, unless stated otherwise. It also includes the Councillor's nominated representative.
- (b) "Investigating Officer" means the person appointed by the Monitoring Officer to undertake the investigation (which may include the Monitoring Officer and his or her nominated representative).
- (c) "The matter" is the subject matter of the Investigating Officer's report.
- (d) "The Panel" means the Local Standards Hearing Panel which is a Sub Committee of the Council's Standards Committee to which the Standards Committee has delegated the conduct of the hearing.
- (e) "The Committee Support Officer" means an officer of the authority responsible for supporting the Panel's discharge of its functions and recording the decisions of the Panel.
- (f) "Legal Advisor" means the officer responsible for providing legal advice to the Panel. This may be the Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.
- (g) "The Chairman" refers to the person presiding at the hearing.
- (h) "The Independent Person" is the person appointed by the Council under Section 28 of the Localism Act 2012, who is invited to attend all meetings of the Hearings Panel and whose views are to be sought, and taken into account, by the Panel before a decision is made on whether the member's conduct amounts to a failure to comply with the Code of Conduct and as to any action to be taken.

2. Modification of Procedure

The Chairman may agree to vary this procedure in any particular instance where he/she is of the opinion that such a variation is necessary in the interests of fairness, or expediency in circumstances where fairness is not compromised.

3. Representation

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

4. Pre-Hearing Process (Local Investigation)

Where the Monitoring Officer has considered the Investigating Officer's report and decided to refer the report to the Hearings Panel the Monitoring Officer shall:

- (a) Arrange a date for the Panel hearing;
- (b) Send a copy of the report to the Councillor, advise the Councillor of his decision to refer the report to the Hearings Panel, and advise the Councillor of the date, time and place for the hearing;

- (c) Send a copy of the report to the Complainant, advise the Complainant of his decision to refer the report to the Hearings Panel, and of the date, time and place for the hearing;
- (d) Notify the Parish or Town Council (as appropriate) of the Panel's initial decision and of the date, time and place of the hearing;
- (e) Request the Councillor to complete and return the model Pre-Hearing Forms A, B, D and E within 14 days of receipt;
- (f) In the light of any Pre-Hearing Forms returned by the Councillor, determine whether the Panel will require the attendance of the Investigating Officer and any additional witnesses at the hearing to enable it to come to a properly considered conclusion at the hearing, and arrange for their attendance;
- (g) Prepare a Pre-Hearing Summary Report setting out the course of the allegation, investigation and Pre-Hearing Process and high-lighting the issues which the Panel will need to address, and
- (h) Arrange that the agenda for the hearing, together with the Pre-Hearing Summary Report and copies of any relevant documents are sent to:
 - (i) All members of the Panel who will conduct the hearing;
 - (ii) The Councillor;
 - (iii) The Complainant and
 - (iv) The Investigating Officer.

Where reasonably practicable, the agenda, Pre-Hearing Summary Report and other documents referred to above will be sent to those persons at least 14 days in advance of the hearing date. Failing this 5 clear days notice will be given as provided by Access to Information Legislation unless the matter is genuinely urgent and permitted to be notified later under the relevant legislation.

5. **Legal Advice**

The Panel may take advice from its legal advisor at any time during the hearing or while they are deliberating on any aspect of the outcome. The substance of any legal advice given to the Panel should be shared with the member and the Investigating Officer if they are present, whether that advice is given in the hearing room or the separate room where the Panel are deliberating on any aspect of the outcome.

6. **Setting the Scene**

At the start of the hearing, the Chairman shall introduce each of the members of the Panel, the Councillor (if present), the Investigating Officer (if present), the Independent Person and any other officers present, and shall then explain the procedure which the Panel will follow in the conduct of the hearing.

7. **Preliminary Procedural issues**

The Panel shall then deal with the following preliminary' procedural matters in the following order:

- (a) Disclosures of interest
The Chairman shall ask members of the Panel to disclose the existence and nature

of any disclosable pecuniary interests which they have in the matter, and to withdraw from consideration of the matter if so required.

(b) Quorum

The Chairman shall confirm that the Panel is quorate (3 members).

(c) Hearing procedure

The Chairman shall confirm that all present know the procedure which the Panel will follow in determining the matter.

(d) Proceeding in the absence of the member

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

- (i) The Chairman shall ask the Monitoring Officer whether the Councillor has indicated his/her intention not to attend the hearing;
- (ii) The Panel shall then consider any reasons which the Councillor has provided for not attending the hearing. If the Panel is satisfied with such reasons, it shall adjourn the hearing to another date;
- (iii) If the Panel is not satisfied with such reasons, or if the Councillor has not given any such reasons, the Panel shall decide whether to consider the matter and make a determination in the absence of the Councillor or to adjourn the hearing to another date. If the Panel decides to proceed in the absence of the Councillor, references in subsequent paragraphs of this Procedure to the Councillor's participation in the hearing shall be construed accordingly.

(e) Exclusion of Press and Public

The Panel may exclude the press and public from its consideration of this matter where it appears likely that confidential or exempt information will be disclosed in the course of this consideration.

The Chairman shall ask the Councillor (if present) the Investigating Officer (if present) and the legal adviser to the Panel whether they wish to ask the Panel to exclude the Press and public from all or any part of the hearing. If any of them so request, the Chairman shall ask them to put forward reasons for so doing and ask for responses from the others and the Panel shall then determine whether to exclude the press and public from all or any part of the hearing.

Where the Panel does not resolve to exclude the press and public, the agenda and any documents which have been withheld from the press and public in advance of the meeting shall then be made available to the press and public.

8. A failure to comply with the Code of Conduct?

The Panel will then address the issue of whether the Councillor failed to comply with the Code of Conduct in the manner set out in the Investigating Officer's report.

- (a) The Chairman shall ask the Councillor to confirm that he/she maintains the position as set out in the Pre-Hearing summary report.

(b) The Pre-Hearing Summary Report

The Chairman will ask the legal advisor to present his/her report, highlighting any

points of difference in respect of which the Councillor has stated that he/she disagrees with any finding of fact in the Investigating Officer's report. The Chairman will then ask the Councillor to confirm that this is an accurate summary of the issues and ask the Councillor to identify any additional points upon which he/she disagrees with any finding of fact in the Investigating Officer's report.

- (i) If the Councillor admits that he/she has failed to comply with the Code of Conduct in the manner described in the Investigating Officer's report, the Panel may then make a determination that the Councillor has failed to comply with the Code of Conduct in the manner described in the Investigating Officer's report and proceed directly to consider whether any action should be taken (Paragraph 11).
 - (ii) If the Councillor identifies additional points of difference, the Chairman shall ask the Councillor to explain why he/she did not identify these points as part of the pre-hearing process. He/she shall then ask the Investigating Officer (if present) whether he/she is in a position to deal with those additional points of difference directly or through any witnesses who are in attendance or whose attendance at the hearing can conveniently be arranged. Where the Panel is not satisfied with the Councillor's reasons for failing to identify each additional point of difference as part of the pre-hearing process, it may decide that it will continue the hearing but without allowing the Councillor to challenge the veracity of those findings of fact which are set out in the Investigating Officer's report but in respect of which the Councillor did not identify a point of difference as part of the pre-hearing process, or it may decide to adjourn the hearing to allow the Investigating Officer and/or any additional witnesses to attend the hearing.
- (c) Presenting the Investigating Officer's report
- (i) If the Investigating Officer is present, the Chairman will then ask the Investigating Officer to present his/her report, having particular regard to any points of difference identified by the Councillor and why he/she concluded, on the basis of his/her findings of fact, that the Councillor had failed to comply with the Code of Conduct. The Investigating Officer may call witnesses as necessary to address any points of difference.
 - (ii) If the Investigating Officer is not present, the Panel shall 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 Investigating Officer. In the absence of the Investigating Officer, the Panel shall determine on the advice of the Monitoring Officer which witnesses, if any, to call. Where such witnesses are called, the Chairman shall draw the witnesses' attention to any relevant section of the Investigating Officer's report and ask the witness to confirm or correct the report and to provide any relevant evidence.
 - (iii) No cross-examination shall be permitted but, at the conclusion of the Investigating Officer's report and/or of the evidence of each witness, the Chairman shall ask the Councillor if there are any matters upon which the Panel should seek the advice of the Investigating Officer or the witness.

(d) The Councillor's response

- (i) The Chairman shall then invite the Councillor to respond to the Investigating Officer's report and to call any witnesses as necessary to address any points of difference.
- (ii) No cross-examination shall be permitted but, at the conclusion of the Councillor's evidence and/or of the evidence of each witness, the Chairman shall ask the Investigating Officer if there are any matters upon which the Panel should seek the advice of the Councillor or the witness.

(e) Witnesses

- (i) The Panel shall be entitled to refuse to hear evidence from the Investigating Officer, the Councillor or a witness unless they are satisfied that such persons are likely to give evidence which they need to hear in order to be able to determine whether there has been a failure to comply with the Code of Conduct.
- (ii) Any member of the Panel may address questions to the Investigating Officer, to the Councillor or to any witness.

(f) Additional Evidence

At the conclusion of the evidence, the Chairman shall check with the members of the Panel that they are satisfied that they have sufficient evidence to come to a considered conclusion on the matter.

- (g) If the Panel at any stage prior to determining whether there was a failure to comply with the Code of Conduct are of the opinion that they require additional evidence on any point in order to be able to come to a considered conclusion on the matter, the Panel may (on not more than one occasion) adjourn the hearing and make a request to the Investigating Officer to seek and provide such additional evidence and to undertake further investigation on any point specified by the Panel.

(h) Determination as to whether there has been a failure to comply with the Code of Conduct.

- (i) At the conclusion of the Councillor's response, the Chairman shall ensure that each member of the Panel is satisfied that he/she 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 Investigating Officer's report.
- (ii) The Panel shall then retire to another room to consider in private whether the Councillor did fail to comply with the Code of Conduct as set out in the Investigating Officer's report.
- (iii) The Panel shall take its decision on the balance of probability based on the evidence which it has received at the hearing.
- (iv) Before taking its decision as to whether there has been a failure to comply with the Code of Conduct, the Panel will seek and take into consideration the views of the Independent Person.

- (iv) The Panel's function is to make a determination on the matter. It may, at any time, return to the main hearing room in order to seek additional evidence from the Investigating Officer, the Councillor or a witness, or to seek advice from the Legal Officer and subject to paragraph 5, it may seek such advice whilst in the retirement room. If it requires any further information, it may adjourn and instruct an officer or request the Councillor to produce such further evidence to the Panel.
- (v) At the conclusion of the Panel's consideration, the Panel shall consider whether it is minded to make any recommendations to the authority concerned with a view to promoting high standards of conduct among councillors.
- (vi) The Panel shall then return to the main hearing room and the Chairman will state the Panel's principal findings of fact and their determination as to whether the Councillor failed to comply with the Code of Conduct as set out in the Investigating Officer's report.

9. If the Councillor has not failed to follow the Code of Conduct

If the Panel determines that the Councillor has not failed to follow the Code of Conduct in the manner set out in the Investigating Officer's report:

- (a) If the Panel apprehends, from the evidence which they have received during the hearing, that a Councillor has failed to comply with the Code of Conduct (other than the matter which the Panel has just determined), the Chairman shall outline Panel's concerns and state that the Panel has referred this additional or alternative failure to the Monitoring Officer for further consideration.
- (b) The Chairman should then set out any recommendations which the Panel is minded to make to the relevant authority with a view to promoting high standards of conduct among councillors and seek the views of the Councillor, the Investigating Officer and the Legal Advisor before the Panel finalises any such recommendations.
- (c) Finally, the Chairman should ask the Councillor whether or not he/she wishes the authority to publish a statement of its finding.

10. Action consequent upon a failure to comply with the Code of Conduct

- (a) The Chairman shall ask the Investigating Officer (if present, or otherwise the Legal Advisor) whether, in his/her opinion, the Councillor's failure to comply with the Code of Conduct is such that the Panel should take action if so, what would be the appropriate action that should be taken.
- (b) The Chairman will then ask the Councillor to respond to the Investigating Officer's advice.
- (c) The Chairman will then ensure that each member of the Panel is satisfied that he/she has sufficient information to enable him/her to take an informed decision as to what action should be taken.
- (d) Any member of the Panel may address questions to the Investigating Officer or to the Councillor as necessary to enable him/her to take such an informed decision.
- (e) The Chairman should then set out any recommendations which the Panel is minded to make to the authority with a view to promoting high standards of conduct among Councillors and seek the views of the Councillor, the Investigating Officer and the Legal Advisor;
- (f) The Panel will then retire to another room to consider in private whether action should be taken and if so, what action should be taken and when that action should

take effect; and any recommendations which the Panel will make to the relevant authority.

- (g) The Panel will consult the Independent Person before deciding whether action should be taken and (where action is to be taken) the nature of that action.
- (h) At the completion of their consideration, the Panel will return to the main hearing room and the Chairman shall state the Panel's decisions as to whether action should be taken and (where action is to be taken) the nature of that action, and when it should take effect, together with the principal reasons for those decisions, and any recommendations which the Panel will make to the relevant authority.

11. The close of the hearing

- (a) The Panel 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 Councillor as soon as practicable after the close of the hearing;
- (b) The Chairman will thank all those present who have contributed to the conduct of the hearing and formally close the hearing;
- (c) Following the close of the hearing, the Committee Support Officer will agree a formal written notice of the Panel's determination and the Monitoring Officer shall arrange for the distribution and publication of that notice, or a summary of that notice.

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