



Hearings Sub-Committee agenda

Date: Thursday 19 January 2023
Time: 10.00 am
Venue: Jubilee Room, the Gateway, Aylesbury

Membership:

T Broom, B Chapple OBE and D Thompson

Agenda Item	Page No
1 Declarations of Interest	
2 Procedural documents Contested Hearing Procedure The Council's published Arrangements for dealing with complaints against councillors The Council's complaints guidance (including, at annex 6, the Contested Hearing procedure and sanctions).	3 - 50
3 Exclusion of the press and public That under Section 100(A)(4) of the Local Government Act 1972 the public be excluded from the meeting for the following item(s) of business on the grounds that it involves the likely disclosure of exempt information as defined in Part I of Schedule 12A of the Act. Paragraph 1 Information relating to an individual	
4 Determination of Code of Conduct Complaint PC32, PC47 and PC52 Regarding a Parish Councillor	51 - 252

If you would like to attend a meeting, but need extra help to do so, for example because of a disability, please contact us as early as possible, so that we can try to put the right support in place.

For further information please contact: Clare Gray on , email democracy@buckinghamshire.gov.uk.

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**STANDARDS AND GENERAL PURPOSES COMMITTEE OUTLINE
PROCEDURE FOR HEARINGS SUB-COMMITTEE (CONTESTED)**

Preliminary Procedural Issues

1. Introductions.
2. Declarations of Interest (if any).
3. To consider any request for the exclusion of Press and Public.

Findings of Fact

4. Monitoring Officer (or his/her representative) to present summary report and refer to outcome of pre-hearing process.
5. Investigating Officer to present report and call such witnesses as he/she considers necessary to substantiate his/her conclusion(s) within the report.
6. Subject Member (or his/her representative) to raise/clarify issues with the Investigating Officer, including the questioning of the Investigating Officer's witnesses.
7. Members of the Sub-Committee to raise/clarify issues with the Investigating Officer, including the questioning of the Investigating Officer's witnesses.
8. Subject Member (or his/her representative) to present their case and call such witnesses as he/she considers necessary.
9. Investigating Officer to raise/clarify issues with the Subject Member (or his/her representative), including the questioning of the Subject Member's witnesses.
10. Members of the Sub-Committee to raise/clarify issues with the Subject Member (or his/her representative), including the questioning of the Subject Member's witnesses.
11. Views of the Independent Person sought.
12. Members of the Sub-Committee to raise/clarify issues with the Independent Person.
13. The Sub-Committee will retire, along with the Monitoring Officer, to determine its findings of fact.
14. The Sub-Committee's decision will be reported back to the meeting by the Democratic Services Officer.

Breach of the Code of Conduct

15. The Sub-Committee will need to consider whether or not, based on the facts it has found, the Subject Member has breached the Code of Conduct.
16. Investigating Officer to address the Sub-Committee on whether the facts found constitute a breach of the Code of Conduct.
17. Subject Member (or his/her representative) to address the Sub-Committee as to why the facts found do not constitute a breach of the Code of Conduct.
18. Views of the Independent Person sought.
19. Members of the Sub-Committee to raise/clarify issues.
20. The Sub-Committee will retire, along with the Monitoring Officer, to determine whether there has been a breach of the Code of Conduct. The Sub-Committee's decision will be reported back to the meeting by the Democratic Services Officer.

(If the Sub-Committee determine that there has been no breach of the Code of Conduct, the complaint will be dismissed. If, however, the Sub-Committee determine that there has been a breach of the Code of Conduct, the procedure at paragraph 21 will apply).

Action to be taken

21. The Sub-Committee will need to determine what sanction, if any, should be imposed as a result of the Subject Member's breach of the Code of Conduct.
22. Monitoring Officer (or his/her representative) to outline possible sanctions.
23. Investigating officer to make submissions on appropriate sanction, if any.
24. Subject Member (or his/her representative) to make submissions on whether any sanction should be imposed.
25. Views of the Independent Person sought.
26. Members of the Sub-Committee to raise /clarify issues.
27. The Sub-Committee will retire, along with the Monitoring Officer, to consider what sanction, if any, should be imposed. The Sub-Committee's decision will be reported back to the meeting by the Democratic Services Officer.

Close of Hearing

3. Arrangements for Dealing with Complaints against Councillors

Context

- 3.1. The Council is committed to promoting and maintaining high standards of conduct amongst its councillors and has adopted a Code of Conduct setting out the conduct it expects of its councillors as they carry out that role.
- 3.2. A copy of the Council's Code of Conduct for Councillors is set out in Part I Section 2 of this Constitution. It is also available for inspection on the Council's website.
- 3.3. The Code applies to councillors or co-opted members when they go about the work of the Council or their role as a councillor or co-opted member. The Council will not investigate complaints relating to a councillor's or co-opted member's private life.
- 3.4. If anyone thinks a councillor or co-opted member has not complied with the Council's Code of Conduct for Councillors (or in relation to Town and Parish councillors has not complied with their Town or Parish Code of Conduct) a complaint can be made to the Monitoring Officer who will consider the complaint in the following way.

How We Deal with Complaints

Initial Assessment

- 3.5. The Monitoring Officer will carry out an Initial Assessment to determine whether the complaint is within the Code of Conduct and whether, having regard to the referral criteria in Paragraph 3.11 below it should be progressed.

Stage One

- 3.6. If the Monitoring Officer determines that the complaint should be progressed we will tell the councillor or co-opted member that you are complaining about (also called the 'subject member') that we have received a complaint and provide them with details of your complaint which may include a copy – unless you have requested confidentiality (in which case your details will not be disclosed unless and until your request for confidentiality has been considered – see further below).
- 3.7. The subject member will be invited to respond within 20 working days – including in their response any suggestion to resolve the complaint.
- 3.8. Details of the response will be made available to you and you will be asked if you are satisfied – if yes, no further action will be taken or the action proposed by the subject member will proceed; if not, you will be asked if you wish your complaint to be considered further under Stage Two

Stage Two

- 3.9. In most cases your complaint will be considered by the Council's Monitoring Officer, or their Deputy, or by the Monitoring Officer and the Chairman/Vice-Chairman of the Councils Standards and General Purposes Committee if considered appropriate due to the seriousness of the alleged behaviour. An Independent Person (see Paragraph 3.17 below) may be consulted and their views taken into account. An Independent Person will be consulted if a referral for investigation is deemed appropriate or if the Monitoring Officer considers it will not be possible to resolve the complaint informally. This will happen within an average of 20 working days of the date of the commencement of Stage Two.

Stage Three

- 3.10. If the decision at Stage Two is to investigate the complaint, the Monitoring Officer will appoint an investigator whose report will be considered by the Hearings Sub-Committee of the Council's Standards and General Purposes Committee – or in some cases to the full Committee – who will decide whether (i) a breach has taken place and if so the appropriate remedy; (ii) a formal hearing is necessary to determine whether a breach has occurred and/or the appropriate remedy; or (iii) if and what any further action is appropriate.

Referral Criteria

- 3.11. Whilst each allegation will be considered on its individual merits, the following "Referral Criteria" will be used to decide whether to accept a complaint and as factors for consideration at each stage of the process:
- a. the public benefit in investigating the alleged complaint;
 - b. the availability and cost of resources with regard to the seriousness of the alleged matter;
 - c. whether the information submitted is sufficient to make a decision as to whether to refer for investigation;
 - d. is the subject member complained about still a serving councillor or co-opted member;
 - e. is the complaint the same as or similar to a previous complaint;
 - f. the time passed since the alleged conduct occurred;
 - g. the complaint involves conduct too trivial to warrant further action;
 - h. does the complaint appear to be malicious, politically motivated or tit for tat;
 - i. whether the matter complained of is an individual act or part of a continuous pattern of behaviour which should be cumulatively considered;
 - j. steps taken or proposed to remedy the action complained of;
 - k. the complainant's view of the action taken or proposed.

General

- 3.12. The relevant parties will be kept informed at all stages of the complaint. Further details are available on the Council's website.
- 3.13. There is no right of appeal under any stage of this complaints procedure.
- 3.14. The remedies available may include:
- a. informal resolution (ie where a formal remedy may not be appropriate but a resolution is considered advisable. This is not limited to, but may take the form of, an apology or an explanation). An informal resolution may be by recommendation only;
 - b. Report to Council;
 - c. Formal letter to subject member;
 - d. Formal censure by motion;
 - e. Recommendation to Leader/Group Leader or Town/Parish Council, as applicable, that the subject member is removed from Special Responsibilities – i.e. Cabinet/Committees/Outside Bodies;
 - f. Press release or other publicity.
- 3.15. Please note the Council has no authority to withhold allowances or to suspend or remove a councillor from office.
- 3.16. All decisions should be published unless the subject member requests non-publication where it is found that the Code of Conduct has not been breached.
- 3.17. An **Independent Person** is someone who has been appointed by the Council under Section 28 of the Localism Act 2011. Independent Persons must be appointed through a process of public advertisement, application and appointment by a positive vote of a majority of all councillors of the Council – i.e. by full Council.
- 3.18. A Person is considered not to be 'independent' if:-
- a. they are or have been in the previous 5 years an elected or co-opted member or officer of the Council or any Parish in the area or an elected or co-opted member of any committee or sub-committee of the Council or any Parish in the area or
 - b. they are a relative or close friend of a current councillor or co-opted member or officer of the Council or any Parish in the area – or any elected or co-opted members of any committee or sub-committee of such a Council.

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BUCKINGHAMSHIRE COUNCIL

Guidance on Dealing with Members Complaints

1. Context

In accordance with section 28 of the Localism Act 2011 Buckinghamshire Council has adopted arrangements for dealing with allegations that members have failed to comply with the Council's Code of Conduct. These arrangements also apply to allegations that members of Parish and Town Councils in the area have failed to comply with their respective Council's code of conduct.

The arrangements set out how to make a complaint and how complaints will be investigated. They must also provide for the Council to appoint at least one Independent Person whose views must be sought before the Council takes a decision on an allegation which it has decided to investigate, and whose views can be sought by the Council at any other stage, or by a Member against whom an allegation has been made.

The arrangements are included in Part H of Buckinghamshire Council's Constitution which is published on the council's website at :-

<https://www.buckinghamshire.gov.uk/your-council/council-and-democracy/our-constitution/>

This document provides guidance about making a complaint and further information about how complaints will be dealt with.

2. The Code of Conduct

The Council has adopted a Code of Conduct for its Members. This is attached at Annex 2 and is available for inspection on the Council's website and on request by emailing the monitoring officer at: monitoringofficer@buckinghamshire.gov.uk

3. Making a complaint

The Monitoring Officer is a senior officer of the Council who has statutory responsibility for maintaining the Register of Members' Interests and administers the procedure for dealing with complaints of Member misconduct.

To ensure the Monitoring Officer has all the information necessary to process your complaint, please complete the Complaint Form at Annex 1A for complaints about Buckinghamshire councillors or Annex 1B for complaints about parish councillors. These forms can be downloaded from the Council's website at <https://www.buckscc.gov.uk/services/contact-and-complaints/complain-about-a-councillor/> and are also available on request from the Monitoring Officer by email to monitoringofficer@buckinghamshire.gov.uk.

Please provide your name and a contact address or email address so your complaint can be acknowledged and we can keep you informed of its progress. If you want to keep your name and address confidential, please indicate this and the reason why, in the space provided on the Complaint Form. Please note that we do not deal with anonymous complaints.

Before making a complaint you should read the Code of Conduct and this Guidance. Please note in particular the following points on the interpretation of the Code of Conduct and the Arrangements for Dealing with Complaints against Councillors:

- When considering complaints, behavior which is intended to hurt someone either physically or emotionally or is unwanted conduct that has the purpose of violating a person's dignity or creating an intimidating, hostile, degrading or humiliating environment for that person including causing them distress or fear, whether repeated or not will be used as the definition of bullying in the Buckinghamshire Council Code of Conduct. Examples of such conduct include but is not limited to: undermining someone; personalizing or constant criticism; making threats or being threatening; overbearing supervision; misuse of position or power.
- Failure to comply with the standard process and any investigation without substantial reason is likely to be considered to be a breach of the Nolan Principle of Leadership and specifically 2.7.a. and 2.7.i. of the Code of Conduct. The process will continue but failure to engage may result in adverse inferences being made and further breaches being found to have taken place.
- Due to the inherent nature of Councillors it is expected that they will be subject to robust challenge and part of heated debates provided these are confined to the issues in question. Without further aggravating circumstances complaints about such matters are likely to be viewed as trivial, malicious, politically motivated or tit for tat and may therefore be rejected under the 'Referral Criteria'.
- Where it is alleged that a Town or Parish Councillor is behaving or has behaved towards their clerk in such a way as to breach their Code of Conduct, it is expected that the issue would be raised with the Chairman and/or the Town or Parish Council formally for them to make a formal complaint if appropriate. A complaint from the clerk directly will however still be accepted where there are exceptional circumstances.

Please send your completed Complaint Form and any relevant documents by email to:

Monitoringofficer@buckinghamshire.gov.uk or

By post to: Monitoring Officer
Buckinghamshire Council
The Gateway, Gatehouse Road
Aylesbury HP19 8FF

4. What Happens Next

The Monitoring Officer, or one of the Deputy Monitoring Officers' will acknowledge receipt of your complaint within 5 working days. If your complaint is **not** about member conduct then the

Monitoring Officer will not consider it but will, where possible, refer you to any relevant procedure available.

For example the following are not covered by this complaints procedure:

- Complaints about the conduct of councillors when acting in their personal capacity i.e. not acting as an elected or co-opted member of the Council
- Dissatisfaction with a decision or action of the Council or one of its committees
- Complaints about a service provided by the Council
- Complaints about the Council's procedures
- The actions of people employed by the Council

If a complaint alleges that Members may have committed a criminal offence by breaching the "disclosable pecuniary interest" provisions under Section 34 of the Localism Act 2011, it will be referred to Thames Valley Police for consideration.

As a matter of fairness and natural justice we believe members who are complained about have a right to know who has made the complaint and to be provided with full details of the complaint.

We are unlikely to withhold your identity or the details of your complaint unless you have good reason to believe that to do so would be contrary to the public interest, would prejudice any subsequent investigation or you have reasonable grounds for believing you or any witness in the matter would be at risk.

The Member will still be informed that a complaint has been made - and unless doing so would lead to the disclosure of your identity, will be informed of the paragraphs of the Code which they are alleged to have been breached and as much detail about the complaint as possible. However, your details and a full copy of the complaint will be withheld until your request has been considered.

The assessment of a request for confidentiality will be considered against the following criteria – but with the balance always being in favour of disclosure unless exceptional circumstances exist to determine otherwise:

- 1) The complainant has reasonable grounds for believing that they will be at risk of physical or other serious harm if their identity is disclosed.
- 2) The complainant is an officer who works closely with the Subject Member and they are afraid of the consequences to their employment or of losing their job if their identity is disclosed.
- 3) The complainant suffers from a serious health condition and there are medical risks associated with their identity being disclosed (medical evidence may be required to be submitted).
- 4) Any other very special circumstances put forward by the complainant which identify reasonable grounds for believing that disclosure of details would result in the complainant or witnesses being intimidated or lead to evidence being compromised or destroyed or some other reasons justifying the grant of confidentiality.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The Monitoring Officer may consult with the Independent Person to consider your request alongside the substance of your complaint. If your request for

confidentiality is not granted, you will be asked whether you wish the Council to continue to consider your complaint.

An initial assessment will be undertaken to decide whether to accept your complaint. This looks at whether the behaviour complained about would, if proved, be a breach of the code of conduct and whether the Member was acting as a councillor at the time. The referral criteria will also be considered. If your complaint is accepted after the initial assessment, it will then be considered in 3 Stages with the aim of reaching a satisfactory resolution. Under Stages 1 and 2 only the details contained in the Complaint Form will be considered. Therefore, it is important that you set out your complaint clearly and provide all the information you wish to be considered at the outset.

5. Stage 1

We will tell the Member that is the subject of your complaint that we have received a complaint and provide them with a copy of your complaint or a summary (unless your request for confidentiality has been agreed in which case only non-identifying details will be provided).

The Member will be invited to respond within 20 working days – including in their response any suggestion to resolve the complaint.

This response will be made available to you and you will be asked if you are satisfied – if yes, no further action will be taken or the action proposed by the Member will proceed – or you will be asked if you wish your complaint to be considered further under Stage 2.

6. Stage 2

Your complaint will then be assessed by the Monitoring Officer, or a Deputy Monitoring Officer, having regard to the Referral Criteria at Annex 3 and will decide whether or not to progress the complaint to an investigation. The Chairman/Vice-Chairman of the Council's Standards and General Purposes Committee will be informed of all complaints considered under Stage 2 and if appropriate due to the seriousness of the alleged behaviour may be consulted and their views taken into account. The Independent Person (whose views will be taken into account) will also be consulted if it is considered that the complaint cannot be resolved informally (ie will proceed to an investigation under Stage 3) and will be given the option to view and comment on all complaints which are being considered for dismissal as without merit, vexatious or trivial. This will happen within an average of 20 working days from the commencement of Stage 2.

When a decision has been made you will be notified in writing. The Monitoring Officer will also write to the member(s) you have complained about. These letters will be sent within 5 working days of a decision being reached. The decision is made available for public inspection once the member concerned has been given a copy of the decision unless the member requests non-publication where it is found that the Code of Conduct has not been breached.

The decision of the Monitoring Officer or their deputy is final and there is no right of appeal.

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 the complaint maybe considered suitable for mediation or such other remedial action by the Council on the recommendation of the Monitoring Officer.

Where the Member concerned makes a reasonable offer of informal resolution such as an apology or agrees for the complaint to be mediated but you are not willing to accept that offer, the Monitoring Officer will take this into account in deciding whether the complaint merits formal investigation.

7. Stage 3

If the decision at Stage 2 is to investigate the complaint the Monitoring Officer will appoint an Investigating Officer, who may be another senior officer of the Council, an officer of another Council or an external investigator.

The investigator's report will be considered by the Hearings Sub-Committee of the Council's Standards and General Purposes Committee, or in some cases by the full Committee.

The Council has adopted a model procedure for the investigation of complaints, which is attached at Annex 4 together with an explanatory flowchart. Details of the both the investigation procedure and the procedure if the matter proceeds to a hearing are explained further below.

8. How is the investigation conducted?

Ordinarily the Council would hope that investigations will take no more than 6 months to complete from the date the decision to investigate is taken. This will very much depend on the facts of each complaint and some investigations may be concluded earlier and others may take longer.

It is vital to the timely completion of investigations that you, as the complainant, and the Subject Member under investigation, comply with the reasonable requirements of the Investigating Officer in terms of interview attendance and supplying relevant documents.

If you, as the complainant, do not co-operate the Investigating Officer will contact the Monitoring Officer for direction as to whether the investigation should be terminated. Similarly, if the Subject Member does not comply, the Investigating Officer will proceed to determine the investigation in the absence of their contribution and may draw an adverse inference from their non-cooperation.

The Investigating Officer will normally carry out the investigation in accordance with the model procedure detailed at Annex 4 although may decide to depart from this if the circumstances of the complaint warrant it.

As an initial step, and subject to any ruling on disclosure, the Investigating Officer may write to the Subject Member at the beginning of the investigation to see if the Subject Member still wishes to contest the complaint. Subject to this the investigation will normally follow the model procedure at Annex 4.

At the end of the investigation, the Investigating Officer will produce a draft report and will send copies of the draft report, in confidence, to you and to the Subject 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.

It should be noted that at any time during an investigation, the Investigating Officer may, following consultation with the Independent Person, refer the matter back to the Monitoring Officer for re-consideration as to whether the investigation should proceed if the Investigating Officer considers that the Re-consideration Criteria in Annex 3 are satisfied.

9. 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 consult with the Independent Person about its contents and refer the report to the Hearings Sub-Committee.

If having done so the Hearings Sub-Committee is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the Subject Member notifying you 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, the Investigating Officer may be asked to re-consider his/her report.

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

The Monitoring Officer will review the Investigating Officer's report and after consulting the Independent Person will refer the matter to the Hearings Sub-Committee. The Sub-Committee will decide whether (i) the evidence clearly shows a breach has taken place and if so the appropriate remedy; (ii) a formal hearing is necessary to determine whether a breach has occurred and/or the appropriate remedy or (iii) if and what further action is appropriate. In particular, the Sub-Committee will consider whether Local Resolution should be attempted.

- Local Resolution

The Monitoring Officer will consult with the Independent Person and with you as complainant and seek to resolve the complaint in a way that helps to ensure higher standards of conduct for the future.

Such resolution may include the Subject Member accepting that his/her conduct was unacceptable and offering an apology or the complaint being referred for mediation or such other remedial action as is considered appropriate in the circumstances.

If the Subject Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards and General Purposes Committee. However, if the Subject Member concerned does not accept that the matter should be resolved in such a manner, the Monitoring Officer will refer the matter back to the Hearings Sub-Committee.

- Hearings Sub-Committee

In readiness for convening a meeting of the Hearings Sub-Committee, the Monitoring Officer will consider whether to conduct a written “pre-hearing process”, requiring the Subject Member concerned to give their response to the Investigating Officer’s report in order to identify what is likely to be agreed and what is likely to be in contention at the meeting or Hearing.

If, through the “pre-hearing process”, the Subject Member concerned accepts the Investigating Officer’s report, they will be given the opportunity to provide a statement of mitigation which they may invite the Hearings Sub-Committee to consider in their absence. Alternatively, the Subject Member may elect to attend a Hearings Sub-Committee to present their mitigation. In either case, the “uncontested” hearing procedure will be followed as set out at Annex 5. If the evidence available clearly shows that a breach has taken place the “uncontested” hearing procedure will also be followed.

Where, following the “pre-hearing process”, the Investigating Officer’s report remains in contention, the matter will be set down for a “contested” hearing before the Hearings Sub-Committee and the hearing procedure set out at Annex 6 will be followed.

At the hearing, the Investigating Officer will present his/her report, call such witnesses as considered necessary and make representations to substantiate the conclusion that the Subject 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. Unless called to do so by the Investigating Officer, you do not have the right to address the Hearings Sub-Committee of your own volition.

The Subject Member will then have an opportunity to give evidence, to call witnesses and to make representations about why they consider they did not fail to comply with the Code of Conduct. The Subject Member may be represented legally or otherwise.

The Hearings Sub-Committee, with the benefit of any advice from the Independent Person, may conclude that the Subject Member did not fail to comply with the Code of Conduct and so dismiss the complaint.

If the Hearings Sub-Committee concludes that the Subject Member did fail to comply with the Code of Conduct, the Chairman will inform the Subject Member of this finding and the Hearings Sub-Committee will then consider what action, if any, should be taken. In doing this, the Hearings Sub-Committee will give the Subject Member an opportunity to make representations to them and will consult the Independent Person before deciding what action, if any, to take in respect of the matter.

11. What action can the Hearings Sub-Committee take where a Subject Member has failed to comply with the Code of Conduct?

The Council has delegated to the Standards and General Purposes Committee its powers to take action in respect of individual Members as may be necessary to promote and maintain high standards of conduct. Accordingly, the Sub-Committee may -

- Write to the Subject Member over their conduct;
- Publish its findings in the local media in respect of the Subject Member's conduct;
- Report its findings to the Council;
- Recommend to the Subject Member's Group Leader (or in the case of un-grouped Subject Members, recommend to the Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- Recommend to the Leader of the Council that the Subject Member be removed from the Cabinet or removed from particular Portfolio responsibilities;
- Instruct the Monitoring Officer to arrange training for the Subject Member;
- Recommend removal of the Subject Member from all outside appointments to which he/she has been appointed or nominated by the Council;
- Withdraw facilities provided to the Subject Member by the Council, such as a computer, website and/or email and Internet access;
- Recommend that any aspects of the complaint that are considered suitable be referred for mediation between the parties; or
- Exclude the Subject 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;
- Any other action considered appropriate given the circumstances of the breach or failure.

The Hearings Sub-Committee has no power to suspend or disqualify the Subject Member or to withdraw a Subject Member's basic allowance or any special responsibility allowances.

12. What happens at the end of the Hearing?

At the end of the hearing, the Chairman will announce the Sub-Committee's decision as to whether the Subject Member has failed to comply with the Code of Conduct and as to any action which the Sub-Committee resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer will prepare a formal decision notice in consultation with the Chairman of the Sub-Committee and send a copy to you and to the Subject Member concerned and make such decision notice available for public inspection and report the decision to the next convenient meeting of the Standards and General Purposes Committee. If, however, there is found to be no failure to comply with the Code of Conduct the Subject Member can request that the decision notice is not published.

The decision of the Hearings Sub-Committee is final and is not subject to a right of appeal.

13. What is the Hearings Sub-Committee?

The Hearings Sub-Committee is made up of 3 elected Members of the Council's Standards and General Purposes Committee.

An Independent Person is invited to attend all meetings of the Hearings Sub-Committee and their views can be sought and taken into consideration on whether a 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.

14. Who is the Independent Person?

An Independent Person is someone who has been appointed by the Council under Section 28 of the Localism Act 2011.

Independent Persons are appointed through a process of public advertisement, application and appointment. The first appointments of Independent Persons by Buckinghamshire Council is by the Chairman of the Audit and Governance Committee in consultation with the Head of Paid Service. Future appointments will be by a positive vote of a majority of all members of the Council i.e. by full Council.

A Person is considered not to be 'independent' if they are, or have been in the previous 5 years:

- an elected or co-opted member or officer of the Council or any Parish in the area
- an elected or co-opted member of any committee or sub-committee of the Council or any Parish in the area

or they are a relative or close friend of a current elected or co-opted member or officer of the Council or any Parish or Town Council the area – or any elected or co-opted members of any committee or sub-committee of such a Council.

15. Revision of this Guidance

The Standards and General Purposes Committee may amend this guidance.

The Chairman of any Hearings Sub-Committee may, following consultation with the Independent Person, depart from the procedures detailed above where he/she considers it is expedient to do so in order to secure the effective and fair consideration of any matter.

If the Monitoring Officer considers that he/she may be conflicted in the discharge of these arrangements, or it is otherwise expedient to do so they may delegate such matters to a Deputy Monitoring Officer to discharge.

16. Appeals

There is no right of appeal for you as complainant or for the Subject Member against a decision of the Monitoring Officer or the Hearings Sub-Committee.

If you feel that the Council has failed to deal with your complaint in accordance with the Council's adopted arrangements, you may make a complaint to the Local Government Ombudsman.

Annex 1A	Complaint Form Buckinghamshire councillors
Annex 1B	Complaint Form Parish councillors
Annex 2	Buckinghamshire Council's Code of Conduct
Annex 3	Assessment and Re-Assessment Criteria
Annex 4	Procedure for Investigations
Annex 5	Uncontested hearing procedure
Annex 6	Contested hearing procedure
Annex 7	Protocol between Buckinghamshire Monitoring Officers and Thames Valley Police

Member Complaints Guidance V3 08.10.20

BUCKINGHAMSHIRE COUNCIL

COMPLAINT FORM MEMBER(S) CONDUCT (BUCKINGHAMSHIRE COUNCILLORS)

Your details

1. Please provide us with your name and contact details:

Title:	
First name:	
Last name:	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile telephone:	
Email address:	

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

However, we will tell the following people that you have made this complaint:

- the member(s) you are complaining about
- the monitoring officer of the authority
- the council's Independent Person (if required)
- an investigating officer appointed to investigate your complaint (if applicable)
- members of the Hearings Sub-Committee convened to consider your complaint
- officers involved in mediation (if applicable)

We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate to be able to deal with it.

If you have serious concerns about your name and a summary, or details of your complaint being released, please complete section 6 of this form.

2. Please tell us which complainant type best describes you:

- Member of the public
- An elected or co-opted member of an authority
- Member of Parliament
- Local authority monitoring officer
- Other council officer or authority employee
- Other

Making your complaint

Once your complaint has been received a decision will be taken in accordance with the council's published arrangements as to what action, if any, should be taken on it. You will not have the opportunity to attend a meeting at this stage. It is important that you provide all the information that you want taken into account as part of your complaint.

Please refer to the council's published arrangements for dealing with complaints about members which explains the 3 Stage process for dealing with your complaint.

3. Please provide us with the name of the Buckinghamshire Council member(s) you believe have breached the Code of Conduct:

Title	First name	Last name

It is important that you provide a summary of the information you wish to have taken into account (within the space provided below) so a decision can be made, in accordance with the published arrangements, whether to take any action on your complaint.

For example:

- You should be specific, wherever possible, about exactly what you are alleging the member said or did. For instance, instead of stating that the member insulted you, you should give the exact words used.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.

4. Please indicate which paragraphs of the Code of Conduct you consider the member(s) to have breached by ticking the appropriate box(es).

- a You must provide leadership to the Council and communities within its area by personal example
- b You must respect others and not bully any person
- c You must recognise that officers (other than political assistants) are employed by and serve the whole Council
- d You must respect the confidentiality of information which you receive as a councillor
- e You must not conduct yourself in a manner which is likely to bring the council into disrepute
- f You must use your position as a councillor in the public interest and not for personal advantage
- g You must act in accordance with the Council's reasonable rules on the use of the resources of the Council for private or political purposes
- h You must exercise your own independent judgment, taking decisions for good and substantial reasons
- i You must account for your actions, particularly by supporting the Council's scrutiny function
- j You must ensure the council acts within the law
- Failure to declare a disclosable pecuniary, personal or prejudicial interest

5. Please explain in this section (or on separate sheets) what the member has done that you believe breaches the relevant parts of the Code of Conduct indicated above. If you are complaining about more than one member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

Please provide us with details of your complaint (within the space provided or use separate sheets)

Please explain what steps, if any, you have taken to resolve this complaint directly with the member concerned?

Would you be prepared to engage in mediation with the member concerned, if considered appropriate, to try and resolve the complaint?

Yes

No

If you answered no please state reason why below:

Mediation is a way of resolving disputes with the assistance of an independent mediator who will try and help the parties reach a solution to the dispute that both parties are agreeable to. The independent mediator will avoid taking sides, making judgements or giving guidance. They are simply responsible for developing effective communications between the parties with a view to a common sense settlement being arrived at. Mediation is a voluntary process and will only take place if the parties agree and remains confidential to the parties involved.

Only complete this next section if you are requesting that your identity is kept confidential

BUCKINGHAMSHIRE COUNCIL

COMPLAINT FORM PARISH/TOWN COUNCILLOR(S) CONDUCT

Your details

1. Please provide us with your name and contact details:

Title:	
First name:	
Last name:	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile telephone:	
Email address:	

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

However, we will tell the following people that you have made this complaint:

- the member(s) you are complaining about
- the monitoring officer of the authority
- the parish or town clerk (if applicable)
- the council's Independent Person (if required)
- an investigating officer appointed to investigate your complaint (if applicable)
- members of the Hearings Sub- Committee convened to consider your complaint
- officers involved in mediation (if applicable)

We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate to be able to deal with it.

If you have serious concerns about your name and a summary, or details of your complaint being released, please complete section 6 of this form.

2. Please tell us which complainant type best describes you:

- Member of the public
- An elected or co-opted member of an authority
- Member of Parliament
- Local authority monitoring officer
- Other council officer or authority employee
- Other

Making your complaint

Once your complaint has been received a decision will be taken in accordance with the council’s published arrangements as to what action, if any, should be taken on it. You will not have the opportunity to attend a meeting at this stage. It is important that you provide all the information that you want taken into account as part of your complaint.

Please refer to the council’s published arrangements for dealing with complaints about members which explains the 3 Stage process for dealing with your complaint.

3. Please provide us with the name of the member(s) you believe have breached the Code of Conduct and the name of their authority:

Title	First name	Last name	Council or authority name

It is important that you provide a summary of the information you wish to have taken into account (within the space provided below) so a decision can be made, in accordance with the published arrangements, whether to take any action on your complaint.

For example:

- You should be specific, wherever possible, about exactly what you are alleging the member said or did. For instance, instead of stating that the member insulted you, you should give the exact words used.
 - You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
 - You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
 - You should provide any relevant background information.
4. Please list below which paragraphs of the Code of Conduct you consider the member(s) to have breached. You will find a copy of the Council's code on either on the Parish or Town Council's website or obtain a copy on request from the Clerk to the relevant Council.

Please list relevant paragraphs of the Parish or Town Council's Code

5. Please explain in this section (or on separate sheets) what the member has done that you believe breaches the Code of Conduct. If you are complaining about more than one member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

Please provide us with details of your complaint here or attach separate sheets
--

Please explain what steps, if any, you have taken to resolve this complaint directly with the member concerned?

Would you be prepared to engage in mediation with the member concerned, if considered appropriate, to try and resolve the complaint?

Yes

No

If you answered no please state reason why below:

Mediation is a way of resolving disputes with the assistance of an independent mediator who will try and help the parties reach a solution to the dispute that both parties are agreeable to. The independent mediator will avoid taking sides, making judgements or giving guidance. They are simply responsible for developing effective communications between the parties with a view to a common sense settlement being arrived at. Mediation is a voluntary process and will only take place if the parties agree and remains confidential to the parties involved

Only complete this next section if you are requesting that your identity is kept confidential

- 6.** In the interests of fairness and natural justice, we believe members who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint unless you have good reasons.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

7. Additional Help

Complaints must be submitted in writing. This includes email submissions. However, in line with the requirements of the Equality Act 2010, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

If you need any support in completing this form, please let us know as soon as possible.

8. Contact Details

You can send this form to the Monitoring Officer at Buckinghamshire Council either by email to: monitoringofficer@buckinghamshire.gov.uk or by post to :-
The Gateway, Gatehouse Road, Aylesbury, Bucks HP19 8FF

Buckinghamshire Council

2. Code of Conduct for Councillors – Adopted on 27 February 2020

Part 1 – General Provisions

Introduction

- 2.1 The Council has adopted this Code of Conduct pursuant to section 27 of the Localism Act 2011 (the Act) to promote and maintain high standards of behaviour by its councillors by its members and co-opted members whenever they conduct the business of the Council including the office to which they were elected or appointed or when they claim to act or give the impression of acting as a representative of the Council.
- 2.2 This Code of Conduct complies with Section 28 of the Act and is consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Scope

- 2.3 This Code of Conduct applies to you whenever you are acting in your capacity as a councillor of Buckinghamshire Council, including: –
- a. at formal meetings of the Council, its Committees and Sub-Committees, its Cabinet and Panels;
 - b. when acting as a representative of the Council;
 - c. in taking any decision as a Cabinet Member or a Ward Councillor;
 - d. in discharging your functions as a Ward Councillor;
 - e. at briefing meetings with officers;
 - f. at site visits; and
 - g. when corresponding with the authority other than in a private capacity.
- 2.4 Where you act as a representative of the Council:-
- a. on another authority, you must when acting for that authority, comply with that other authority's code of conduct; or
 - b. on any other body, you must, when acting for that other body, comply with this Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.
- 2.5 Where you are acting as a co-opted member of a Council Committee or Sub-Committee or Board or Panel of the Council.
- 2.6 When using social media or the internet and/or in relation to your online presence if you refer in any way to your role as a councillor or co-opted member or could reasonably be perceived as acting in any of the above capacities when doing so.

General Obligations

- 2.7 You must:

- a. provide leadership to the Council and communities within its area, by personal example;
- b. respect others and not bully any person;
- c. recognise that officers (other than political assistants) are employed by and serve the whole Council;
- d. respect the confidentiality of information which you receive as a councillor or co-opted member and –
 - i. not disclose 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
 - ii. not obstruct third parties' legal rights of access to information;
- e. not conduct yourself in a manner which is likely to bring the Council into disrepute;
- f. use your position as a councillor or co-opted member in the public interest and not for personal advantage;
- g. act in accordance with the Council's reasonable rules on the use of the resources of the Council for private or political purposes;
- h. exercise your own independent judgement, taking decisions for good and substantial reasons –
 - i. attaching appropriate weight to all relevant considerations including, where appropriate, public opinion and the views of political groups;
 - ii. 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 Section 151 Officer and the Monitoring Officer; and
 - iii. stating the reasons for your decisions where those reasons are not otherwise apparent;
- i. account for your actions, particularly by supporting the Council's scrutiny function;
- j. ensure that the Council acts within the law.

Part 2 – Interests

Personal Interests

2.8 In addition to the statutory requirements under the Act in relation to Disclosable Pecuniary Interest's (DPI's) and as set out in Paragraph 2.22 and Annex A below and save for the subject interest already having been declared as a DPI and the statutory provisions complied with, the following Paragraphs 2.9 to 2.21 shall also apply.

2.9 You have a personal interest in any business of the Council where either-

- a. it relates to or is likely to affect –
 - i. Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council;
 - ii. Any body –
 - Exercising functions of a public nature
 - Directed to charitable purposes; or

- One of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

Of which you are a member or in a position of general control or management;

- iii. Any person or body who employs or has appointed you;
 - iv. The interests of any person or body from whom you have received a gift or hospitality with an estimated value of at least £25;
 - b. A decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward affected by the decision.
- 2.10 In sub-paragraph 2.9 b. above, a relevant person is –
- a. A member of your family or any person with whom you have a close personal association; or
 - b. Any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors; or
 - c. Any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
 - d. Any person or body of a type described in sub-paragraph 2.9 a.

Disclosure of Personal Interests

- 2.11 Subject to Paragraphs 2.12 to 2.15, where you have a personal interest in any business of the Council and you attend a meeting of the Council at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- 2.12 Where you have a personal interest in any business of the Council which solely relates to a body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council, you need only disclose to the meeting the existence and nature of that interest if that interest is prejudicial (see Paragraphs 2.17 to 2.19).
- 2.13 Where you have a personal interest in any business of the Council of the type mentioned in Paragraph 2.9 a.iv, you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- 2.14 Paragraph 2.11 only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- 2.15 Subject to Paragraph 2.20, where you have a personal interest in any business of the Council and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that personal interest.
- 2.16 Having declared a personal interest you may continue to speak and vote on the item of business concerned.

Prejudicial Interest Generally

- 2.17 Subject to Paragraph 2.18, where you have a personal interest in any business of the Council you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- 2.18 You do not have a prejudicial interest in any business of the Council where that business—
- a. does not affect your financial position or the financial position of a person or body described in Paragraph 2.9;
 - b. does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in Paragraph 2.9; or
 - c. relates to the functions of the Council in respect of—
 - i. an allowance, payment or indemnity given to councillors;
 - ii. any ceremonial honour given to councillors; and
 - iii. setting council tax or a precept under the Local Government Finance Act 1992.

Prejudicial Interests Arising in Relation to Select Committees

- 2.19 You also have a prejudicial interest in any business before a Select Committee of the Council (or of a sub-committee of such a committee) where—
- a. that business relates to a decision made (whether implemented or not) or action taken by the Cabinet or another of the Council's committees, sub-committees, joint committees or joint sub-committees; and
 - b. at the time the decision was made or action was taken, you were a member of the Cabinet, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

Effect of Prejudicial Interests on Participation

- 2.20 Subject to Paragraph 2.21, where you have a prejudicial interest in any business of the Council—
- a. you must declare the existence and nature of your interest and withdraw from the room or chamber where a meeting considering the business is being held—
 - i. in a case where Paragraph 2.21 applies, immediately after making representations, answering questions or giving evidence;
 - ii. in any other case, whenever it becomes apparent that the business is being considered at that meeting;
 - b. you must not exercise executive functions in relation to that business; and
 - c. you must not seek improperly to influence a decision about that business.
- 2.21 Where you have a prejudicial interest in any business of the Council you may attend a meeting (including a meeting of the relevant Select Committee of the Council or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public

are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Disclosable Pecuniary Interest

- 2.22 A Disclosable Pecuniary Interest (DPI) is as defined in 'The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012' (The Regulations) and the categories of interest are set out in Annex A.
- 2.23 Councillors or co-opted members who have a Disclosable Pecuniary Interest in any item of business being considered at a meeting of the Council, its Committees, Sub-Committees, Joint Committees, Cabinet and/or Policy Advisory Groups, must leave the room or chamber including the public gallery during the whole of the consideration of that item except where a councillor or co-opted member is permitted to remain as a result of the grant of a dispensation.

Part 3 – Registration of Interests

Registration and Disclosure of Interests

- 2.24 Subject to Paragraph 2.28, you must, within 28 days of this Code of Conduct becoming applicable or your election or appointment to office register in the council's register of members' interests, maintained under Section 29 of the Act, details of any DPI which you or your spouse or civil partner (or person with whom you are living as spouse or civil partner) may have, together with your personal interests where they fall within a category mentioned in Paragraph 2.9 a., by providing written notification to the Council's Monitoring Officer.
- 2.25 Failure to register or disclose any DPI in accordance with section 30(1) or 31(2), (3) or (7) of the Act, or participating in any discussion or vote in contravention of section 31(4) of the Act, or taking any steps in contravention of section 31(8) of the Act, is a criminal offence and risks a fine not exceeding level 5 on the standard scale (currently £5,000) or disqualification as a councillor for a period not exceeding 5 years.
- 2.26 Subject to Paragraph 2.28, you must, within 28 days of becoming aware of any new DPI and/or personal interest or change to any DPI and/or personal interest registered under Paragraph 2.24, register details of that new DPI and/or personal interest or change by providing written notification to the Council's Monitoring Officer.
- 2.27 Subject to Paragraph 2.28, you are required to disclose the existence and nature of any DPI when it arises at a meeting even where already registered in the register or pending registration so the minutes can be duly noted.

Sensitive Interest

- 2.28 Where you consider that you have a sensitive interest (whether or not a DPI), and the Council's Monitoring Officer agrees, if the interest is entered in the Council's register, copies of the register that are made available for inspection and any published version of the register, must not include details of the interest (but may state that the councillor or co-opted member has an interest the details of which are withheld under section 32 (2) of the Act) and any public declaration required need only state the fact an interest arises without further detail.
- 2.29 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under Paragraph 2.28 is no longer a sensitive interest,

notify the Council's Monitoring Officer asking that the interest be included in the Council's register of members' interests.

- 2.30 In this Code, "sensitive interest" means an interest, the nature of which is such that you and the Council's Monitoring Officer consider that disclosure of the details of the interest could lead to you, or a person connected with you, being subject to violence or intimidation.

Dispensations

- 2.31 On a written request made to the Council's Monitoring Officer, the Council may grant a dispensation for you to participate in a discussion and vote on a matter at a meeting even if you have a DPI or a prejudicial interest and that you be relieved of the obligation to otherwise withdraw from the room in which the matter is being considered if the Council considers that the number of councillors or co-opted members otherwise prohibited from taking part in the meeting would be so great a proportion of the body transacting the business that it would impede the transaction of the business; or the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote on the business; or it is in the interests of the inhabitants in the Council's area to allow you to take part or that without the dispensation the Council's Cabinet would be prohibited from participating in the matter or it is otherwise appropriate to grant a dispensation.

Annex A

Disclosable Pecuniary Interests

The duties to register, disclose and not to participate in respect of any matter in which a councillor or co-opted member has a DPI are set out in Chapter 7 of the Act.

DPI's are defined in the Regulations 2012 as follows –

<i>Interest</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the 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. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
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	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
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 –

“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.

ASSESSMENT and RE-ASSESSMENT CRITERIA

Stage 1 Criteria

Before the assessment of a complaint begins, the Monitoring Officer must be satisfied that the complaint meets the following requirements:

- (i) It is a complaint against one or more named Members of the Council;
- (ii) The named Member or Members were in Office at the time of the alleged conduct and acting in their official capacity; and
- (iii) The complaint, if proven, would be a breach of the Council's Code of Conduct in force at the relevant time.

If the complaint fails any one of these tests, it cannot be investigated as a breach of the Council's Code of Conduct and the complainant must be informed that no further action can be taken in relation to the complaint. If it passes all three tests, then it can be assessed according to the criteria set out in the Constitution in the Arrangements for dealing with Complaints against Councillor and extracted below.

Referral Criteria

The Monitoring Officer will consider the following criteria to decide whether to accept a complaint and as factors for consideration at all stages of the complaint process: -

- (a) The public benefit in investigating the alleged complaint;
- (b) The availability and cost of resources with regard to the seriousness of the alleged matter;
- (c) whether the information submitted is sufficient to make a decision as to whether to refer for investigation;
- (d) Is the Subject Member complaint about still a serving councillor or co-opted member;
- (e) Is the complaint the same as or similar to a previous complaint;
- (f) The time passed since the alleged conduct occurred;
- (g) the complaint involves conduct too trivial to warrant further action;
- (h) Does the complaint appear to be vexatious, malicious, politically motivated or tit for tat; relatively minor, insufficiently serious, tit-for-tat, or there are other reasons why an investigation may not be in the public interest.
- (i) Whether the matter complained of is an individual act or part of a continuous pattern of behaviour which should be cumulatively considered;
- (j) Steps taken or proposed to remedy the action complained of;
- (k) The complainant's view of the action taken or proposed.

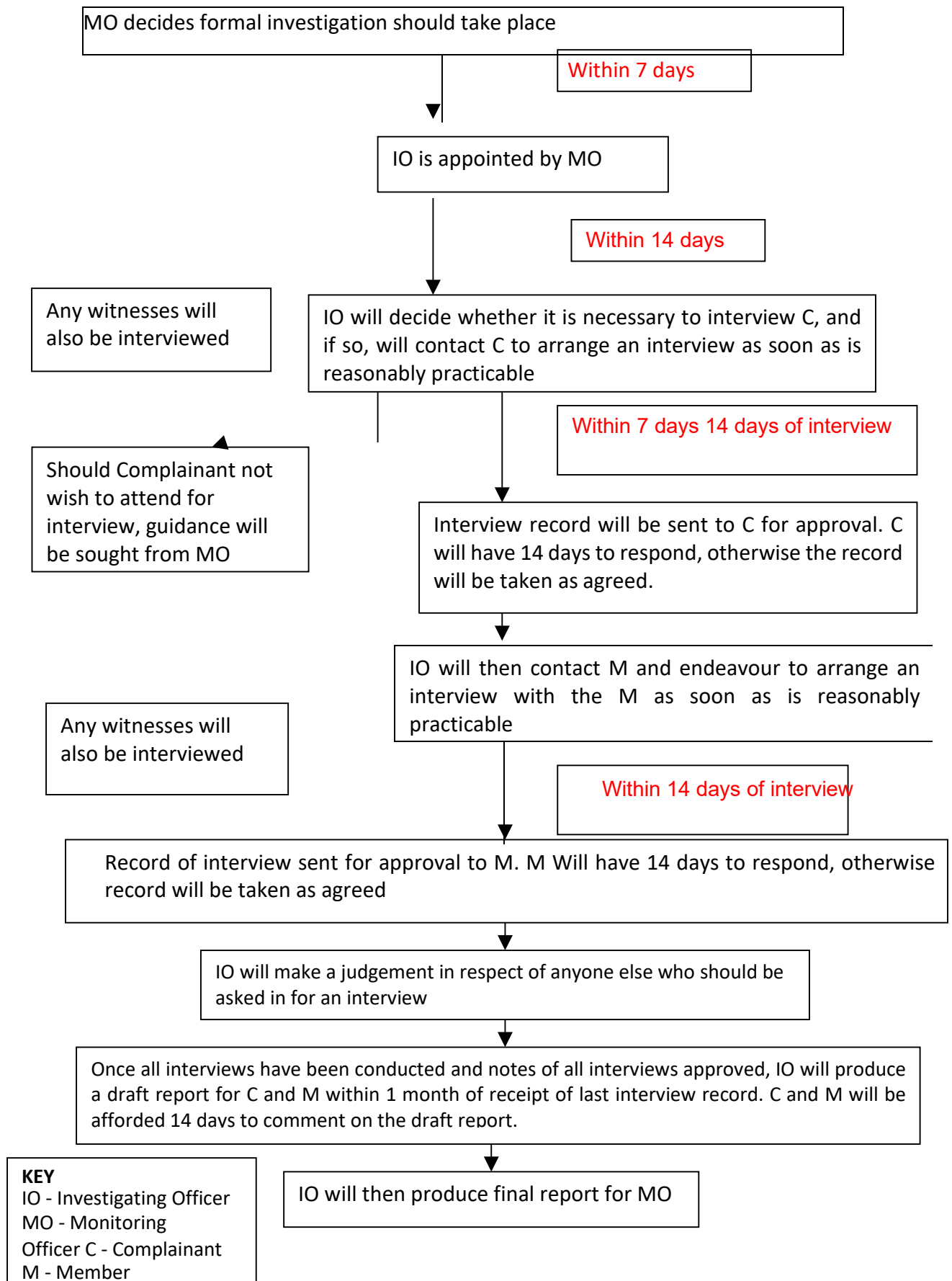
Re-consideration Criteria during Stage 3

The Investigating Officer may, following consultation with the Independent Person, refer an

investigation to the Monitoring Officer for re-consideration as to whether the investigation should proceed where:

- As a result of new evidence or information, the Investigating Officer is of the opinion that the matter is materially less serious than may have seemed apparent to the Monitoring Officer when the decision was made to refer the complaint for investigation, and a different decision may have been made had the Monitoring Officer been aware of the new evidence or information;
- The Subject Member who is the subject of the allegation has died, is seriously ill or has resigned from the Council concerned and in the circumstances the Investigating Officer is of the opinion that it is no longer appropriate to proceed with the investigation; or
- Other circumstances arise, which in the reasonable opinion of the Investigating Officer, render it appropriate for the investigation to be referred to the Monitoring Officer for re-consideration.

PROCEDURE FOR INVESTIGATIONS



**STANDARDS AND GENERAL PURPOSES COMMITTEE
OUTLINE PROCEDURE FOR HEARINGS SUB-COMMITTEE (UNCONTESTED)**

Preliminary Procedural Issues

1. Introductions.
2. Declarations of Interest (if any).
3. To consider any request for the exclusion of Press and Public.

Breach of the Code of Conduct

4. Monitoring Officer (or his/her representative) to present summary report, including the findings of fact made by the Investigating Officer, and refer to outcome of pre-hearing process.
5. Views of the Independent Person sought.
6. Members of the Sub-Committee to raise/clarify issues.
7. The Sub-Committee will retire, along with the Monitoring Officer, to determine whether there has been a breach of the Code of Conduct. The Sub-Committee's decision will be reported back to the meeting by the Democratic Services Officer.

Action to be taken

8. Monitoring Officer (or his/her representative) to outline possible sanctions.
9. Investigating officer to make submissions on appropriate sanction, if any.
10. Member or (his/her representative) to present statement of, or provide oral, mitigation, including on what sanction, if any, should be imposed.
11. Views of the Independent Person sought.
12. Members of the Sub-Committee to raise/clarify issues.
13. The Sub-Committee will retire, along with the Monitoring Officer, to consider what sanction, if any, should be imposed. The Sub-Committee's decision will be reported back to the meeting by the Democratic Services Officer.

Close of Hearing

**STANDARDS AND GENERAL PURPOSES COMMITTEE
OUTLINE PROCEDURE FOR HEARINGS SUB-COMMITTEE (CONTESTED)**

Preliminary Procedural Issues

1. Introductions.
2. Declarations of Interest (if any).
3. To consider any request for the exclusion of Press and Public.

Findings of Fact

4. Monitoring Officer (or his/her representative) to present summary report and refer to outcome of pre-hearing process.
5. Investigating Officer to present report and call such witnesses as he/she considers necessary to substantiate his/her conclusion(s) within the report.
6. Subject Member (or his/her representative) to raise/clarify issues with the Investigating Officer, including the questioning of the Investigating Officer's witnesses.
7. Members of the Sub-Committee to raise/clarify issues with the Investigating Officer, including the questioning of the Investigating Officer's witnesses.
8. Subject Member (or his/her representative) to present their case and call such witnesses as he/she considers necessary.
9. Investigating Officer to raise/clarify issues with the Subject Member (or his/her representative), including the questioning of the Subject Member's witnesses.
10. Members of the Sub-Committee to raise/clarify issues with the Subject Member (or his/her representative), including the questioning of the Subject Member's witnesses.
11. Views of the Independent Person sought.
12. Members of the Sub-Committee to raise/clarify issues with the Independent Person.
13. The Sub-Committee will retire, along with the Monitoring Officer, to determine its findings of fact.
14. The Sub-Committee's decision will be reported back to the meeting by the Democratic Services Officer.

Breach of the Code of Conduct

15. The Sub-Committee will need to consider whether or not, based on the facts it has found, the Subject Member has breached the Code of Conduct.
16. Investigating Officer to address the Sub-Committee on whether the facts found constitute a breach of the Code of Conduct.
17. Subject Member (or his/her representative) to address the Sub-Committee as to why the facts found do not constitute a breach of the Code of Conduct.
18. Views of the Independent Person sought.
19. Members of the Sub-Committee to raise/clarify issues.
20. The Sub-Committee will retire, along with the Monitoring Officer, to determine whether there has been a breach of the Code of Conduct. The Sub-Committee's decision will be reported back to the meeting by the Democratic Services Officer.

(If the Sub-Committee determine that there has been no breach of the Code of Conduct, the complaint will be dismissed. If, however, the Sub-Committee determine that there has been a breach of the Code of Conduct, the procedure at paragraph 21 will apply).

Action to be taken

21. The Sub-Committee will need to determine what sanction, if any, should be imposed as a result of the Subject Member's breach of the Code of Conduct.
22. Monitoring Officer (or his/her representative) to outline possible sanctions.
23. Investigating officer to make submissions on appropriate sanction, if any.
24. Subject Member (or his/her representative) to make submissions on whether any sanction should be imposed.
25. Views of the Independent Person sought.
26. Members of the Sub-Committee to raise /clarify issues.
27. The Sub-Committee will retire, along with the Monitoring Officer, to consider what sanction, if any, should be imposed. The Sub-Committee's decision will be reported back to the meeting by the Democratic Services Officer.

Close of Hearing

PROTOCOL BETWEEN BUCKINGHAMSHIRE MONITORING OFFICERS AND THAMES VALLEY POLICE

Purpose

To agree a protocol for the reporting of potential criminal offences arising under Section 34 of the Localism Act 2011 concerning the registration and/or disclosure of Disclosable Pecuniary Interests (DPIs) (as defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

1. If the Monitoring Officer receives a complaint regarding a potential DPI offence they will undertake an initial assessment of the allegation having regard to the following criteria: -
 - Has the alleged offence been committed in the last 3 years?
 - Was the Member concerned subject to the Localism Act 2011 at the time of the alleged offence?
 - Is it proportionate to conduct a criminal investigation rather than a code of conduct investigation for the alleged offence?
2. If the Monitoring Officer considers that the answer to each of the above criteria is “yes” the Monitoring Officer will make immediate contact with Thames Valley Police through the nominated single point of contact (see Appendix B for named Police contact).
3. Similarly, if Thames Valley Police receive a complaint from a member of the public they will inform the relevant Monitoring Officer of the receipt of that complaint. (Each authority will be responsible for providing up to date contact details of their appointed Monitoring Officer from time to time – see Appendix B for named Monitoring Officer contacts.)
4. Thames Valley Police will register the complaint and conduct an initial assessment of the complaint but may approach the relevant Monitoring Officer for background information on the complaint.
5. If Thames Valley Police decide not to prosecute the matter they will normally pass the relevant evidence to the relevant Monitoring Officer so that consideration can be given to a Code of Conduct breach being pursued. In the event that the relevant Council decides to pursue a Code of Conduct breach they will inform Thames Valley Police of their decision.
6. Both the relevant Monitoring Officer and Thames Valley Police will endeavour to keep complainants regularly updated as to the progress of complaints.

Signed on behalf of Thames Valley Police:

Signed on behalf of Buckinghamshire Council:

Signed on behalf of Buckinghamshire & Milton Keynes Fire Authority:

Signed on behalf of Royal Berkshire Fire Authority:

Signed on behalf of Milton Keynes Council:

NB: A signed version is retained by Legal Services. Signed and dated by all parties as of 2020

Appendix A – Extracts from Localism Act 2011

30 Disclosure of pecuniary interests on taking office

1. A member or co-opted member of a relevant authority must, before the end of 28 days beginning with the day on which the person becomes a member or co-opted member of the authority, notify the authority's monitoring officer of any disclosable pecuniary interests which the person has at the time when the notification is given.
2. Where a person becomes a member or co-opted member of a relevant authority as a result of re-election or re-appointment, subsection (1) applies only as regards disclosable pecuniary interests not entered in the authority's register when the notification is given.
3. For the purposes of this Chapter, a pecuniary interest is a "disclosable pecuniary interest" in relation to a person ("M") if it is of a description specified in regulations made by the Secretary of State and either:
 - (a) It is an interest of M's; or
 - (b) It is an interest of:
 - i) M's spouse or civil partner;
 - ii) a person with whom M is living as husband and wife; or
 - iii) a person with whom M is living as if they were civil partners, and M is aware that that other person has the interest.
4. Where a member or co-opted member of a relevant authority gives a notification for the purposes of subsection (1), the authority's monitoring officer is to cause the interests notified to be entered in the authority's register (whether or not they are disclosable pecuniary interests).

31 Pecuniary interests in matters considered at meetings or by a single member

1. Subsections (2) to (4) apply if a member or co-opted member of a relevant authority:
 - a) Is present at a meeting of the authority or of any committee, sub-committee, joint committee or joint sub-committee of the authority;
 - b) Has a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting; and
 - c) Is aware that the condition in paragraph (b) is met.
2. If the interest is not entered in the authority's register, the member or co-opted member must disclose the interest to the meeting, but this is subject to section 32(3).
3. If the interest is not entered in the authority's register and is not the subject of a pending notification, the member or co-opted member must notify the authority's monitoring officer of the interest before the end of 28 days beginning with the date of the disclosure.
4. The member or co-opted member may not:
 - a) Participate, or participate further, in any discussion of the matter at the meeting; or
 - b) Participate in any vote, or further vote, taken on the matter at the meeting;but this is subject to section 33.

5. In the case of a relevant authority to which Part 1A of the Local Government Act 2000 applies and which is operating executive arrangements, the reference in subsection (1)(a) to a committee of the authority includes a reference to the authority's executive and a reference to a committee of the executive.
6. Subsections (7) and (8) apply if:
 - a) A function of a relevant authority may be discharged by a member of the authority acting alone;
 - b) The member has a disclosable pecuniary interest in any matter to be dealt with, or being dealt with, by the member in the course of discharging that function; and
 - c) The member is aware that the condition in paragraph (b) is met.
7. If the interest is not entered in the authority's register and is not the subject of a pending notification, the member must notify the authority's monitoring officer of the interest before the end of 28 days beginning with the date when the member becomes aware that the condition in subsection (6)(b) is met in relation to the matter.
8. The member must not take any steps, or any further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by the member).
9. Where a member or co-opted member of a relevant authority gives a notification for the purposes of subsection (3) or (7), the authority's monitoring officer is to cause the interest notified to be entered in the authority's register (whether or not it is a disclosable pecuniary interest).
10. Standing orders of a relevant authority may provide for the exclusion of a member or co-opted member of the authority from a meeting while any discussion or vote takes place in which, as a result of the operation of subsection (4), the member or co-opted member may not participate.
11. For the purpose of this section, an interest is "subject to a pending notification" if:
 - a) Under this section or section 30, the interest has been notified to a relevant authority's monitoring officer; but
 - b) Has not been entered in the authority's register in consequence of that notification.

32 Sensitive interests

1. Subsections (2) and (3) apply where:
 - a) A member or co-opted member of a relevant authority has an interest (whether or not a disclosable pecuniary interest); and
 - b) The nature of the interest is such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.
2. If the interest is entered in the authority's register, copies of the register that are made available for inspection, and any published version of the register, must not include details of

the interest (but may state that the member or co-opted member has an interest the details of which are withheld under this subsection).

3. If section 31(2) applies in relation to the interest, that provision is to be read as requiring the member or co-opted member to disclose not the interest but merely the fact that the member or co-opted member has a disclosable pecuniary interest in the matter concerned.

33 Dispensations from section 31(4)

1. A relevant authority may, on a written request made to the proper officer of the authority by a member or co-opted member of the authority, grant a dispensation relieving the member or co-opted member from either or both of the restrictions in section 31(4) in cases described in the dispensation.
2. A relevant authority may grant a dispensation under this section only if, after having had regard to all relevant circumstances, the authority:
 - a) Considers that without the dispensation the number of persons prohibited by section 31(4) from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
 - b) Considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
 - c) Considers that granting the dispensation is in the interests of persons living in the authority's area;
 - d) If it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without the dispensation each member of the authority's executive would be prohibited by section 31(4) from participating in any particular business to be transacted by the authority's executive; or
 - e) Considers that it is otherwise appropriate to grant a dispensation.
3. A dispensation under this section must specify the period for which it has effect, and the period specified may not exceed four years.
4. Section 31(4) does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this section.

34 Offences

1. A person commits an offence if, without reasonable excuse, the person:
 - a) Fails to comply with an obligation imposed on the person by section 30(1) or 31(2), (3) or (7);
 - b) Participates in any discussion or vote in contravention of section 31(4); or
 - c) Takes any steps in contravention of section 31(8).
2. A person commits an offence if under section 30(1) or 31(2), (3) or (7) the person provides information that is false or misleading and the person:
 - a) Knows that the information is false or misleading; or
 - b) Is reckless as to whether the information is true and not misleading.

3. A person who is guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
4. A court dealing with a person for an offence under this section may (in addition to any other power exercisable in the person's case) by order disqualify the person, for a period not exceeding five years, for being or becoming (by election or otherwise) a member or co-opted member of the relevant authority in question or any other relevant authority.
5. A prosecution for an offence under this section is not to be instituted except by or on behalf of the Director of Public Prosecutions.
6. Proceedings for an offence under this section may be brought within a period of 12 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to the prosecutor's knowledge.
7. But no such proceedings may be brought more than three years:
 - a) After the commission of the offence; or
 - b) In the case of a continuous contravention, after the last date on which the offence was committed.
8. A certificate signed by the prosecutor and stating the date on which such evidence came to the prosecutor's knowledge is conclusive evidence of that fact; and a certificate to that effect and purporting to be so signed is to be treated as being so signed unless the contrary is proved.
9. The Local Government Act 1972 is amended as follows.
10. In section 86(1)(b) (authority to declare vacancy where member becomes disqualified otherwise than in certain cases) after "2000" insert "or section 34 of the Localism Act 2011".
11. In section 87(1)(ee) (date of casual vacancies):
 - a) After "2000" insert "or section 34 of the Localism Act 2011 or"; and
 - b) After "decision" insert "or order".
12. The Greater London Authority Act 1999 is amended as follows.
13. In each of sections 7(b) and 14(b) (Authority to declare vacancy where Assembly member or Mayor becomes disqualified otherwise than in certain cases) after sub -paragraph (i) insert:
“(ia) under section 34 of the Localism Act 2011”.
14. In section 9(1)(f) (date of casual vacancies):
 - a) Before "or by virtue of" insert "or section 34 of the Localism Act 2011"; and
 - b) After "that Act" insert "of 1998 or that section".

Appendix B – Monitoring Officer/Police Contacts

Thames Valley Police

Detective Sergeant Conor Breen
Economic Crime Unit
Email: Conor.Breen@thamesvalley.pnn.police.uk

Buckinghamshire Council

Sarah Ashmead
Email: sarah.ashmead@buckinghamshire.gov.uk

Buckinghamshire & Milton Keynes Fire Authority

Graham Britten
Email: Gbritten@bucksfire.gov.uk

Royal Berkshire Fire Authority

Graham Britten
Email: Gbritten@bucksfire.gov.uk

Milton Keynes Council

Sharon Bridglalsingh
Email: : Sharon.Bridglalsingh@Milton-keynes.gov.uk

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