

GUILDFORD BOROUGH COUNCIL

ARRANGEMENTS FOR DEALING WITH ALLEGATIONS OF MISCONDUCT BY COUNCILLORS AND CO-OPTED MEMBERS

1 Context

1.1 It is expected that elected and co-opted members of Guildford Borough Council and the 23 Parish Councils within the Borough uphold the highest standards of public office. However, in the event that there is a complaint, it is important that this is handled effectively to ensure that public confidence is maintained.

1.2 These Arrangements set out:

- (a) how you may make a complaint that a councillor or co-opted member of Guildford Borough Council ("the Council") or of any parish council within the borough has failed to comply with the code of conduct adopted by the Council or relevant parish council, and
- (b) how the Council will deal with allegations of a failure to comply with the relevant code of conduct.

1.3 Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place arrangements under which allegations that a councillor or co-opted member of the Council or of any parish council within the borough has failed to comply with the relevant code of conduct (a) can be investigated and (b) decisions made on such allegations.

1.4 Such arrangements must provide for the Council to appoint at least one Independent Person(1), whose views (a) must be sought by the Council before it takes a decision on any allegation which it has decided shall be investigated, (b) and whose views may can be sought by the authority at any other stage, and (c) may be sought by a councillor or co-opted member against whom an allegation has been made.

2 Interpretation

2.1 'Complainant' means a person who has submitted a complaint in accordance with these Arrangements alleging that a Subject Member has breached the Code of Conduct.

2.2 'Subject Member' means an elected or co-opted member of the Council or any elected or co-opted member of any parish council within the borough against whom a complaint has been made alleging a breach of the Code of Conduct.

2.3 'Independent Person' means a person or persons appointed by the Council under section 28(7) of the Localism Act 2011 who has the functions set out in section 28(7) of the Localism Act 2011.

2.4 'Parish Member' means a co-opted member of any parish council within the borough who sits on the Corporate Governance and Standards Committee and in respect of parish matters the Assessment or Hearings Sub-Committee in an advisory capacity, but who is not entitled to vote at meetings.

2.5 'Independent Member' means a co-opted person who is not a Councillor or Officer of the Council who sits on the Corporate Governance and Standards Committee in an advisory capacity, but who is not entitled to vote.

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2.6 'Investigating Officer' means the person appointed by the Monitoring Officer to undertake a formal investigation of a complaint alleging a breach of the Code of Conduct by a Subject Member. The Investigating Officer may be another senior officer of the Council, an officer of another authority or an external investigator.

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2.7 'Monitoring Officer' means a statutory officer appointed by the Council under the Local Government and Housing Act 1989 ss 5 and 5A who has a role in the assessment of complaints and the promotion and maintenance of high standards of conduct within local authorities and his or her deputy or representative.

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2.8 'the Corporate Governance and Standards Committee' refers to the Corporate Governance Committee or to a sub-committee to which it has delegated the assessment of complaints or the conduct of a hearing unless the context indicates that it refers only to the Corporate Governance and Standards Committee.

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23 The Code of Conduct

The Council has adopted a code of conduct for councillors and co-opted members, which is available for inspection on the Council's website and on request from the Monitoring Officer. The various codes of conduct adopted by the 23 parish councils within the borough are available for inspection by arrangement with the relevant parish clerk, whose contact details may be viewed by visiting the Council's website:

www.guildford.gov.uk/parishcouncils

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34 Making a complaint

4.1 All complaints must be made in writing and shall be on the official complaint form. Completion of the official complaint form will enable the Council to process the complaint efficiently and transparently. The complaint form can be posted or e-mailed. If you wish to make a complaint, please write or email to the Council's Monitoring Officer, Sandra Herbert~~Mr Satish Mistry~~, whose contact details are:

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Guildford Borough Council
Millmead House
Millmead
GUILDFORD
Surrey GU2 4BB

Email: monitoringofficersandra.herbertsatish.mistry@guildford.gov.uk

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4.2 Complainants who find difficulty in making their complaint in writing (e.g. because of a disability) will be offered assistance. A request for assistance should be made in the first instance by contacting the Monitoring Officer by letter or e-mail to the address set out in paragraph 4.1 above.

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~~The Monitoring Officer is a senior officer of the Council who has statutory responsibility for maintaining the Council's Register of Interests and the register of interests for each of the parish councils within the borough. The Monitoring Officer is also responsible for administering the system in respect of misconduct complaints.~~

~~Please do 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~~

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5. Openness and notification of complaint to the Subject Member

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5.1 In the interests of fairness and in compliance with natural justice we believe the Subject Member who has been complained about has the right to know who has made the complaint and the substance of the allegation(s) made against him/her. Your name and a summary of your complaint may be sent to the Subject Member and the Clerk to the Parish Council where the Subject Member is a Parish Councillor.-

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5.2 If you wish your name and the details of the complaint to remain confidential please indicate this on the complaint form and your request will be considered by the Monitoring Officer in consultation with the Independent Person when they assess the complaint. The Council does not normally investigate anonymous complaints, unless there is a clear public interest in doing so. You would have to show exceptional circumstances in which to disclose would be contrary to the public interest or would prejudice a person's ability to investigate the allegation and may include where you believe:

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- (a) you may be victimised or harassed by the Member(s) against whom you are submitting a written complaint (or by a person associated with him or her); or
- (b) you may receive less favourable treatment from the Council because of the seniority of the Subject Member against whom you are submitting a written complaint in terms of any existing Council service provision or any tender/contract that you may have or are about to submit to the Council; or
- (c) you are an officer who works closely with the Member against whom the allegation is made and have a reasonable belief that you may be adversely affected in your employment if your identity is disclosed.

5.3 The Monitoring Officer, in consultation with the Independent Person, will balance whether the public interest in accepting the complaint outweighs the Complainant's wish to have their identity withheld from the Subject Member. If the Monitoring Officer decides to refuse the Complainant's request for confidentiality, he or she they will offer the Complainant the option to withdraw their complaint. The Complainant will be notified of the Monitoring Officer's decision with reasons given by the Monitoring Officer. There is no right of appeal against the Monitoring Officer's decision to refuse the Complainant's request for confidentiality.

5.4 If the Complainant's request for confidentiality is upheld, the Monitoring Officer will inform the Complainant that confidentiality may not be able to be maintained dependent upon how matters progress. If confidentiality cannot be maintained the complainant will be informed and will have the option to withdraw the complaint.

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~~If you want to keep your name and address confidential, please say and we will not disclose your name and address to the councillor or co-opted member against whom you make the complaint without your prior consent. The Council does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.~~

6 The Handling of Complaints

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6.1 A valid member complaint must relate to the conduct of a named individual Member in office. A complaint must comprise a potential breach by the Subject Member of the relevant Code of Conduct. In addition, the Subject Member must have been acting in his or hertheir capacity as a Councillor and not in his or her capacity as a private individual when the alleged breach of the Code took place. The Monitoring Officer cannot deal with

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complaints about the Borough Council or Parish Councils, their staff or services in respect of which other means of complaint or redress are available or about an individual's conduct before he or she was elected, co-opted or appointed or after he/she ceased to be a Member or to a period before the adoption of the statutory Code of Conduct on 1 July 2012.

6.2 The Monitoring Officer will normally acknowledge receipt of your complaint within five working days of receiving it, and will keep the Complainant you informed of the progress of your complaint. Communications throughout the process of dealing with a complaint against a Subject Member will be governed by the Council's Communications Strategy set out at Appendix 1 to these Arrangements

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The Monitoring Officer may reject your complaint if, following consultation with the Independent Person, it is considered by the Monitoring Officer to be vexatious, frivolous or politically motivated.

7.1 **Notification of complaint to Subject Member**

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7.1 As a matter of fairness and natural justice, the Subject Member will normally be told who the Complainant is and will also receive details of the complaint and will be given a right to reply to the complaint.

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The Monitoring Officer will normally notify the Subject Member that a complaint has been made.

7.8 **How the Monitoring Officer will assess your Complaint**

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7.8.1 The Monitoring Officer has responsibility for considering written complaints by way of allegations against a Subject Member for breach of the relevant Code of Conduct. This is known as assessment. The purpose of assessment is to determine whether or not on the basis of information supplied by the complainant, if the matter were proven, it could or would amount to a breach of the Code of Conduct. No investigation or hearings are conducted at this stage. The Monitoring Officer will put the complaint through a number of tests.

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7.8.2 The complaint will be assessed by the Monitoring Officer against an Initial Jurisdiction Test as follows:

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- (a) Did the alleged conduct occur before the adoption of the Code of Conduct?
- (b) Was the Subject Member a member of the Borough or Parish Council at the time of the alleged conduct?
- (c) Was the Subject Member ~~person complained of~~ acting in an official capacity as a councillor at the time of the alleged conduct? (.The case law and legislative position is that Code of Conduct matters can only now be dealt with when the allegation is about something that a Councillor did in their role as a Councillor when acting in an official capacity).
- (d) Did the alleged conduct occur when the Subject Member ~~person complained of~~ was acting as a member of another authority?
- (e) If the facts, could be established, as a matter of evidence, could or would the alleged conduct be capable of a breach of the Code of Conduct?

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(f) Is the complaint limited to about dissatisfaction with the Borough or Parish Council's decisions, policies and priorities, etc.

7.3 If the complaint fails one or more of the initial jurisdiction tests, no further action will be taken by the Monitoring Officer and the complaint will be rejected. The Complainant will be notified accordingly with reasons. There is no internal right of appeal against the Monitoring Officer's decision.

8.4 If the complaint satisfies the Jurisdiction Test, the Monitoring Officer will obtain the views of the Independent Person prior to applying the Assessment Test.

7.45 Before the Monitoring Officer undertakes the Assessment Test If the complaint satisfies the Jurisdiction Test the Monitoring Officer will notify the Subject Member and if applicable, the Parish Clerk of the complaint. The Monitoring Officer will invite the Subject Member to submit a right of reply to the Complaint and such information will be taken into account by the Monitoring Officer when deciding how to deal with the complaint.

7.5 Upon receipt of the Subject Member's response the Monitoring Officer will obtain the views of the Independent Person. If the complaint concerns a parish councillor the Monitoring Officer will also obtain the views of the Parish Member.

7.6 The Monitoring Officer will then proceed to assess the complaint. The Assessment Test aids the Monitoring Officer in reaching a decision on the complaint by enabling the Monitoring Officer to consider the following criteria, whilst taking into account the nature of the complaint and the need to adopt a proportionate response:

The Assessment Test:

General

- (i) Has the complainant submitted enough information as regards the allegation and alleged misconduct to sustain a potential breach of the Code of Conduct.
- (ii) Is an investigation likely to prove on the balance of probability whether or not that a breach took place
- (iii) Does the complaint appear to be too trivial to warrant further action
- (iv) Is the evidence sufficiently reliable i.e. is it first-hand evidence or hearsay evidence.
- (v) Is the evidence relevant to the alleged breach
- (vi) Could any further evidence be revealed by an investigation
- (vii) Would an investigation serve any useful purpose
- (viii) Is it serious enough to warrant further action

Mitigating factors (tending to make further action less likely)

- (ix) The substance of the complaint has already been the subject of an investigation or other action relating to the Code of Conduct
- (x) The allegation took place more than 28 days prior to receipt of the complaint and so far in the past that, in the opinion of the Monitoring Officer, there would be little benefit in taking action now

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- (xi) The member took appropriate advice on the matter and followed that advice
- (xii) The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter, e.g. where there is no firm evidence on the matter
- (xiii) Is it likely that an investigation will prove only a technical or inadvertent breach
- (xiv) The complaint appears to be malicious, vexatious, politically motivated or tit-for-tat
- (xv) The Complainant has involved the local press in relation to the alleged complaint
- (xvi) The member has already provided (or tried to provide) a suitable remedy (such as apologising)
- (xvii) The breach occurred in all innocence i.e. without knowledge
- (xviii) There was unreasonable provocation
- (xix) The complaint involves a Subject Member who is seriously ill and it would not be in the public interest to pursue
- (xx) The complaint is about a deceased person
- (xxi) The complaint is about a person who is no longer a Borough or Parish Councillor

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Aggravating factors (tending to make further action more likely)

- (xxii) The complaint involves allegations of bullying or intimidation of a complainant
- (xxiii) The allegation if proven could have a serious effect upon the reputation of the Council, upon staff relations and upon public trust and confidence
- (xxiv) The member holds a position of seniority and/or a position of influence
- (xxv) There is a pattern of individual acts of minor misconduct which appear to be part of a continuing pattern of behaviour that is unreasonably disruptive to the business of the Council.
- (xxvi) The member took appropriate advice on the matter but did not follow that advice.
- (xxvii) The complaint involves an allegation that the behaviour may cause the authority to breach an equality enactment

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78.7 The criteria set out in the Assessment Test is not an exhaustive or prescriptive list and the Monitoring Officer can take into account other criteria dependent on the circumstance of the complaint. The Assessment Test provides a written record of the decision making process aiding robust and transparent decision making.

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78.8 The Monitoring Officer has a reserve power to refer a complaint to a Sub-Committee of the Corporate Governance and Standards Committee (Assessment Sub-Committee) for assessment. The referral power is at the absolute discretion of the Monitoring Officer. Examples of when a referral may take place are as follows:

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- It is an allegation where there is a perceived or actual conflict of interest
- It involves the Leadership of the Council or the Opposition
- It involves the Mayor or Deputy Mayor of the Council
- It involves a member of the Executive
- It involves a Chairman or Vice Chairman of a Council Committee or Sub-Committee
- The Complaints is are from a Statutory Officer of the Council, (the Head of Paid Service, Section 151 Officer, or the Monitoring Officer)
- There is a conflict of interest e.g. the Monitoring Officer has previously advised the Member on the matter

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78.97 The existence of such criteria does not fetter the discretion of the Monitoring Officer and the criteria set out above is not exhaustive. The Assessment Sub-Committee will be set up in the same way as other Sub-Committees of the Corporate Governance and Standards Committee Council. The Assessment Sub-Committee has all the powers of the Monitoring Officer.

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78.9 Decisions of the Assessment Sub-Committee are usually made in private. Neither the complainant nor the Subject Member will usually be permitted to attend where such meetings contain confidential personal information. In such cases meetings will not be open to the press or public. The rules covering the exclusion of the press and public are set out in the Local Government Act 1972, as amended. If the press and public are to be excluded from a committee or sub-committee a formal resolution of the meeting is required. This must specify the legal grounds for exclusion.

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78.10 The members of any Assessment Sub-Committee will be selected by the Monitoring Officer after having consulted the Chairman of the Corporate Governance and Standards Committee.

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89 Will your complaint be investigated?

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89.1 The Monitoring Officer will assess review every complaint received and, after consultation with the Independent Person, take a decision on the most appropriate action to be taken in relation to the complaint as to whether it merits formal investigation. If the complaint is about a Parish Councillor, the Monitoring Officer will also consult a Parish Member. The Monitoring Officer may ask the Complainant you or the Subject Member for more information before making a decision. This decision will normally be taken within 2044 working days of receipt of the complaint. Matters will be progressed as promptly as circumstances allow Time will be of the essence with realistic time limits being set for the receipt of information.

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89.2 The following decisions can be taken by the Monitoring Officer in consultation junction with the Independent Person:

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- No further action
- Attempt informal resolution
- Recommend formal investigation
- Referral to the Police or other regulatory agency if the complaint identifies criminal conduct or breach of other regulation.

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89.3 When making a decision, the Monitoring Officer will take a proportionate approach and the decision will depend upon the extent and seriousness of the allegation. The Assessment Test is not exhaustive and does not restrict the discretion of the Monitoring Officer although any additional factors that are taken into account by the Monitoring Officer should be

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~~recorded when the assessment takes place to evidence a robust and transparent decision making process.~~

89.4 ~~If the Subject Member makes a reasonable offer of resolution the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.~~

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89.5 ~~Where the Monitoring Officer has taken a decision, the Complainant, the Subject Member and the relevant Parish Clerk, if the complaint relates to a parish councillor appropriate he/she will be informed you of the decision his/her decision and the reasons for that decision.~~

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~~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 councillor or co-opted member against whom your complaint is directed. Where your complaint relates to a parish councillor, the Monitoring Officer may also inform the relevant parish council of your complaint and seek the views of one of the co-opted parish members on the Corporate Governance and Standards Committee before deciding whether the complaint merits formal investigation.~~

910 **Informal Resolution**

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910.1 ~~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 councillor or co-opted member accepting that their conduct was unacceptable or unfortunate in the circumstances and offering an apology or other remedial action such as training or agreeing to mediation. Where a reasonable offer of local resolution is made, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.~~

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910.2 ~~A decision to attempt informal resolution precludes an investigation or other disciplinary action.~~

1044 **Referral to the Police**

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1044.1 ~~If you a valid complaint or subsequent investigation identifies possible criminal conduct by the Subject Member, the Monitoring Officer may or may be obliged to refer the matter to the Police. identifies criminal conduct by the councillor or co-opted member, the Monitoring Officer will refer the matter to the Police.~~

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112.6 **How is the investigation conducted?**

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112.1 ~~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 Council, an officer of another council or an external investigator, to undertake an investigation. Investigations are conducted in private. Separate guidance on how the investigator will be appointed and the investigation process is available at Appendix 2 entitled "Procedure for Local Investigations of Assessed Complaint" sets out the appointment of an Investigator and the investigation process.~~

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~~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~~

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~~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 councillor or co-opted member against whom you have complained and provide them with a copy of your complaint, and ask them to provide their explanation of events, and to identify what documents he/she needs to see and who he/she needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or where disclosure of details of the complaint to the councillor or co-opted member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the councillor/co-opted member, or delay notifying them 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 councillor/co-opted member concerned, to give you both an opportunity to identify any matter in that draft report with which you disagree or which you consider requires more consideration.~~

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

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123 Local Hearing

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~~123.1 The outcome of an investigation may result in a disciplinary hearing before the Hearings Sub-Committee. Separate guidance on the conduct of such a hearing and the possible outcomes is available at Appendix 3 entitled "Local Determination of Complaints about Members – Guidance for Members".~~

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134 Decision to Take no further action

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~~134.1 The reasons for making a decision to take no further action will be identified via the Assessment Test with a written record being made to verify the decision. There is no review after the decision has been made by the Monitoring Officer or the Assessment Sub-Committee.~~

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~~he/she will appoint an Investigating Officer, who may be another senior officer of the Council, an officer of another council 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.~~

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

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

~~7. What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?~~

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~~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 councillor/co-opted member concerned and to the relevant parish council, where your complaint relates to a parish councillor, notifying you that he/she 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/she may ask the Investigating Officer to reconsider his/her report.~~

~~8. What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?~~

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

~~8.1 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 councillor/co-opted member accepting that their conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the councillor/co-opted member complies with the suggested resolution, the Monitoring Officer will report the matter to the Corporate Governance and Standards Committee (and the relevant parish council where the complaint refers to a parish councillor) for information, but will take no further action.~~

~~Such resolution may include the councillor/co-opted member accepting that their conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the councillor/co-opted member complies with the suggested resolution, the Monitoring Officer will report the matter to the Corporate Governance and Standards Committee (and the relevant parish council where the complaint refers to a parish councillor) for information, but will take no further action.~~

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~~8.2 Local Hearing~~

~~If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the councillor/co-opted 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~~

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report to the Hearings Sub-Committee which will conduct a local hearing before deciding whether the councillor/co-opted member has failed to comply with the code of conduct and, if so, whether to take any action in respect of the councillor/co-opted member.

Essentially, the Monitoring Officer will conduct a “pre-hearing process”, requiring the councillor/co-opted member 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 hearing. 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 councillor/co-opted 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 Sub-Committee. The councillor/co-opted member will then have an opportunity to give their evidence, to call witnesses and to make representations to the Sub-Committee as to why they consider that they did not fail to comply with the code of conduct.

The Hearings Sub-Committee, with the benefit of any advice from the Independent Person, may conclude that the councillor/co-opted member did not fail to comply with the code of conduct, and so dismiss the complaint. If, however, the Sub-Committee concludes that the councillor/co-opted member did fail to comply with the code of conduct, the councillor/co-opted member will be informed of this finding and the Sub-Committee will then consider what action, if any, should be taken as a result of the councillor/co-opted member’s failure to comply with the code of conduct. In doing this, the councillor/co-opted member will be given an opportunity to make representations to the Sub-Committee and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

9. What action can the Hearings Sub-Committee take where a councillor/co-opted member has failed to comply with the code of conduct?

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The Council has delegated to the Hearings Sub-Committee such of its powers to take action in respect of individual councillors/co-opted members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearings Sub-Committee may:

- 9.1 Publish and report its findings in respect of the councillor’s/co-opted member’s conduct to a meeting of the full Council (or to the relevant parish council) for information and recommending that the councillor makes a public apology at that meeting.
- 9.2 Recommend to the councillor’s political group leader (or in the case of un-grouped councillors or co-opted members, recommend to Council or to Committees) that they be removed from any or all Committees or Sub-Committees of the Council for a specified period.
- 9.3 Recommend to the Leader of the Council, in the case of a lead councillor who is found to have failed to comply with the code of conduct, that the councillor be removed from the Executive, or removed from particular portfolio responsibilities.
- 9.4 Recommend appropriate training for the councillor/co-opted member.

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~~9.5 — Remove the councillor/co-opted member or recommend to the relevant parish council that the member be removed from all outside appointments to which they have been appointed or nominated by the Council or by the parish council for a specified period.~~

~~9.6 — Withdraw or recommend to the relevant parish council that it withdraws facilities provided to the councillor/co-opted member by the Council, such as a computer, website and/or email and internet access for a specified period.~~

~~9.7 — Exclude or recommend that the relevant parish council excludes the councillor/co-opted 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 Sub-Committee has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.~~

~~10. — What happens at the end of the hearing?~~

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~~At the end of the hearing, the Chairman will state the decision of the Hearings Sub-Committee as to whether the councillor/co-opted member failed to comply with the Code of Conduct and as to any actions which the Sub-Committee resolves to take.~~

~~As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chairman of the Sub-Committee, and send a copy to you, to the councillor/co-opted member and (if applicable) to the relevant parish council. The Monitoring Officer will make that decision notice available for public inspection and report the decision to the next convenient meeting of the Corporate Governance and Standards Committee.~~

~~11. — Who are the Hearings Sub-Committee?~~

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~~The Hearings Sub-Committee is a sub-committee of the Council's Corporate Governance and Standards Committee. The Independent Person is invited to attend all meetings of the Hearings Sub-Committee and his/her views are sought and taken into consideration before the Sub-Committee takes any decision on whether the councillor's/co-opted 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.~~

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145 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 –

12.1 is, or has been within the past five years, a member, co-opted member or officer of the Council; or

12.2 is, or has been within the past five years, a member, co-opted member or officer of a parish council within the borough; or

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12.3 is a relative, or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, “relative” means:

- 12.3.1 Spouse or civil partner;
- 12.3.2 Living with the other person as husband and wife or as if they were civil partners;
- 12.3.3 Grandparent of the other person;
- 12.3.4 A lineal descendent of a grandparent of the other person;
- 12.3.5 A parent, sibling or child of a person within sub-paragraphs 12.3.1 or 12.3.2;
- 12.3.6 A spouse or civil partner of a person within sub-paragraphs 12.3.3, 12.3.4 or 12.3.5; or
- 12.3.7 Living with a person within sub-paragraphs 12.3.3, 12.3.4 or 12.3.5 as husband and wife or as if they were civil partners.

The functions of the Independent Person are as defined in s. 28(7) of the Localism Act 2011 as follows:

- They must be consulted by the Council before it makes a decision on all allegation of misconduct by a councillor/co-opted member that it has decided to investigate or before it decides on action to be taken in respect of that councillor/co-opted member (this means on a decision to take no action where the investigation finds no evidence of breach or, where the investigation finds evidence that there has been a breach, on any local resolution of the complaint, or on any finding of breach and on any decision on action as a result of that finding);
- They may be consulted by the authority in respect of a standards complaint at any stage; and
- They may be consulted by a councillor or co-opted member of the Council or of a parish council against whom a complaint has been made.

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153. Revision of these arrangements

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The Council may by resolution agree to amend these arrangements, and has delegated to the Hearings Sub-Committee the right to depart from these arrangements where the Sub-Committee considers it expedient to do so in order to secure the effective and fair consideration of any matter.

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164. Appeals

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There is no internal right of appeal for you as either the Complainant or for the Subject Member-councillor/co-opted member against a decision of the Monitoring Officer or of the Hearings Sub-Committee.

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If you the Complainant feels that the authority has failed to deal with their your complaint properly, you they may make a complaint to the Local Government Ombudsman.

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Adopted by the Council on: 8 May 2012

Implemented on: 1 July 2012

Amended by the Council on: 9 December 2014

~~Amended further by the on the [] under delegated authority from Council to the Corporate Governance and Standards Committee (acting through the Working Group) on [] acting under delegated authority from the Council given on the 12th April 2016~~

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