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Chairman and Members of the
Standards Committee

Your contact: Jeff Hughes
Ext: 2173
Date: 12 April 2012

cc. All other recipients of the
Standards Committee agenda

Dear Councillor

STANDARDS COMMITTEE - 19 APRIL 2012

Please find attached the following reports which were marked "to follow" on the agenda for the above meeting:

4. Minutes (Pages 3 - 12)

To confirm the Minutes of the meeting held on 14 March 2012

5. Localism Act 2011 (Pages 13 - 50)

Please bring these papers with you to the meeting next Thursday

Yours faithfully

Jeff Hughes
Head of Democratic and Legal Support Services
Jeff.Hughes@eastherts.gov.uk

MEETING : STANDARDS COMMITTEE
VENUE : ROOM 27, WALLFIELDS, HERTFORD
DATE : THURSDAY 19 APRIL 2012
TIME : 7.00 PM

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MINUTES OF A MEETING OF THE
STANDARDS COMMITTEE HELD IN THE
ROOM 27, WALLFIELDS, HERTFORD ON
WEDNESDAY 14 MARCH 2012, AT 7.00 PM

PRESENT:

District Council Members:

Councillors M Carver, N Poulton and
M Wood

Town Councils' Representatives:

Mrs E Woods

Parish Councils' Representatives:

Mr J Jones, Mr C Marks

Independent Members:

Mr S Bouette
Mr D Farrell
Mr J Morphew
Mr T Vickers (Chairman)

ALSO PRESENT:

Councillor P A Ruffles

SUBJECT MEMBER:

Hormead Parish Councillor J Kilby (and his representative
Mrs M Kilby)

OFFICERS IN ATTENDANCE:

Monica Bett	- Investigating Officer
Simon Drinkwater	- Director of Neighbourhood

Jeff Hughes Services
- Head of Democratic and Legal Support Services

706 APOLOGY

An apology for absence was submitted on behalf of Councillor A L Burlton.

707 CHAIRMAN'S ANNOUNCEMENTS

The Chairman welcomed Hormead Parish Councillor J Kilby and his wife to the meeting and also Councillor P A Ruffles who was attending as an observer.

With the Committee's consent, the Chairman advised that the order of business on the Agenda would be altered to allow for consideration of items 8, 9 and 10 before item 4.

708 IT PROTOCOL FOR MEMBERS

The Monitoring Officer submitted a report upon a proposed IT Protocol for Members.

The new protocol was intended to replace an existing Member IT Protocol.

The Monitoring Officer explained that the proposed protocol, appended to his report, concentrated on the important areas of the ownership of IT equipment and insurance and also covered issues relating to passwords, data protection and freedom of information.

The Monitoring Officer confirmed that Member training would be provided on the subjects of data protection and freedom of information.

The Committee welcomed the updated protocol and agreed to recommend its adoption to Council.

RECOMMENDED – that the proposed IT Protocol for Members, appended to the report now submitted by the Monitoring Officer, be adopted.

709 MINUTES

RESOLVED – that the Minutes of the meeting held on 16 August 2011 be confirmed as a correct record and signed by the Chairman.

710 LOCALISM ACT 2011

The Monitoring Officer submitted a report on the changes to the councillors' standards regime under the provisions of the Localism Act 2011.

Members noted the changes to the system of regulation of standards of conduct for elected and co-opted councillors, particularly in relation to:

- (a) the abolition of the requirement for a principal local authority to establish a Standards Committee;
- (b) the repeal of the Model Code of Conduct and the introduction of a requirement for a local authority to adopt a new code of conduct;
- (c) a new framework whereby a local authority was required to adopt "arrangements" for dealing with complaints of code breaches by councillors;
- (d) the appointment of at least one "independent" person who must be consulted before a local authority makes a finding as to whether or not a member has failed to comply with a code of conduct's provisions, and
- (e) the abolition of the concept of personal and prejudicial interests and its replacement, under regulations, of "Disclosable Pecuniary Interests".

The Monitoring Officer advised that the Chairman of the

Committee had prepared a draft Members' Code of Conduct and framework proposals to administer the new standards regime (both appended to the report now submitted).

The Committee considered the proposed draft code and standards regime in detail, indicating, where necessary, the preferred option where choices existed. For example, the Committee supported the establishment of a "standards" advisory committee whose composition would include independent members with voting rights.

The Committee agreed to request the Monitoring Officer, in consultation with the Committee Chairman, to update the code and standards regime documents now submitted to reflect Members' directions on the issues debated. The updated documents should then be considered at a further meeting of the Committee in April 2012. The Committee, at its April meeting, would then determine its recommendations on this matter for consideration by Council at its meeting on 16 May 2012.

RESOLVED – that (A) the Monitoring Officer, in consultation with the Committee Chairman, be requested to update the code and standards regime documents now submitted, to reflect Members' directions on the issues debated, and

(B) the updated documents referred to in (A) above be considered at a further meeting of the Committee in April 2012 to enable it to determine its recommendations on this matter for consideration by Council at its meeting on 16 May 2012.

711 EXCLUSION OF THE PRESS AND PUBLIC

The Committee considered whether or not to exclude the press and public from the meeting during the discussion of the items of business at Minutes 712 and 713 below on the grounds that they involved the likely disclosure of exempt information as defined in paragraph 7c of Part 1 of Schedule 12A of the Local Government Act 1972. Both the Investigating Officer and the subject member confirmed they

had no objection to the business being considered in public. The Committee agreed that these items should be considered in public.

The Committee also agreed that the report (but not the supplementary witness papers) and Parish Councillor Kilby's submission on the complaint did not contain any exempt information or personal data and should therefore be made available for public inspection.

RESOLVED – that (A) the matters detailed in Minutes 712 and 713 below be considered in public, and

(B) as the report (but not supplementary witness papers) and Parish Councillor Kilby's submission on the complaint do not contain any exempt information or personal data, they be made available for public inspection.

712 COMPLAINT IN RESPECT OF A PARISH COUNCILLOR:
REFERENCE HORM/03/2011: CONSIDERATION

The Monitoring Officer submitted a report in respect of a complaint detailing an allegation that Parish Councillor J Kilby had breached Hormead Parish Council's Member Code of Conduct.

The complaint had been referred to the Monitoring Officer for investigation by the Assessment Sub-Committee.

The Committee noted the details of the allegation.

The Committee considered the Investigating Officer's report on the allegation and the conclusion reached.

The Monitoring Officer advised that the Committee was required to consider the Investigating Officer's report and make one of the following findings:

- (a) the matter should be considered at a hearing (of the Committee) conducted under Regulation 18, or

- (b) the matter should be referred to the First-Tier Tribunal (Local Government Standards in England).

The Committee noted the criteria for referring a matter to the First-Tier Tribunal.

It was agreed that the matter should be considered at a hearing of the Standards Committee.

RESOLVED – that, in respect of the complaint referenced HORM/03/2011, the Investigating Officer's findings on the allegation be considered at a hearing of the Committee pursuant to the provisions of Regulation 18 of The Standards Committee (England) Regulations 2008.

713 COMPLAINT IN RESPECT OF A PARISH COUNCILLOR:
REFERENCE HORM/03/2011: HEARING

The Chairman confirmed the meeting was quorate.

The Committee noted the procedure to be followed in determining the matter detailed below.

The Monitoring Officer submitted a report in respect of a complaint concerning Hormead Parish Councillor J Kilby.

The Committee noted that it was required to consider the Investigating Officer's report and make one of the following findings:

- (A) that the Member had not failed to comply with Hormead Parish Council's Code of Conduct;
- (B) that the Member had failed to comply with the Parish Council's Code of Conduct but that no action needed to be taken in respect of the matters considered at the hearing;
- (C) that the Member had failed to comply with the Parish Council's Code of Conduct and that a sanction should be imposed.

The subject Member, through his representative, Mrs M Kilby, confirmed that he did not disagree with any findings of fact detailed within the Investigator's report.

The Chairman drew the Committee's attention to the submission submitted by the complainant on the Investigator's report.

The Investigator presented her report and summarised her findings in respect of the complaint.

The Committee asked questions of both the Investigator and subject Member.

Each Committee Member, at the invitation of the Chairman, confirmed that he/she was satisfied that they had sufficient information to enable them to determine whether or not the subject Member had failed to comply with the Code of Conduct.

The Committee retired to consider its determination. On its return, the Chairman announced that the instance of conduct breach alleged by the complainant had been proven by the findings of fact stated in the Investigator's report.

The Chairman advised that the Committee had noted the vagueness, common in varying degrees to all the witness statements, about what was actually said to constitute the alleged conduct complained of and at what point or points in the agenda of the meeting of the Parish Council. That uncertainty was considered to be understandable given the failure of anyone to react at the time and the delay first in proposing an amendment to the minutes of the meeting and subsequently in agreeing (or disputing) the accuracy of the minute as amended. What was clear was that something untoward had been said. In the circumstances, the Committee had judged it best to accept the subject member's admission that he had used the form of words: 'If this was an MP's expenses then he could have been accused of fraud.' The subject member had acknowledged that the remark had been unwise and ill-expressed.

The Committee concluded that there had been a failure to comply with the Members' Code of Conduct amounting to a breach of Clause 3: a failure to treat others with respect. The offence might well have been a marginal one if in vigorous discussion with and about another member, but the remark was seriously inappropriate when made about an officer and in the documented circumstances of this particular case.

The Committee noted all the submissions made both orally and in writing.

It agreed to impose a sanction requiring Councillor Kilby to write to Mr Marks, apologising for the form of words used and making clear that no imputation of fraudulent conduct had been intended. Further, given that the matter was now a matter of public record, the letter of apology should be copied to the Parish Council and written into its minutes at the first opportunity and should be published in the Parish Newsletter. The letter should also be copied to the Chairman of the Standards Committee.

RESOLVED – that (A) Hormead Parish Councillor J Kilby has failed to comply with his Authority's Code of Conduct; and

(B) the following sanction, consequent upon the decision referred to in (A) above be applied:

Councillor Kilby to write to Mr Marks, apologising for the form of words used and making clear that no imputation of fraudulent conduct had been intended. Further, given that the matter was now a matter of public record, the letter of apology should be copied to the Parish Council and written into its minutes at the first opportunity and should be published in the Parish Newsletter. The letter should also be copied to the Chairman of the Standards Committee.

The meeting closed at 9.55 pm

Chairman
Date

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EAST HERTS COUNCIL

STANDARDS COMMITTEE – 19 APRIL 2012

REPORT BY THE DIRECTOR OF NEIGHBOURHOOD SERVICES AND MONITORING OFFICER

THE LOCALISM ACT 2011

WARDS AFFECTED: NONE

Purpose/Summary of Report

<u>RECOMMENDATION FOR :</u>

1.0 Background

- 1.1 The Standards Committee, at its meeting held on 14 March 2012, requested that a new code of conduct for Members be submitted to the Committee for its consideration. The Committee also requested that detailed proposals be submitted for a new standards Regime including a complaints handling procedure.

2.0 The Code of Conduct

- 2.1 Council is required to adopt a new Code of Conduct governing elected and co-opted Member's conduct when acting in that capacity. The Council's new Code of Conduct must, viewed as a whole, be consistent with the following seven principles:
- (a) Selflessness
 - (b) Integrity
 - (c) Objectivity
 - (d) Accountability
 - (e) Openness
 - (f) Honesty
 - (g) Leadership
- 2.2 Council has discretion as to what it includes within its new Code of Conduct, provided that it is consistent with the seven principles. However, regulations to be made under the Act will require the registration and disclosure of "Disclosable Pecuniary Interests" (DPIs), broadly equating to the current prejudicial interests. The provisions of the Act also require an authority's code to contain appropriate requirements for the registration (and disclosure) of other pecuniary interests and non-pecuniary interests. The result is that it is not yet possible to draft Code provisions which reflect the definition of DPIs which will appear in regulations.

- 2.3 A draft Code of Conduct for Members' consideration is contained in **Essential Reference Paper 'B'**.
- 3.0 Dealing with Misconduct Complaints - Arrangements
- 3.1 The Act requires that the Council adopt "arrangements" for dealing with complaints of breach of Code of Conduct both by District Council Members and by Parish Council Members, and such complaints can be dealt with only in accordance with such "arrangements". So the "arrangements" must set out in some detail the process for dealing with complaints of misconduct and the actions which may be taken against a Member who is found to have failed to comply with the relevant Code of Conduct.
- 3.2 A suite of documents accompanying this report sets out a detailed procedure for Members to consider:
- Complaints Procedure (**Essential Reference Paper 'C'**);
- Terms of Reference for the Standards Committee and Standards Sub-Committee (**Essential Reference Paper 'D'**);
- Investigation Procedure (**Essential Reference Paper 'E'**);
- Standards Sub-Committee Hearing Procedure (**Essential Reference Paper 'F'**);
- Flowchart (**Essential Reference Paper 'G'**), and
- Localism Act 2011 (extract) (**Essential Reference Paper 'H'**).
- 4.0 Implications/Consultations
- 4.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Paper

Localism Act 2011

Contact Officer: Simon Drinkwater – Monitoring Officer

Report Author: Simon Drinkwater – Monitoring Officer

ESSENTIAL REFERENCE PAPER 'A'

<p>Contribution to the Council's Corporate Priorities/ Objectives (<i>delete as appropriate</i>):</p>	<p>People This priority focuses on enhancing the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.</p> <ul style="list-style-type: none"> • Enhance our local community engagement by working together with our partners such as Parish and Town Councils, for the benefit of our communities. • Maintain our core services to a good standard and ensure high satisfaction with the council as measured through the biennial Residents Survey.
<p>Consultation:</p>	<p>None.</p>
<p>Legal:</p>	<p>The implications are in the report.</p>
<p>Financial:</p>	<p>None</p>
<p>Human Resource:</p>	<p>None</p>
<p>Risk Management:</p>	<p>The Council needs to be able to demonstrate that it is dealing with standards issues effectively.</p>

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[Text in square brackets, as here, is explanatory for the benefit of those reviewing the draft – to be omitted from the definitive version. Text between ligatures {EHDC: ... } and {TP: ... } are variants respectively for the District or as a model code for the Towns and Parishes, the intention being that the Code given to a member will have only the forms of words appropriate to that member's council.]

[DRAFT] MEMBERS' CODE OF CONDUCT

Introduction

1. Section 27 of the Localism Act 2011 lays upon authorities *a duty to promote and maintain high standards of conduct*. Section 28 requires each authority to have a Code of Conduct. You are accountable to the Council for compliance with the Code when you act, or purport to act, or might reasonably be believed by others to be acting, in your role as a member. Your role as a member includes any additional council duties or offices undertaken by you. The accountability does not extend to conduct in private life.
2. Subsection 28(1) of the Act requires the Code to be consistent with the principles of Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership. To those, the Council adds other general requirements derived by extension from those principles: Regard for others, Independence of judgement, Respect for the law, and Stewardship of the Authority's resources.
3. The Code is in two parts. The first deals with general provisions and obligations. The second relates to the Act's requirements (Sections 29 to 34) regarding members' *interests other than pecuniary interests* and *pecuniary interests*. This categorisation replaces the earlier *personal interests* and *personal and prejudicial interests*. Failures to register or to declare interests or otherwise to fail to observe the related provisions of the Act are now potentially criminal offences. Some obligations in the first part of the Code also relate to potentially unlawful conduct. The Code aims both to discourage conduct that might make members or the Council itself liable in law; and also to signal the unacceptability of breaches that do occur and are below the threshold for legal action. Members cannot be required, as a condition of office, to be bound by the Code, but you will be deemed to have read the Code and to be aware that {EHDC: the Council is required, by Subsection 27(6) of the Act, to provide for complaints alleging breaches of the Code to be determined, after, if necessary, investigation}{TP: East Herts District Council, as the Principal Authority for this Council, has the duty to receive and to determine, after any necessary investigation, complaints alleging breaches of this Code by members of this Council}. The procedures for making a complaint and for the subsequent handling of a complaint, including actions that might follow a finding that the Code has been breached, are published on the EHDC website, and are available from the EHDC Offices, and from the Clerk of each of those Town or Parish Councils for which EHDC is the Principal Authority.

Part 1

General provisions and obligations

4. When you represent the Council —
 - (a) on another 'relevant authority', as defined in Subsection 27(6) of the Act, you must, in the conduct of that authority's business, comply with any necessary

provisions of that authority's code of conduct; *or*

(b) on any body other than a 'relevant authority', you must, when acting for that other body, comply with this Council's Code of Conduct, except and insofar as it conflicts with any over-riding lawful obligations of that other body. If such a conflict arises or seems likely to arise, the guidance of this Council's Monitoring Officer should be sought.

5. By leadership and example, you should assist the Council to fulfil its duty in law to promote and maintain high standards of conduct. To that end you must—
 - (a) aim to uphold the law and not do, or connive with or at others in doing, anything unlawful;
 - (b) comply with the Council's standing orders and with any relevant guidance that may be issued from time to time, including codes and protocols;
 - (c) at no time, in your role as a member and in the performance of your Council duties, conduct yourself in a manner that might reasonably be regarded as bringing, or being likely to bring, into disrepute you yourself, in your office of member, or the Council.
6. You should aim to promote equality and must treat others with respect and with due regard for them and to their rights as individuals.

In particular, you must not—

 - (a) in any way discriminate, or indicate a disposition to discriminate, on grounds of sex or sexual orientation, or of nationality, race, creed, disability or age. Nor should you do anything that might cause the Council itself to be liable under any of the provisions of the Equality Act 2010);
 - (b) bully, harass or treat in an oppressive manner any person or persons;
 - (c) intimidate or attempt to intimidate any person who is or might be (i) a complainant that any member has breached the Council's Code of Conduct, or (ii) a witness or potential source of other material evidence regarding such an allegation, or (iii) in any other way actually or potentially involved in the administration of any investigation or proceedings in relation to an allegation of misconduct;
 - (d) do anything that compromises or is likely to compromise the impartiality, integrity and objectivity of those who work for, or on behalf of, the Council.
7. You must not disclose information, whether communicated to you or that comes to your notice in any other way, that is explicitly confidential or that you ought reasonably to be aware is of a confidential nature, unless—
 - (a) you have the consent of an appropriately authorised person; or
 - (b) disclosure is required by law; or
 - (c) the disclosure is necessarily made to a third party for the purpose of obtaining professional advice and provided that the third party agrees not to disclose the information to any other person; or
 - (d) the disclosure is reasonable, in the public interest, made in good faith and in compliance with the Council's policies or protocols on whistle-blowing and confidential information. For protection by the Public Interest Disclosure Act 1988 to apply, you must first have raised your concerns through the appropriate internal machinery {**EHDC**: see the Council's Disclosure Code}.
8. You must not impede or prevent another person from gaining access to information

to which that person is entitled by law.

9. You must not use, or attempt to use, your position to gain financial or other material benefits for yourself, your family, or your friends.
10. You must not to place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
11. When using, or authorising or agreeing to others' use, of the resources of your authority, you must—
 - (a) act in accordance with the Council's reasonable requirements and so far as possible ensure that the Council uses its resources prudently and in accordance with the law.;
 - (b) ensure that the Council's resources are not used improperly for political purposes (including party political purposes).
12. When reaching decisions on any matter you must—
 - (a) exercise independent judgement and act solely in the public interest;
 - (b) have in mind that a Council decision might be open to challenge on grounds of predetermination if a member (or members) involved in the decision had, or might reasonably been thought by a disinterested observer to have, a closed mind at the time the decision was taken. To avoid predetermination, even if beforehand you have expressed a strong view on the matter or indicated how you were minded to vote, you should keep an an open mind about matters for decision, having regard for all the facts and advice from officers and weighing others' views, and ideally demonstrate that open-mindedness in discussion;
 - (c) heed any relevant advice provided to you by the {EHDC: Council's Chief Executive, Chief Finance Officer or Monitoring Officer where that officer is acting pursuant to his or her statutory duties}{PT: the Council's Clerk}.
13. As a holder of public office, you are accountable to the public and you should—
 - (a) aim to be open about decisions and actions that you take or to which you are a party;
 - (b) restrict such communication only when required by law or the confidentiality of information or justified by the wider public interest;
 - (c) make clear In communication with members of the public and especially with representatives of the media, whether you are expressing personal views or speaking in any way on behalf of the Council;{EHDC: (d) have regard to the Council's Code of Publicity, in particular if you initiate the communication by, for example, writing a letter to a newspaper.}

Part 2

[To be inserted when/if regulations are issued.]

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ESSENTIAL REFERENCE PAPER 'C'

Complaints Procedure

1.0 Context

- 1.1 These “Arrangements” set out how you may make a complaint that an elected or co-opted Member of this authority (or of a Town or Parish council within its area) has failed to comply with the Councillors’ Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the Councillors’ Code of Conduct.
- 1.2 Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a member or co-opted member of the authority (or of a Town or Parish council within the authority’s area), or of a Committee or Sub-Committee of the authority, has failed to comply with Code of Conduct can be investigated and decisions made on such allegations.
- 1.3 Such arrangements must provide for the authority to appoint at least 1 Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a Member (or a Member or co-opted Member of a Town or Parish council) against whom an allegation has been made.

2.0 The Code of Conduct

- 2.1 The Council has adopted a Code of Conduct for Councillors, which is available for inspection on the authority’s website and on request from Reception at the Council Offices.
- 2.2 Each Town and Parish Council is also required to adopt a Code of Conduct. If you wish to inspect a Town or Parish Council’s Code of Conduct, you should inspect any website operated by the Town or Parish Council and request the Town or Parish Clerk to allow you to inspect the Town or Parish Council’s Code of Conduct.

3.0 Making a complaint

- 3.1 If you wish to make a complaint, please write or email to:

The Deputy Monitoring Officer - Jeff Hughes
East Herts Council

Council Offices
Wallfields
Pegs Lane
Hertford
SG13 8EQ

Tel: 01279 655261

- 3.2 The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of Members' interests and who is responsible for administering the system in respect of complaints of Member misconduct.
- 3.3 In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the complaint form, which can be downloaded from the authority's website, next to the Code of Conduct, and is available on request from the Reception at the Council Offices.
- 3.4 Please provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form. The Monitoring Officer will consider your request and if granted we will not disclose your name and address to the Member against whom you make the complaint, without your prior consent.
- 3.5 The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.
- 3.6 The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.
- 3.7 The Complaints Procedure Flowchart is annexed at Appendix 1 for your assistance
- 4.0 Will your complaint be investigated?**
- 4.1 The Monitoring Officer will review every complaint received and, may consult with the Independent Person before referring it to the Standards Sub-Committee

- 4.2 This decision will normally be taken within 28 working days of receipt of your complaint. Your complaint will be considered in accordance with the Assessment Criteria annexed at Appendix 2. The Standards Sub-Committee will make a recommendation as to whether the complaint should be investigated. Where the Sub-Committee requires additional information in order to come to a decision, the Monitoring Officer may come back to you for such information, and may request information from the Member against whom your complaint is directed. Where your complaint relates to a Town or Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Town or Parish Council before submitting it to the Sub-Committee.
- 4.3 In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the Member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the Member or the authority make a reasonable offer of informal resolution, but you are not willing to accept the offer, the Sub-Committee will take account of this in deciding whether the complaint merits further investigation.
- 4.4 If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police or other regulatory agencies.

5.0 How is the investigation conducted?

- 5.1 The Council has adopted a procedure for the investigation of misconduct complaints, which is attached as Appendix 3 to these arrangements.
- 5.2 If the Council decides that a complaint merits further investigation, the Council may appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer or Monitoring 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 need to be seen, and who needs to be interviewed.
- 5.3 The Investigating Officer or Monitoring Officer will normally write to the Member against whom you have complained and provide him/her with a copy of your complaint, and ask the Member to provide his/her explanation of events, and to identify what documents he needs to see

and who he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the Member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay notifying the Member until the investigation has progressed sufficiently.

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

5.5 Having received and taken account of any comments which you may make on the draft Investigation Report. Where an Investigating Officer has been appointed the Investigating Officer will send his/her final report to the Monitoring Officer.

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

6.1 If an Investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer’s report and, if he is satisfied that the Investigating Officer’s report is sufficient, the Monitoring Officer will write to you and to the Member concerned and to the Town or Parish Council, where your complaint relates to a Parish Councillor, notifying you that he is satisfied that no further action is required, and give you both a copy of the Investigation Final Report. The Monitoring Officer will then report to the Standards Sub-Committee which will make a recommendation based on the report.

6.2 If an Investigating Officer has been appointed and if the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider his/her report.

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

7.1 If an Investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer’s report and will then either send the

matter for a hearing before the Standards Sub-Committee and in consultation with the Independent Person seek an informal resolution.

7.1.1 Informal 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 may consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee and the Town or Parish Council for information, but will take no further action.

7.1.2 Hearing

If the Monitoring Officer considers that informal resolution is not appropriate, or the Councillor concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigation Report to the Sub-Committee which may conduct a hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

7.1.3 The Council has agreed a procedure for hearing complaints, which is attached as Appendix 4 to these arrangements.

7.1.4 At the hearing, the Investigating Officer or the Monitoring Officer will present her/his report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer or Monitoring Officer may ask you as the complainant to attend and give evidence to the Sub-Committee. The Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Sub-Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

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

concludes that the Member did fail to comply with the Code of Conduct, the Chairman will inform the Member of this finding and the Sub-Committee will then consider what action, if any, the Sub-Committee should recommend as a result of the Member's failure to comply with the Code of Conduct. In doing this, the Sub-Committee will give the Member an opportunity to make representations to the Sub-Committee and will consult the Independent Person, but will then decide what action, if any, to recommend in respect of the matter.

8.0 What action can the Standards Sub-Committee recommend where a Member has failed to comply with the Code of Conduct?¹

8.1 The Sub-Committee may make recommendations 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 recommend:-

- 8.2 i. A formal letter to the Councillor found to have breached the code;
- ii. Formal censure by motion;
- iii. Removal by the authority of the Member from Committee(s) subject to statutory and constitutional requirements;
- iv. Press release or other appropriate publicity;

8.3 The Sub-Committee has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

9.0 What happens at the end of the hearing?

9.1 At the end of the hearing, the Chairman will state the recommendation of the Standards Sub-Committee as to whether the Member failed to comply with the Code of Conduct and as to any actions which the Sub-Committee resolves to recommend.

9.2 As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a report to Council which will consider the recommendations. Council will consider the recommendations and make a decision. The Monitoring Officer will prepare a formal decision notice in consultation with the Chairman of the Council, and send a copy to you, to the Member and to the Town or Parish Council, make that decision notice available for public inspection.

10.0 Who are the Standards Sub-Committee?

¹ Need to consider the actions in light of the Opinion received from Clive Sheldon QC obtained by ACSeS

- 10.1 It is a Sub-Committee comprising Independent Members.
- 10.2 If the Councillor complained about is a member of a Town or Parish Council a Town or Parish Councillor who is a member of the Standards Committee will also be invited to attend the Sub-Committee.
- 10.3 The Independent Person is invited to attend all meetings of the Sub-Committee and their views are sought and taken into consideration before the Sub-Committee takes any decision on whether the Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

11.0 Who is the Independent Person?

- 11.1 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.
- 11.2 A person cannot be "independent" if he/she:
 - 11.2.1 Is, or has been within the past 5 years, a member, co-opted member or officer of the authority;
 - 11.2.2 *(Is or has been within the past 5 years, a member, co-opted member or officer of a parish council within the authority's area), or*
 - 11.2.3 Is a relative or close friend, of a person within paragraph 11.2.1 or 11.2.2 above. For this purpose, a "relative" means:
 - 11.2.3.1 Spouse or civil partner;
 - 11.2.3.2 Living with the other person as husband and wife or as if they were civil partners;
 - 11.2.3.3 Grandparent of the other person;
 - 11.2.3.4 A lineal descendent of a grandparent of the other person;
 - 11.2.3.5 A parent, sibling or child of a person within paragraphs 11.2.3.1 or 11.2.3.2; or
 - 11.2.3.6 A spouse or civil partner of a person within paragraphs 11.2.3.3, 11.2.3.4 or 11.2.3.5; or

- 11.2.3.7 Living with a person within paragraphs 11.2.3.3, 11.2.3.4 or 11.2.3.5 as husband and wife or as if they were civil partners.

12.0 Revision of these arrangements

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

13.0 Appeals

- 13.1 There is no right of appeal for you as complainant or for the Member against a decision of the Monitoring Officer or of the Sub-Committee.
- 13.2 If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

Appendix 1

Complaints Procedure Flowchart

APPENDIX 2

STANDARDS COMPLAINTS ASSESSMENT CRITERIA

Complaints which would not normally be referred for investigation

1. The complaint is not considered sufficiently serious to warrant investigation; or
2. The complaint appears to be simply motivated by malice or is “tit-for-tat”; or
3. The complaint appears to be politically motivated; or
4. It appears that there can be no breach of the Code of Conduct; for example, that it relates to the Councillor’s private life or is about dissatisfaction with a Council decision; or
5. it is about someone who is no longer a Councillor
5. There is insufficient information available for a referral; or
6. The complaint has not been received within 3 months of the alleged misconduct unless there are exceptional circumstances e.g. allegation of bullying, harassment etc.
7. The matter occurred so long ago that it would be difficult for a fair investigation to be carried out; or
8. The same, or similar, complaint has already been investigated and there is nothing further to be gained by seeking the sanctions available to the Council; or
9. It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct.
10. Where the Member complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction

APPENDIX 3

STANDARDS COMPLAINTS INVESTIGATION PROCEDURE

Appendix 4

Complaints Standards Sub-Committee Procedure

ESSENTIAL REFERENCE PAPER 'D'

Terms of Reference for the Standards Committee and Standards Sub-Committee

STANDARDS COMMITTEE	
<p>Appointed by:</p> <p>The Council, in accordance with the provisions of S101 & S102 Local Government Act 1972 and Regulations made there under.</p> <p>Appointment of a Standards Committee shall be by full Council</p>	<p>Number of Members:</p> <p>4 elected Members appointed proportionally (of whom 1 Member may be a Member of the Executive nominated by the Leader of the Council)</p> <p>1 Town Councillor and 2 Parish Councillors to be co-opted as non-voting members</p> <p>4 Co-Opted independent Members</p>
<p>Chairman and Vice-Chairman appointed by:</p> <ol style="list-style-type: none"> 1. The Chairman will be elected by the Committee. 2. There will be one Deputy Chairman, who shall be elected by the Committee 3. The Deputy-Chairman shall deputise for the Chairman in his or her absence. 	<p>Political Proportionality:</p> <p>Rules of political proportionality apply.</p> <p>Substitutes:</p> <p>Substitutes are permitted for the Standards Committee.</p> <p>Frequency:</p> <p>At least quarterly.</p> <p>Venue:</p> <p>As set out in the approved Calendar of Meetings.</p>
<p>Independent Person:</p> <p>Appointment approved by full Council in accordance with the provisions of Section 28(6) and (7) of the Localism Act 2011</p>	<p>The Independent Person:</p> <p>The Independent Person be invited to attend the meetings of the Standards Committee</p>
<p>Quorum:</p>	<p>At least 3 voting Members of the Committee</p>

Terms of Reference

The Standards Committee will have the following roles and functions as an advisory committee:

1. promoting and maintaining high standards of conduct by Members and Co-opted Members of the authority;
2. Advising and assisting Parish Councils and Councillors to maintain high standards of conduct and to make recommendation to Parish Councils on improving standards or actions following a finding of a failure by a Parish Councillor to comply with the Code of Conduct
3. to conduct hearings on behalf of the Parish Council
4. advising the Council on the adoption or revision of the Members' Code of Conduct;
5. to receive referrals from the Monitoring Officer into allegations of misconduct in accordance with the authority assessment criteria
6. receiving reports from the Monitoring Officer and assessing the operation and effectiveness of the Members' Code of Conduct;
7. advising, training or arranging to train Members and Co-Opted Members on matters relating to the Members' Code of Conduct;
8. assisting Councillors and co-opted Members to observe the Members' Code of Conduct;
9. advising the Council upon the contents of and requirements for codes/protocols/other procedures relating to standards of conduct throughout the Council
10. maintaining oversight of the Council's arrangements for dealing with complaints
11. Informing Council of relevant issues arising from the determination of Code of Conduct complaints.
12. Appointment of Sub-Committee to recommend
13. the grant of dispensations after consultation with the Independent Person pursuant to S33(2) (b), (c) and (e) of the Localism Act 2011
14. hear and determine appeals against refusal to grant dispensations by the Monitoring Officer pursuant to S33(2)(a) and (d) of the Localism Act 2011 and make recommendations.

SUB-COMMITTEE	
<p>Appointed by:</p> <p>The Council, for the purposes of section 28(6 and (7) of the Localism Act 2011</p>	<p>Number of Elected Members:</p> <p>4 Co-Opted Members of the Standards Committee.</p>
<p>Chair and Vice-Chair appointed by:</p> <p>The Chair shall be elected by the Sub-Committee at each meeting.</p>	<p>Political Proportionality:</p> <p>Yes</p> <p>Substitutes:</p> <p>None.</p> <p>Frequency:</p> <p>As and when required.</p> <p>Venue:</p> <p>To be determined by the Monitoring Officer.</p>
<p>Quorum:</p> <p>At least 3 voting Members</p>	<p>Town or Parish Councillor be invited to be co-opted as non-voting members in dealing with a complaint against a Parish Councillor</p>
<p>Independent Person:</p> <p>Appointment approved by full Council in accordance with the provisions of Section 28(6) and (7) of the Localism Act 2011</p>	<p>The Independent Person:</p> <p>The Independent Person to attend the meetings of the Standards Sub-Committee dealing with hearings into allegations of misconduct</p>
<p>Terms of Reference</p> <p>To conduct a Hearing into an allegation that a Member or Co-opted Member has breached the Authority's Code of Conduct.</p> <p>Following a Hearing, make one of the following recommendations:</p> <ul style="list-style-type: none"> (a) That the Member has not failed to comply with the Code of Conduct and no further action needs to be taken in respect of the matters considered at the Hearing (b) That the Member has failed to comply with the Code of Conduct but that no further action needs to be taken in respect of the matters considered at the 	

Hearing

- (c) That the Member has failed to comply with the Code of Conduct and that a sanction and/or an informal resolution should be imposed

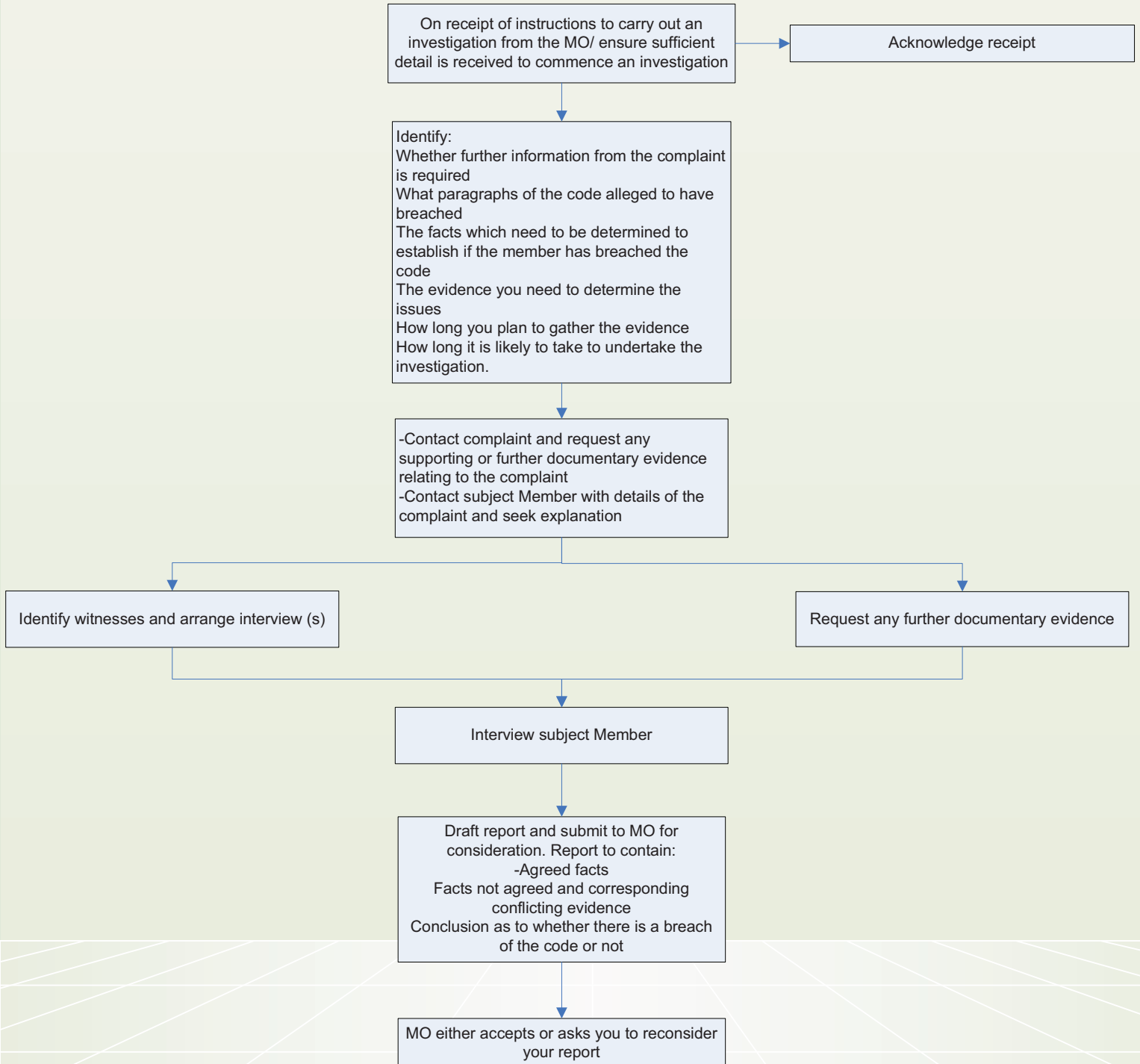
The Sub-Committee may recommend any action or combination of actions available to it, or recommend any informal resolution or combination of informal resolutions as are available to it by law or policy.

After making a finding the Sub-Committee shall, as soon as reasonably practicable provide written recommendations and the reasons for its recommendations.

Investigation Procedure

You should maintain a written record to demonstrate what was considered at the start of each investigation and plan how you intend to carry out the investigation, the paragraphs of the code that may have been breached, the facts you need to determine to establish, the evidence you will need, how you plan to gather the evidence and how long it will take to conclude your investigation. Remember there is no provision in the Localism Act 2011 co-operate with your investigation.

A written Investigation Report will need to be prepared for consideration by the Council's Monitoring Officer.



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ESSENTIAL REFERENCE PAPER 'F'

STANDARDS SUB-COMMITTEE HEARING PROCEDURE

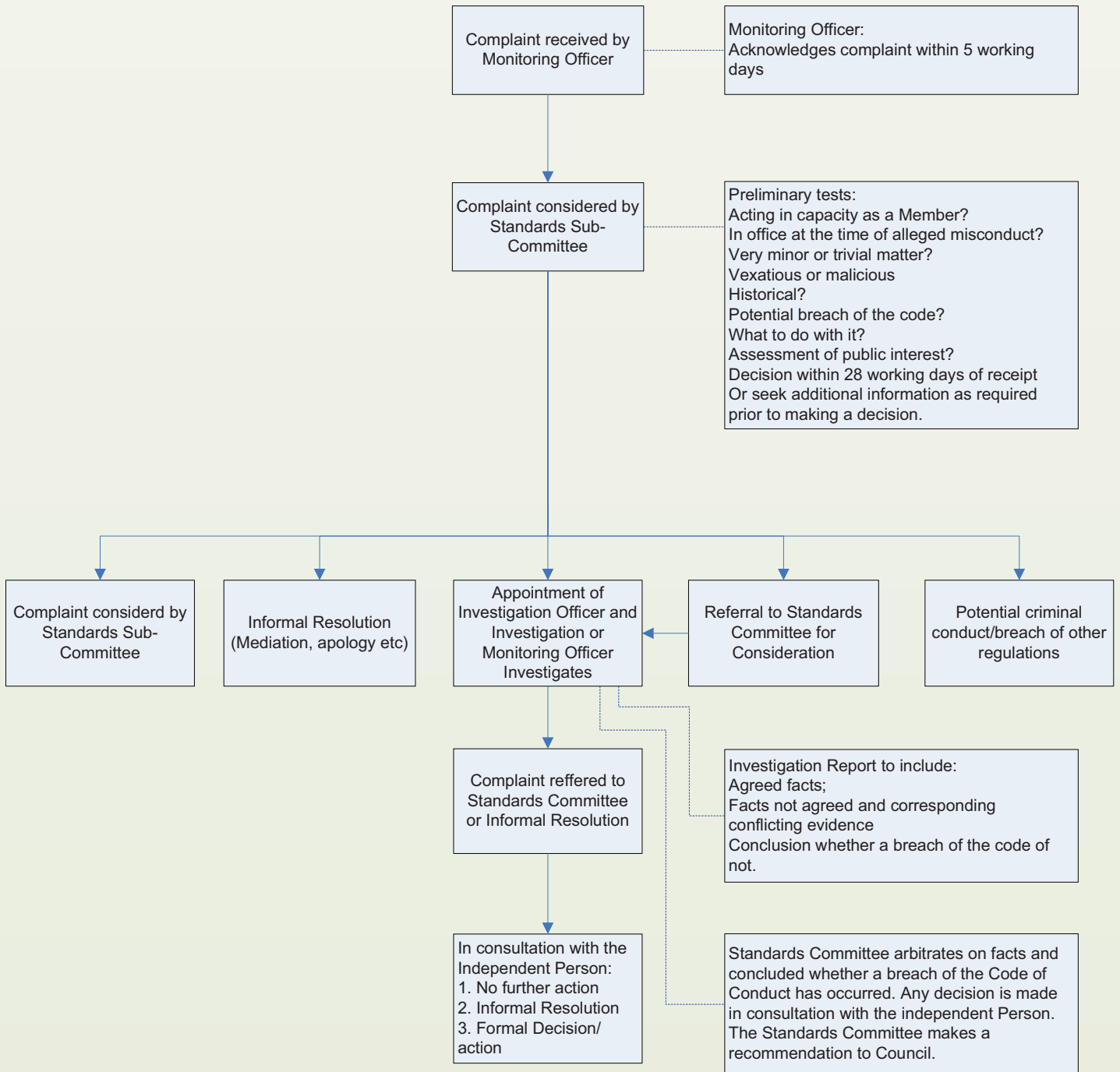
<u>Item No.</u>	<u>Procedure</u>
1	<p><u>Quorum</u></p> <p>1.1 Three Members must be present throughout the hearing to form a quorum.</p> <p>1.2 Where the complaint refers to a Parish Councillor a non voting Parish member of the Standards Committee may be present</p> <p>1.3 The Sub-Committee shall elect a Chairman for the meeting</p>
2	<p><u>Opening</u></p> <p>2.1 The Chairman explains the procedure for the hearing and reminds all parties to turn off mobile phones.</p> <p>2.2 The Chairman asks all present to introduce themselves</p> <p>2.3 The Councillor will be asked whether they wish to briefly outline their position</p>
3	<p><u>The Complaint</u></p> <p>3.1 The Investigating Officer shall be invited to present their report including any documentary evidence or other material (and to call witnesses as required by the Investigating Officer). This report and documentary evidence must be based on the complaint made to the Council – no new points will be allowed.</p> <p>3.2 The Councillor against whom the complaint has been made (or their representative) may question the Investigating Officer upon the content of their report and any witnesses called by the Investigating Officer. (This is the Councillor's opportunity to ask questions rising from the Investigators report and not to make a statement)</p> <p>3.3 Members of the Sub-Committee may question the Investigating Officer upon the content of their report and/or any witnesses called by the Investigating Officer</p>
4	<p><u>The Councillor's case</u></p> <p>4.1 The Councillor against whom the complaint has been made (or their representative) may present their case (and call any witnesses as required by the Councillor or their representative)</p>

	<p>4.2 The Investigating Officer may question the Councillor and/or any witnesses</p> <p>4.3 Members of the Sub-Committee may question the Member and/or any witnesses</p>
5	<p><u>Summing Up</u></p> <p>5.1 The Investigating Officer may sum up the Complaint</p> <p>5.2 The Member (or their representative) may sum up their case.</p>
6	<p><u>Decision</u></p> <p>6.1 Members of the Sub-Committee will deliberate in private to consider the complaint in consultation with the Independent Person prior to reaching a decision</p> <p>6.2 Upon the Sub-Committee's return the Chairman will announce the Sub-Committee's decision in the following terms:-</p> <p>6.2.1 The Sub-Committee decides that the Member has failed to follow the Code of Conduct or</p> <p>6.2.2 The Sub-Committee decides that the Member has not failed to follow the Code of Conduct</p> <p>6.2.3 The Sub-Committee will give reasons for their decision</p> <p>6.3 If the Sub-Committee decides that the Member has failed to follow the Code of Conduct the Panel will consider any representations from the Investigator and/or the Member as to:</p> <p>6.3.1 Whether any action should be taken and</p> <p>6.3.2 What form any action should take</p> <p>6.4 The Sub-Committee will then deliberate in private to consider what action if any should be taken in consultation with the Independent Person</p> <p>6.5 On the Sub-Committee's return the Chairman will announce the Sub-Committee's recommendation (in relation to a Parish Councillor a recommendation to the Parish Council)</p> <p>6.6 The Sub-Committee will consider whether it should make any recommendations to the Council or in relation to a Parish Councillor to the Parish Council with a view to</p>

	promoting high standards of conduct among Members.
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Complaints Procedure Flowchart



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THE LOCALISM ACT

27 Duty to promote and maintain high standards of conduct

- (1) A relevant authority must promote and maintain high standards of conduct by members and co-opted members of the authority.
- (2) In discharging its duty under subsection (1), a relevant authority must, in particular, adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.
- (3) A relevant authority that is a parish council—
 - (a) may comply with subsection (2) by adopting the code adopted under that subsection by its principal authority, where relevant on the basis that references in that code to its principal authority's register are to its register, and
 - (b) may for that purpose assume that its principal authority has complied with section 28(1) and (2).
- (4) In this Chapter “co-opted member”, in relation to a relevant authority, means a person who is not a member of the authority but who—
 - (a) is a member of any committee or sub-committee of the authority, or
 - (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority,

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.
- (5) A reference in this Chapter to a joint committee or joint sub-committee of a relevant authority is a reference to a joint committee on which the authority is represented or a sub-committee of such a committee.
- (6) In this Chapter “relevant authority” means—
 - (a) a county council in England,
 - (b) a district council,
 - (c) a London borough council,
 - (d) a parish council,
 - (e) the Greater London Authority,

- (f) the Metropolitan Police Authority,
 - (g) the London Fire and Emergency Planning Authority,
 - (h) the Common Council of the City of London in its capacity as a local authority or police authority,
 - (i) the Council of the Isles of Scilly,
 - (j) a fire and rescue authority in England constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies,
 - (k) a police authority (in England or in Wales) established under section 3 of the Police Act 1996,
 - (l) a joint authority established by Part 4 of the Local Government Act 1985,
 - (m) an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009,
 - (n) a combined authority established under section 103 of that Act,
 - (o) the Broads Authority, or
 - (p) a National Park authority in England established under section 63 of the Environment Act 1995.
- (7) Any reference in this Chapter to a member of a relevant authority—
- (a) in the case of a relevant authority to which Part 1A of the Local Government Act 2000 applies, includes a reference to an elected mayor;
 - (b) in the case of the Greater London Authority, is a reference to the Mayor of London or a London Assembly member.
- (8) Functions that are conferred by this Chapter on a relevant authority to which Part 1A of the Local Government Act 2000 applies are not to be the responsibility of an executive of the authority under executive arrangements.
- (9) Functions that are conferred by this Chapter on the Greater London Authority are to be exercisable by the Mayor of London and the London Assembly acting jointly on behalf of the Authority.
- (10) In this Chapter except section 35—
- (a) a reference to a committee or sub-committee of a relevant authority is, where the relevant authority is the Greater London Authority, a reference to—
 - (i) a committee or sub-committee of the London Assembly, or

- (ii) the standards committee, or a sub-committee of that committee, established under that section,
 - (b) a reference to a joint committee on which a relevant authority is represented is, where the relevant authority is the Greater London Authority, a reference to a joint committee on which the Authority, the London Assembly or the Mayor of London is represented,
 - (c) a reference to becoming a member of a relevant authority is, where the relevant authority is the Greater London Authority, a reference to becoming the Mayor of London or a member of the London Assembly, and
 - (d) a reference to a meeting of a relevant authority is, where the relevant authority is the Greater London Authority, a reference to a meeting of the London Assembly;
- and in subsection (4)(b) the reference to representing the relevant authority is, where the relevant authority is the Greater London Authority, a reference to representing the Authority, the London Assembly or the Mayor of London.

28 Codes of conduct

- (1) A relevant authority must secure that a code adopted by it under section 27(2) (a “code of conduct”) is, when viewed as a whole, consistent with the following principles—
 - (a) selflessness;
 - (b) integrity;
 - (c) objectivity;
 - (d) accountability;
 - (e) openness;
 - (f) honesty;
 - (g) leadership.
- (2) A relevant authority must secure that its code of conduct includes the provision the authority considers appropriate in respect of the registration in its register, and disclosure, of—
 - (a) pecuniary interests, and
 - (b) interests other than pecuniary interests.

- (3) Sections 29 to 34 do not limit what may be included in a relevant authority's code of conduct, but nothing in a relevant authority's code of conduct prejudices the operation of those sections.
- (4) A failure to comply with a relevant authority's code of conduct is not to be dealt with otherwise than in accordance with arrangements made under subsection (6); in particular, a decision is not invalidated just because something that occurred in the process of making the decision involved a failure to comply with the code.
- (5) A relevant authority may—
- (a) revise its existing code of conduct, or
 - (b) adopt a code of conduct to replace its existing code of conduct.
- (6) A relevant authority other than a parish council must have in place—
- (a) arrangements under which allegations can be investigated, and
 - (b) arrangements under which decisions on allegations can be made.
- (7) Arrangements put in place under subsection (6)(b) by a relevant authority must include provision for the appointment by the authority of at least one independent person—
- (a) whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and
 - (b) whose views may be sought—
 - (i) by the authority in relation to an allegation in circumstances not within paragraph (a),
 - (ii) by a member, or co-opted member, of the authority if that person's behaviour is the subject of an allegation, and
 - (iii) by a member, or co-opted member, of a parish council if that person's behaviour is the subject of an allegation and the authority is the parish council's principal authority.
- (8) For the purposes of subsection (7)—
- (a) a person is not independent if the person is—
 - (i) a member, co-opted member or officer of the authority,
 - (ii) a member, co-opted member or officer of a parish council of which the authority is the principal authority, or
 - (iii) a relative, or close friend, of a person within sub-paragraph (i) or (ii);

- (b) a person may not be appointed under the provision required by subsection (7) if at any time during the 5 years ending with the appointment the person was—
 - (i) a member, co-opted member or officer of the authority, or
 - (ii) a member, co-opted member or officer of a parish council of which the authority is the principal authority;
 - (c) a person may not be appointed under the provision required by subsection (7) unless—
 - (i) the vacancy for an independent person has been advertised in such manner as the authority considers is likely to bring it to the attention of the public,
 - (ii) the person has submitted an application to fill the vacancy to the authority, and
 - (iii) the person's appointment has been approved by a majority of the members of the authority;
 - (d) a person appointed under the provision required by subsection (7) does not cease to be independent as a result of being paid any amounts by way of allowances or expenses in connection with performing the duties of the appointment.
- (9) In subsections (6) and (7) “allegation”, in relation to a relevant authority, means a written allegation—
- (a) that a member or co-opted member of the authority has failed to comply with the authority's code of conduct, or
 - (b) that a member or co-opted member of a parish council for which the authority is the principal authority has failed to comply with the parish council's code of conduct.
- (10) For the purposes of subsection (8) a person (“R”) is a relative of another person if R is—
- (a) the other person's spouse or civil partner,
 - (b) living with the other person as husband and wife or as if they were civil partners,
 - (c) a grandparent of the other person,
 - (d) a lineal descendant of a grandparent of the other person,
 - (e) a parent, sibling or child of a person within paragraph (a) or (b),
 - (f) the spouse or civil partner of a person within paragraph (c), (d) or (e), or
 - (g) living with a person within paragraph (c), (d) or (e) as husband and wife or as if they were civil partners.

- (11) If a relevant authority finds that a member or co-opted member of the authority has failed to comply with its code of conduct (whether or not the finding is made following an investigation under arrangements put in place under subsection (6)) it may have regard to the failure in deciding—
- (a) whether to take action in relation to the member or co-opted member, and
 - (b) what action to take.
- (12) A relevant authority must publicise its adoption, revision or replacement of a code of conduct in such manner as it considers is likely to bring the adoption, revision or replacement of the code of conduct to the attention of persons who live in its area.
- (13) A relevant authority's function of adopting, revising or replacing a code of conduct may be discharged only by the authority.
- (14) Accordingly—
- (a) in the case of an authority to whom section 101 of the Local Government Act 1972 (arrangements for discharge of functions) applies, the function is not a function to which that section applies;
 - (b) in the case of the Greater London Authority, the function is not a function to which section 35 (delegation of functions by the Greater London Authority) applies.