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Jeff Hughes
*Head of Democratic and Legal
Support Services*

MEETING : STANDARDS COMMITTEE
VENUE : COUNCIL CHAMBER, WALLFIELDS, HERTFORD
DATE : MONDAY 10 DECEMBER 2012
TIME : 7.00 PM

MEMBERS OF THE COMMITTEE

Councillors M Carver, K Crofton, M Newman, S Rutland-Barsby and M Wood

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DISCLOSABLE PECUNIARY INTERESTS

1. A Member, present at a meeting of the Authority, or any committee, sub-committee, joint committee or joint sub-committee of the Authority, with a Disclosable Pecuniary Interest (DPI) in any matter to be considered or being considered at a meeting:
 - must not participate in any discussion of the matter at the meeting;
 - must not participate in any vote taken on the matter at the meeting;
 - must disclose the interest to the meeting, whether registered or not, subject to the provisions of section 32 of the Localism Act 2011;
 - if the interest is not registered and is not the subject of a pending notification, must notify the Monitoring Officer of the interest within 28 days;
 - must leave the room while any discussion or voting takes place.

2. A DPI is an interest of a Member or their partner (which means spouse or civil partner, a person with whom they are living as husband or wife, or a person with whom they are living as if they were civil partners) within the descriptions as defined in the Localism Act 2011.

3. The Authority may grant a Member dispensation, but only in limited circumstances, to enable him/her to participate and vote on a matter in which they have a DPI.

4. It is a criminal offence to:

- fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register;
- fail to notify the Monitoring Officer, within 28 days, of a DPI that is not on the register that a Member disclosed to a meeting;
- participate in any discussion or vote on a matter in which a Member has a DPI;
- knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a DPI or in disclosing such interest to a meeting.

(Note: The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.)

AGENDA

1. Appointment of Chairman

To appoint a Chairman for 2012/13.

2. Apologies

To receive apologies for absence.

3. Chairman's Announcements

4. Declarations of Interest

5. The Standards Regime (Pages 5 - 30)

6. Urgent Business

To consider such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration and is not likely to involve the disclosure of exempt information.

EAST HERTS COUNCIL

STANDARDS COMMITTEE - 10 DECEMBER 2012

REPORT BY THE MONITORING OFFICER

THE STANDARDS REGIME

WARD(S) AFFECTED: NONE

Purpose/Summary of Report

- This report describes the complaints procedure and explains progress on implementing the new standards regime.

<u>RECOMMENDATIONS FOR STANDARDS COMMITTEE: That:</u>	
(A)	The Committee notes and approves the Complaints Procedure. The following Members be appointed to the Standards Sub-Committee.

1.0 Background

1.1 The Localism Act 2011 makes fundamental changes to the system of regulation of standards of conduct for elected and co-opted Councillors. Council has appointed a Standards Committee and approved a code of conduct together with a complaints procedure. The documents are set out in **Essential Reference Paper B**.

2.0 Report

2.1 **Duty to promote and maintain high standards of conduct**

2.2 The authority will remain under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted Members.

3.0 Dealing with Misconduct Complaints

3.1 “Arrangements”

3.2 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 only be dealt with 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. Council has adopted a complaints procedure.

4.0 How is the investigation conducted?

4.1 The Council has adopted a procedure for the investigation of misconduct complaints. 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.

4.2 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 the complainant and to the Member concerned. Having received and taken account of any comments which have been made on the draft Investigation Report the Investigating Officer will send his/her final report to the Monitoring Officer.

5.0 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?

5.1 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 the complainant and to the Member concerned and to the Town or Parish Council, where the complaint relates to a Town or Parish Councillor, notifying them that he is satisfied that no further action is required, and give them 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.

5.2 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.

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

6.1 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 or in consultation with the Independent Person seek an informal resolution.

6.2 Informal Resolution

6.2.1 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 the complainant and seek to agree 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.

6.3 Hearing

6.3.1 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.

6.3.2 At the hearing, the Investigating Officer or the Monitoring Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the Member has failed to comply with the

Code of Conduct. For this purpose, the Investigating Officer or Monitoring Officer may ask 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.

- 6.3.3 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.

7.0 Action in response to a Hearing finding of failure to comply with Code

- 7.1 The Act does not give the Council or its Standards Committee any powers to impose sanctions such as suspension or requirements for training or an apology on Members. So, where a failure to comply with the Code of Conduct is found, the range of actions which the authority can take in respect of the Member is limited and must be directed to securing the continuing ability of the authority to continue to discharge its functions effectively. In practice, this might include the following –

- 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

8.0 Independent Person(s)

8.1 The “arrangements” adopted by Council must include provision for the appointment by Council of at least one Independent Person.

8.2 Functions of the Independent Person

8.3 The functions of the Independent Person(s) are –

- (a) They must be consulted by the Council before it makes a finding as to whether a Member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that 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);
- (b) They may be consulted by the authority in respect of a standards complaint at any other stage; and
- (c) They may be consulted by a Member or co-opted Member of the District Council or of a Parish Council against whom a complaint has been made.

8.4 The Independent Person will be invited to attend all meetings of the Standards Committee but will not to be a formal Member of the Committee. He/she will need to be available to be consulted by Members against whom a complaint has been made. Where he/she has been so consulted, he/she would be unable to be involved in the determination of that complaint. The Independent Person will also be involved in the local resolution of complaints and in the grant of dispensations.

9.0 Standards Sub-Committee

9.1 Council has agreed to create a Sub-Committee to conduct hearings. The Committee is invited to nominate Members to be on the Sub-Committee.

10.0 Progress on Implementation

10.1 Following the decisions of Council to approve the complaints procedure and adopt a code of conduct, progress has been made

to implement the requirements of the Localism Act.

10.2 Two training sessions have been provided for District Councillors. Town and Parish Councillors were also invited.

11.0 Implications/Consultations

11.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

None

Contact Officer: Simon Drinkwater- Director of Neighbourhood Services
01992 531405
simon.drinkwater@eastherts.gov.uk

Report Author: Simon Drinkwater

ESSENTIAL REFERENCE PAPER 'A'

IMPLICATIONS/CONSULTATIONS

Contribution to the Council's Corporate Priorities/ Objectives <i>(delete as appropriate):</i>	People This priority focuses on enhancing the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.
Consultation:	None
Legal:	The legal implications are set out in the report.
Financial:	Any costs will be met within existing budgets.
Human Resource:	None
Risk Management:	The Council is required to implement the Localism Act in respect of the new standards regime. The Council is under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted Members.

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ESSENTIAL REFERENCE PAPER 'B'

Code of Conduct

As a member or co-opted member of East Hertfordshire District Council I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

SELFLESSNESS: Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP: Holders of public office should promote and support these principles by leadership and example.

The Act further provides for registration and disclosure of interests and in East Hertfordshire District Council this will be done as follows:

INTERESTS

1 General

A Member, present at a meeting of the Authority, or any committee, sub-committee, joint committee or joint sub-committee of the Authority, with a Disclosable Pecuniary Interest (DPI) in any matter to be considered or being considered at a meeting:

- (a) must not participate in any discussion of the matter at the meeting;
- (b) must not participate in any vote taken on the matter at the meeting;
- (c) must disclose the interest to the meeting, whether registered or not, subject to the provisions of section 32 of the Localism Act 2011;
- (d) if the interest is not registered and is not the subject of a pending notification, must notify the Monitoring Officer of the interest within 28 days;
- (e) must leave the room while any discussion or voting takes place.

2 Register of interests

Any interests notified to the Monitoring Officer will be included in the register of interests.

A copy of the register will be available for public inspection and will be published on the authority's website.

3 Sensitive interests

Where you consider that disclosure of the details an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the

interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.

OTHER

As a Member of East Hertfordshire District Council, my conduct will in particular address the statutory principles of the code of conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the Authority's area or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it

- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.

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 the Council has 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 the Council 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 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.

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

At the hearing, the Investigating Officer or the Monitoring Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer 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.

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?

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, making that decision notice available for public inspection.

10.0 Who are the Standards Sub-Committee?

10.1 It is a Sub-Committee comprising Members.

10.2 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

The Council may by 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.

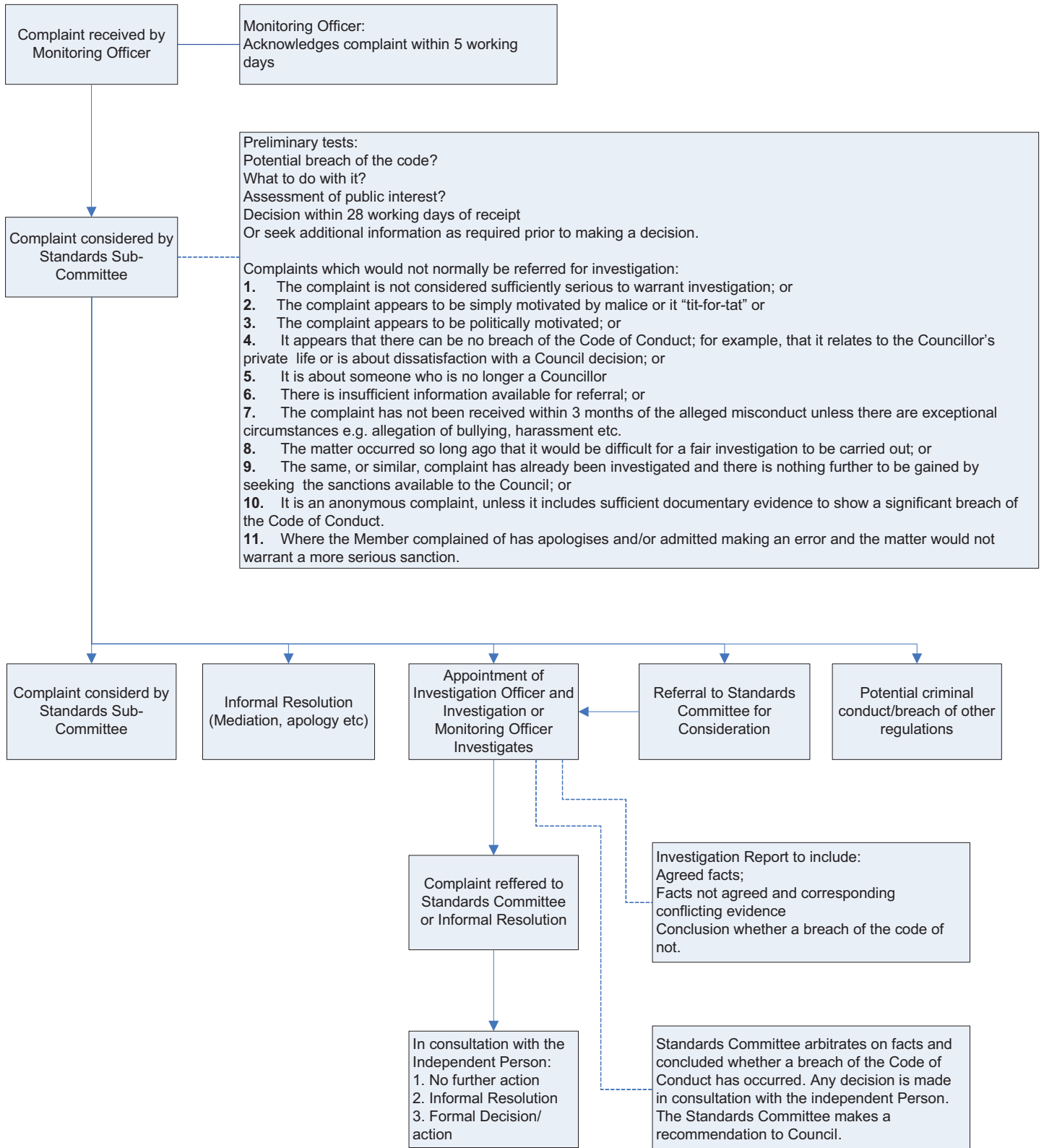
13.0 Appeals

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 can 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

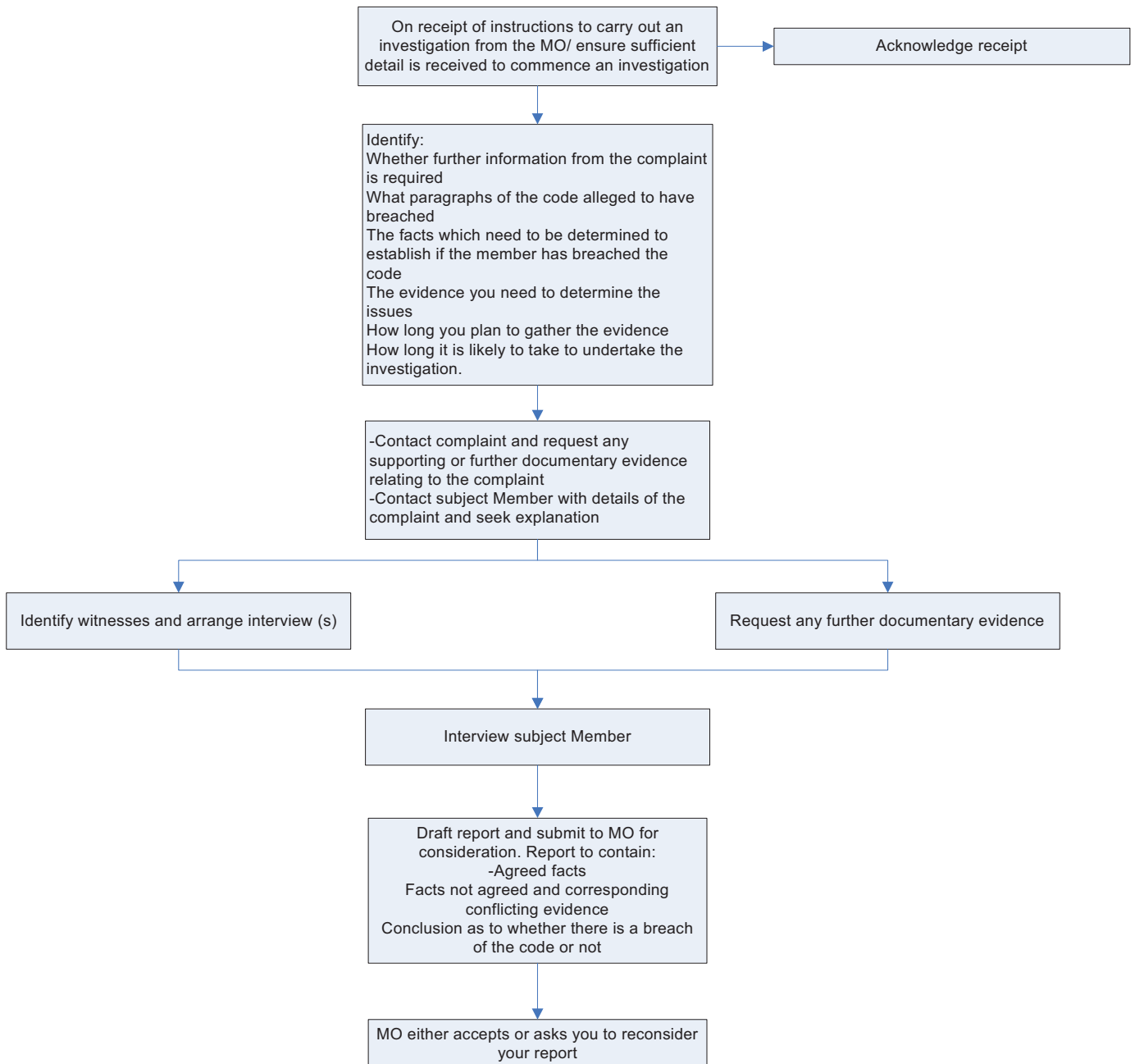
1. The complaint is not considered sufficiently serious to warrant investigation; or
2. The complaint appears to be simply motivated by malice or is “tit-for-tat”; or
3. The complaint appears to be politically motivated; or
4. It appears that there can be no breach of the Code of Conduct; for example, 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

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.



Appendix 4

Complaints Standards Sub-Committee 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. 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 promoting high standards of conduct among Members.</p>

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