

# **BIRMINGHAM CITY COUNCIL**

## **STANDARDS COMMITTEE**

**WEDNESDAY, 12 DECEMBER 2018 AT 14:00 HOURS**  
**IN COMMITTEE ROOM 2, COUNCIL HOUSE, VICTORIA SQUARE,**  
**BIRMINGHAM, B1 1BB**

### **A G E N D A**

1 **APOLOGIES**

2 **DECLARATIONS OF INTERESTS**

Members are reminded that they must declare all relevant pecuniary and non pecuniary interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations will be recorded in the minutes of the meeting.

**3 - 6**

3 **MINUTES**

To agree the Minutes of the meeting held on the 10th October 2018.

4 **UPDATE ON MEMBERSHIP OF COMMITTEE**

To note the update to the membership of the Committee

**7 - 12**

5 **REPORT OF CITY SOLICITOR - 2017/18**

To note the report

**13 - 24**

6 **PROPOSED NE CODE OF CONDUCT**

To note the proposed code of conduct

**25 - 38**

7 **PROPOSED NEW COMPLAINTS PROCESS**

To note the proposed process

8 **OTHER URGENT BUSINESS**

To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chairman are matters of urgency.

9 **AUTHORITY TO CHAIRMAN AND OFFICERS**

Chairman to move:-

'In an urgent situation between meetings, the Chairman jointly with the relevant Chief Officer has authority to act on behalf of the Committee'.

# BIRMINGHAM CITY COUNCIL

Item 3

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| <b>STANDARDS COMMITTEE<br/>10 OCTOBER 2018</b> |
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**MINUTES OF A MEETING OF THE STANDARDS COMMITTEE HELD ON  
WEDNESDAY, 10 OCTOBER 2018 AT 1400 HOURS IN COMMITTEE  
ROOM 2, COUNCIL HOUSE, BIRMINGHAM**

**PRESENT:** - Mr Peter Wiseman in the Chair;

Councillor Deirdre Alden, Councillor Mahmood Hussain,  
Councillor Shafique Shah, New Frankley Parish Councillor Ian  
Bruckshaw, Sutton Coldfield Parish Councillor Derrick Griffin  
and Steven Jonas.

**ALSO PRESENT:-**

Rob Connelly, Acting Assistant Director - Governance  
Safeena Tonks, Electoral Services Manager, Finance and Governance

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**APOLOGIES**

284 Apologies were received from Professor Stephen Shute, Raymond Tomkinson  
(Independent Observer) and Kate Charlton.

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**DECLARATIONS OF INTEREST**

285 No interests were declared.

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**MINUTES**

286 The Minutes of the meeting held on 8 August 2018, having been previously  
circulated, were agreed as a correct record, subject to the second sentence of  
the second paragraph on page 90 being amended to read: "They wanted to  
build in the process going forward greater use of the independent person where  
appropriate."

With reference to paragraph 3 on page 91, Rob Connelly, Acting Assistant  
Director - Governance, advised that he had been unable to find a copy of the  
guidance produced previously, but he would clarify the matter in the new  
guidance.

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**UPDATE ON AMENDMENTS TO STANDARDS COMMITTEE ROLE AND MEMBERSHIP**

The following update report on the changes to the Constitution agreed at City Council on 11 September 2018 was submitted:-

(See document No. 1)

Rob Connelly, Acting Assistant Director - Governance, advised the Committee that an amendment had been agreed at City Council, which deleted the words "other than those with Special Responsibility Allowances". Discussions had taken place with Group Leaders regarding equal representation on the Committee and they had been requested to submit nominations for submission to the City Council in November 2018.

287 **RESOLVED:-**

That the report be noted.

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**ARRANGEMENTS FOR APPOINTMENT OF INDEPENDENT CHAIR AND DEPUTY CHAIR**

- 288 Rob Connelly, Acting Assistant Director - Governance, advised that Peter Wiseman had been appointed as Chairman of the Committee. He proposed and Members agreed that Steven Jonas be appointed as Deputy Chairman.

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**REVIEW OF 2017/18 CASES**

- 289 Rob Connelly, Acting Assistant Director - Governance, tabled a spreadsheet of cases for members' information and advised that a full report would be submitted to the next Committee meeting. He advised that he would review the Annual Report in order to provide more information and analysis and to identify trends.

Mr Connelly informed the Committee that a Freedom of Information request had been received from a member of the public seeking details of a complaint, but that the request had been refused in the light of the regulations.

He gave a general overview of the cases and an update on those that were on-going. The Chairman expressed concern that action needed to be taken more quickly in response to complaints and suggested that a 14-day deadline should be accepted for mediation where a referral was made to an independent person.

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**UPDATE OF CASES APRIL - SEPTEMBER 2018**

- 290 Rob Connelly, Acting Assistant Director - Governance, tabled a spreadsheet of 'in year' complaints for members' information and advised that a full report

would be submitted to the next Committee meeting. He gave an update on the general position.

Councillor Deirdre Alden drew attention to concern raised by a member of the public that they had not been informed of progress with a complaint submitted. Mr Connelly acknowledged that better communication was needed with the member of the public. He explained that the original communication had not been submitted as a complaint, but it had been escalated to that level because of a failure to respond. He confirmed that he would pursue that matter.

New Frankley Parish Councillor Ian Bruckshaw expressed concern regarding a serious verbal attack made by a Councillor against a member of the public. Mr Connelly confirmed that it was the correct action to refer that matter to the Monitoring Officer and advised that he was aware of that incident.

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### **OTHER URGENT BUSINESS**

#### **Discussions with the Independent Improvement Panel**

291 The Chairman advised the Committee that he had been invited to meet with the Independent Improvement Panel in August 2018. The Panel expressed concerns regarding the City Council's governance, in which it had seen signs of improvement, but it wanted to sign cultural change driven forward quickly. The Panel felt that the Standards Committee, while peripheral, would be vital in effecting change and wanted to see evidence of that being undertaken. It wanted the Committee's profile to be high and to be in the minds of all Councillors. It had suggested that regular meetings should be held by the Chairman with the Chief Executive, the Monitoring Officer and Group Leaders at least twice each year, but he believed that quarterly meetings might have to be agreed.

With officers, he would be introducing a training programme for new Councillors and refresher sessions for experienced Councillors. It had been noted that a significant number of complaints involved to Councillors against Councillors and the Panel wanted to see those matters being dealt with by Group Secretaries.

A new Committee membership had been agreed at City Council with equal Group representation and more independent members, which should be implemented prior to the next meeting. He asked current members to promote the Committee and its role. He believed that new guidance might need to be produced on some aspects of the Member Code of Conduct. In response to a question from Councillor Deirdre Alden, he advised that the changes may be needed in the light of the Committee's developing role and recommendations in the Kerslake report. The Committee's role had been complaints led, but it needed to be more proactive in future and to ensure that Councillors were aware of their obligations.

Rob Connelly, Acting Assistant Director - Governance, advised that the revised training programme would be rolled out following work undertaken with Group Secretaries and Group Whips. There was concern that they should be involved at an earlier stage. He informed members that the Government's response to its recent consultation on the Review of Local Government Ethical Standards was due to be published in December 2018. It was expected to respond to concerns regarding openness and transparency, sanctions and consistency in Codes of Conduct. He undertook to notify members of details when it was published.

Attention was drawn to the position of Parish Councils, which was noted.

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**AUTHORITY TO CHAIRMAN AND OFFICERS**

292

**RESOLVED:-**

'In an urgent situation between meetings, the Chairman jointly with the relevant Chief Officer has authority to act on behalf of the Committee'.

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The meeting ended at 1450 hours.

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CHAIRMAN

**BIRMINGHAM CITY COUNCIL****PUBLIC REPORT**  
Item 5

|                          |   |
|--------------------------|---|
| <b>Report to:</b>        | <b>STANDARDS COMMITTEE</b>                              |
| <b>Report of:</b>        | <b>CITY SOLICITOR</b>                                   |
| <b>Date of Decision:</b> | <b>12 DECEMBER 2018</b>                                 |
| <b>SUBJECT:</b>          | <b>ANALYSIS OF THE COMPLAINTS RECEIVED IN 2017/2018</b> |
| <b>Wards affected:</b>   | <b>All</b>  |

**1. Purpose of report:**

- 1.1 To provide the Committee with a detailed analysis regarding the type of complaints of breaches of the Code of Conduct received by the Monitoring Officer during the period from March 2017 to April 2018

**2. Decision(s) recommended:**

- 2.1 The Committee is asked to note the analysis and actions taken to resolve the complaints and the ongoing plans to improve the process.

|  |  |
|--|--|
| <b>Contact Officer:</b>                        | Robert Connelly                                    |
| <b>Telephone No:</b><br><b>E-mail address:</b> | 0121 303 2443<br>Robert.connelly@birmingham.gov.uk |

**Signature:**

Chief Officer(s):

Dated: 30 November 2018

**List of Background Documents used to compile this Report:**

Exempt

**List of Appendices:** Standards log 2017-2018 (redacted)

### **3.The relevant legislation and protocols**

- 3.1 The Localism Act 2011 (“the Act”) introduced fundamental changes to the regulation of standards of conduct for elected and co-opted members.
- 3.2 Under Section 27 of the Act, a relevant authority must:
- i. promote and maintain high standards of conduct by its members and co-opted members; and
  - ii. when discharging its duty, adopt a voluntary code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in their capacity as members (that is in an official capacity)
- 3.3 Under section 28(6) of the Act a relevant authority must have in place, arrangements:
- (i) under which allegations can be investigated; and
  - (ii) under which decisions on allegations can be made
- 3.4 Birmingham City Council (“the Council”) is a relevant authority for the purposes of the Act. At its meeting on 11<sup>th</sup> July 2017 the Council adopted a Members’ Code of Conduct (“the Code of Conduct”) and approved arrangements for the investigation of allegations.
- 3.5 Paragraph 1 of the Code of Conduct makes it clear that the Code of Conduct applies to all members of the Council.
- 3.6 Although the ten principles of conduct were revoked in England on 1st July 2012 section 28(1) of the Act requires a relevant authority’s code of conduct to be consistent with the Seven Principles of Public Life set out in the First Report of the Nolan Committee on Standards in Public Life. The Council’s code incorporates the following principles:
- selflessness;
  - honesty and integrity;
  - objectivity;
  - accountability;
  - openness;
  - personal judgement ;
  - respect for others;
  - duty to uphold the law;
  - stewardship and leadership
- 3.7 Under Section 28(2) of the Localism Act the Council must secure that its Code of Conduct includes appropriate provision in respect of registration in its register and disclosure of pecuniary interests and interests other than non-pecuniary interests. Under section 6.4 & 6.5 of the Code, the Council sets out those provisions which apply to its members.
- 3.8 Under section 6.3 paragraph iii, the Code requires that a member of the Council must not bring their authority or office into



#### 4. Relevant background/chronology of key events:

- 4.1 A total of 31 complaints were made during the year April 2017 to March 2018, the period covered by this report.
- 4.2 Of these 31 cases, 23 complaints were made by citizens of Birmingham and 8 were made by Councillors against fellow councillors.
- 4.3 There were 6 cases where the complainant failed to submit a complaint form with the details of the allegations. As such these were closed with no further action.
- 4.4 Consequently 25 cases involved an initial assessment by the Deputy Monitoring Officer as to whether these were complaints that would warrant the appointment of an Investigating Officer or in more serious cases an Independent Investigator to undertake a more detailed investigation.
- 4.5 These 25 cases are broken down as follows –

| Complaint Type  | Number |
|---|--------|
| Specific Councillor behaviour (ranging from how meetings are chaired to abuse of power/sharing of confidential information) | 12     |
| Inappropriate use of social media   | 6      |
| Service Delivery  | 3      |
| Failure to declare interests  | 1      |
| Conduct in a private capacity   | 1      |
| Duplicate complaint (behaviour)   | 1      |
| Other   | 1      |
| Total   | 25     |

- 4.6 There were 19 cases where the Monitoring Officer via her Investigating Officer carried out an initial assessment of the complaint and determined that there was no breach of the code of conduct

##### Cases resolved informally by the Monitoring Officer

- 4.7 In those cases where the complaint was around service delivery or where the Councillor was acting in a private capacity these were deemed to be outside the remit of Code of Conduct/Standards Committee.
- 4.8 Cases relating to service delivery were referred to the relevant service for investigation/resolution.
- 4.9 In those cases relating to social media or Councillor behaviour, where it was established that there was no breach of the Code members were reminded to take care and in some cases the mere fact that a complaint had been made was sufficient to remind councillors of their obligations under the Council's code of conduct.

#### Cases going forward to 2<sup>nd</sup> stage investigation

- 4.10 These were complaints where following an initial assessment there were sufficient grounds to investigation or attempts at mediation/local resolution had failed. In all cases these were complaints by a member against a fellow member.

The complaints which went to a 2<sup>nd</sup> stage investigation can be broken down as follows -

| Complaint Type                      | Number |
|-------------------------------------|--------|
| Councillor behaviour                | 4      |
| Inappropriate social media comments | 1      |
| Total                               | 5      |

- 4.11 Of these, 1 investigation has been completed, whilst 4 complaints have gone to a second stage investigation. It has been possible to consolidate these cases into two separate matters where they related to same people/incident.
- 4.12 These cases were originally put on hold as a result of attempts to achieve resolution by other means. However, these attempts have ultimately proved unsuccessful. These cases are now going forward for a more detailed investigation.

#### **5. Recommendations**

- 5.1 There is closer co-operation between the Monitoring Officer and the Political Groups in relation to complaints submitted firstly in order to reduce the number of complaints made by councillors against other councillors and secondly, where a complaint has been made so the Political groups can become involved at an earlier stage to help with any mediation/local resolution.
- 5.2 More information be made available to members of the public so they better understand the type of complaints that can be considered under the code of conduct. A number of people assume, for example, that Standards Committee can suspend or dismiss a Councillor when that is not the case. However, The Commission into Standards in Public Life is currently reviewing, amongst other things, the sanctions that are available. A further update will be taken to the Committee once the Commission have made their report.
- 5.3 Consideration be given as to how, and what, information is contained on the Council's website pages so that the process is clear and resolution of complaints transparent, to enable members of the public to gain a better understanding by how and in what circumstances the standards regime operates.
- 5.4 The Code of Conduct and the Complaints procedure be reviewed to make it clearer and the process more open/transparent.
- 5.5 Consideration be given to the introduction of performance indicators to address concerns around the length of time it takes to investigate complaints.

| Ref:       | Month | Complaint Summary  | Preliminary findings                          | Decision                              |
|------------|-------|--|---|---------------------------------------|
| SC001<br>G | Mar   | Raising concerns over a Twitter exchange with the Councillor   |   | No breach of code - no further action |
| SC002<br>G | Apr   | Alleging that the Councillors have breached the code of conduct by not declaring a conflict of interest                  | Item 5  | No breach of code - no further action |
| SC003<br>G | Mar   | Councillor misconduct  |   | No breach of code - no further action |
| SC004<br>G | May   | Alleging Twitter misuse  |   | No breach of code - no further action |
| SC005<br>G | May   | Raised concerns of an overhanging tree and the lack of response to the predicament by the named Councillors              | No breach of code - issue re service delivery | No breach of code - no further action |
| SC006<br>G | Jun   | The complainant alleges that Cllr became negligent in his professional duties whilst acting on behalf of the Complainant | No breach - outside the remit of the code.    | No breach of code - no further action |
| SC007<br>G | July  | A LIF bid proposal approved by the three Councillors   |   | No breach of code - no further action |
| SC008<br>G | July  | Social Media misuse  |   | No breach of code - no further action |
| SC009<br>A | July  | Member behaviour at committee  |   |                                       |
| SC010<br>P | July  | Parking fine increase  | No breach of code - issue re service delivery | Form not returned - no further action |
| SC011<br>P | July  | Lord Mayors car illegally parked   |   | Form not returned - no further action |
| SC012<br>A | July  | Member behaviour at committee  |   |                                       |
| SC013<br>G | July  | Abuse of Councillor status   |   | No breach of code - no further action |
| SC014<br>G | Aug   | Social media misuse  |   | No breach of code - no further action |
| SC015<br>A | Sept  | Abuse of power   |   |                                       |
| SC016<br>G | Oct   | Policy matter re traffic management  | No breach of code - issue re service delivery | No breach of code - no further action |
| SC017<br>G | Oct   | Bullying and online abuse  |   | No breach of code - no further action |
| SC018<br>A | Nov   | Abusing their public office and taking advantage of their delegated power  | No breach of code.                            |                                       |
| SC019<br>G | Nov   | Behaviour of Councillors at local ward meetings  |   | No breach of code - no further action |
| SC020<br>G | Dec   | Complaint against Councillors re behavior at Committee   |   | No breach of code - no further action |
| SC021<br>A | Jan   | Social media allegations   |   |                                       |
| SC022<br>G | Dec   | Requested details of complaints against against Cllr   | Not a matter for the Code of Conduct          |                                       |
| SC023<br>G | Dec   | non disclosure of information by Cllr  |   | No breach of code - no further action |
| SC024<br>G | Jan   | Breach of conduct  |   | No breach of code - no further action |
| SC025<br>P | Jan   | Complaint against Mayor's office   |   |                                       |
| SC026<br>P | Jan   |  |   | Form not returned - no further action |
| SC027<br>P | Feb   | complaint against Cllr denying a resident entrance to a ward meeting   |   | Form not returned - no further action |
| SC028<br>G | Mar   | Allegations of abuse of tax payers money for own financial gain  |   | No breach of code - no further action |
| SC029<br>G | Mar   | Allegations of fraud   |   | No breach of code - no further action |
| SC030<br>G | Mar   | Allegations of abuse of tax payers money for own financial gain and of his powers  |   | No breach of code - no further action |
| SC031<br>P | Mar   |  |   | Form not returned - no further action |

RESOLVED/CLOSED

UNDER INFORMAL INVESTIGATION

UNDER FORMAL INVESTIGATION

NO COMPLAINT FORM RECEIVED



Item 6

## CODE OF CONDUCT FOR MEMBERS

### Introduction and interpretation

1. This code applies to **you** as a member, or co-opted member, of Birmingham City Council ("the Council"), The code is required by Section 27 of the Localism Act 2011.
2. It is **your** responsibility to comply with the provisions of this Code and uphold the seven principles of public life set out in paragraph number 3 below. Failure to do so may result in a sanction being applied by the Council and in respect of the disclosure of statutory disclosable Pecuniary Interests the potential of criminal liability.

### 2. Scope

- 2(1) You must comply with this Code whenever you:-

- (a) Conduct the business of Birmingham City Council; or
- (b) Act, claim to act or give the impression you are acting as a representative of Birmingham City Council;

References to your official capacity will be construed accordingly.

- 2(2) In addition to having effect in relation to conduct in your official capacity, this Code has effect, at any time, where conduct constitutes a criminal offence for which you have been convicted or received a Police Caution.

### 3. General obligations

- 3(1) Councillors and Co-optees are committed to behaving in a manner that is consistent with the seven principles of public life, as detailed in the Localism Act 2011 and set out below:

**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 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.

**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.

**Objectivity** – In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holder 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 they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**Leadership** – Holders of public office should promote and support these principles by leadership and by example, and should act in a way that secures or preserves public confidence.

### 3(2) Specific Duties

3.2.1 You **must** follow the Code of Conduct when you are representing your authority.

3.2.1 You **must** treat others with respect. This includes avoiding unfair, unreasonable or demeaning behaviour directed to another person.

3.2.2 You **must** promote equality in your actions and behaviours.

3.2.3 When carrying out your public duties such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, you must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

3.2.4 You must at all times facilitate and engage with the council and its committees on probity and ethical matters and submit yourself to the scrutiny necessary to ensure this without any undue delay

3.2.5 You **must** not –

(a) Do anything which may cause the Council to breach any of the equality duties, this means you **must not** discriminate against people on the grounds of race, gender, disability, religion or belief, sexual orientation and age or do anything which may knowingly cause the Council to breach the Equality Act 2010

(b) Bully any person, this means you **must not** bully, intimidate or attempt to intimidate any council officer or other person. [An example of this could be an attempt to undermine another person and have an adverse effect on them in terms of upset, detriment and ill health]. This applies both in the physical realm and social media / cyberspace.

(c) Intimidate or attempt to intimidate any person who is likely to be: a complainant, witness or person involved in the administration of any proceedings in relation to an allegation that a member [including yourself] has failed to comply with

Birmingham City Council's or any other Authority's Code of Conduct for Members

- (d) Do anything which compromises or is likely to compromise the impartiality of on those who work for, or on behalf of the Council.
- (e) You **must** not conduct yourself in a manner which could reasonably be seen as bringing your office or the council into disrepute.

- 3.2.6 You **must not** participate in meetings or be involved in decision-making where you have a Statutory Disclosable pecuniary or Personal interest, to do so in the cases of statutory disclosable pecuniary interest is a criminal offence.
- 3.2.7 You **must not** compromise the impartiality of people who work for your authority or on its behalf. Please refer to the Member and Officer protocol.
- 3.2.8 When reaching decisions on any matter you must have regard to any relevant advice provided to you by the Council's –
  - (a) The Head of Paid service ( the Chief Executive)
  - (b) Chief Finance Office (the Corporate Director of Finance & Governance); or
  - (c) Monitoring Officer (the City Solicitor & Monitoring Officer) where that officer is acting pursuant to his or her statutory duties.
- 3.2.9 Harassment of any form against colleagues is not acceptable. Colleagues for this purpose include Members and Officers of Birmingham City Council.
- 3.2.10 You **must not** use / or attempt to use your position improperly for personal gain or to advantage / disadvantage to your friends or close associates and others.
- 3.2.11 You **must not** disclose personal information or information given to you in confidence by anyone, or information acquired by you which you believe, or ought to believe, or ought reasonably to be aware, is of a confidential nature.
- 3.2.12 You **must not** prevent anyone getting information they are entitled to.
- 3.2.13 You **must not** place yourself under a financial or other obligation to outside individuals or organisations that may influence you in the performance of your duties.
- 3.2.14 You **must** be aware of what statutory disclosable pecuniary and personal interests are and take steps to register the same in accordance with the guidance set out below, if you are unsure – refer to the Monitoring Officer for advice. You are under a legal duty to disclose statutory disclosable pecuniary interests; failure to do so is a criminal offence.

3.2.15 You **must** keep your Register of Interest form including statutory disclosable Pecuniary and Personal Interests up-to-date and review annually at the start of the municipal year each May.

It is **your** responsibility to complete the declaration and update the same with any interests as they arise. You must then complete a new form. This should be done within 28 days of the awareness of the interest and no later than 28 days after the adoption of the code or your appointment (or re-appointment) as a councillor.

[https://www.birmingham.gov.uk/info/50069/councillors/285/councillors\\_interests](https://www.birmingham.gov.uk/info/50069/councillors/285/councillors_interests)

3.2.16 You must register Gifts and Hospitality worth more than £25, which are received in your role as a member

3.2.17 You **must** comply with the law as it applies to your role and the Council.

3.2.18 You **must** be aware and follow the Council's policies in respect of email and information technology use and policies on the use of Social media. In particular, with social media, when you are communicating you should consider the distinction between private and official communications.

3.2.19 You **must** not use the Council's resources, which includes the Council's address and email address, for any personal, party political or non-Council purpose.



## **PART 2 Interests**

### **Personal interests**

4. You have a personal interest in any business of the Council where either it relates to or is likely to affect –
- (i) anybody of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council;
  - (ii) any body –
    - (a) exercising functions of a public nature;
    - (b) directed to charitable purposes;
    - (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union); or
    - (d) which is a private club or society, such as the Freemasons, a recreational club, working men's club or private investment club, of which you are a member or in a position of general control or management;
  - (iii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25 or;
  - (iv) Or a decision is to be considered which might reasonably be regarded as affecting the well-being or financial position of you or a member of your family or a close friend or someone with whom you have a close association. It could also be a decision which to a greater extent than it would affect the majority of other council tax payers, ratepayers or inhabitants of your ward or electoral area.

### **5. Statutory Disclosable pecuniary interests**

In accordance with Section 30(3) of the Localism Act 2011 a pecuniary interest is “statutory Disclosable pecuniary interest” in relation to a member, if it is of a description specified below and either

- is an interest of the member, or
- is an interest of:-

- (a) the member's spouse or civil partner
- (b) a person with whom the member is living as husband and wife, or
- (c) a person with whom the member is living as if they were civil partners,

**and** the member is aware that the other person has the interest.

However it should be noted that the disclosure of sponsorship is only in relation to the sponsorship of the member and not in relation to a spouse or civil partner.

In the table below :

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

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

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

“relevant period” means the period of 12 months ending with the day on which the Member gives notification of a disclosable pecuniary interest;

“relevant person” means **you** (as a member) or your spouse or civil partner; a person with whom you are living as husband and wife; or a person with whom you are living as if you were civil partners;

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

## **DISCLOSABLE PECUNIARY INTERESTS**

| <b>Subject</b>                                    | <b>Prescribed description</b>  |
|---|--|
| Employment, office, trade, profession or vocation | Any employment, office, trade, profession or vocation carried on for profit or gain  |
| Sponsorship                                       | Any payment or provision of any other financial benefit (other than from the Council) made or provided within the relevant period in respect of any expenses incurred by the member in carrying out duties as a member, or towards the election expenses of the member. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a).  |
| Contracts   | Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant Council:<br>(a) under which goods or services are to be provided or works are to be executed; and<br>(b) which has not been fully discharged.   |
| Land  | Any beneficial interest in land which is within the area of the relevant Council.  |
| Licences  | Any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer   |
| Corporate Tenancies                               | Any tenancy where (to the member's knowledge) –<br>(a) the landlord is the Council; and<br>(b) the tenant is a body in which the relevant person has a beneficial interest   |
| Securities  | Any beneficial interest in securities of a body where:<br>(a) that body (to the member's knowledge) has a place of business or land in the area of the Council; and<br>(b) either: (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or<br>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class. |

## 6. Notification of interests

6.1. You must notify the Council's monitoring officer of any interest that is classed as a personal interest or a statutory disclosable pecuniary interest –

- (a) within 28 days of becoming a member or co-opted member of the Council;
- (b) within 28 days of acquiring any interest or becoming aware of any such interest;
- (c) within 28 days of any change to an interest that you have previously registered; or
- (d) within 28 days of disclosing an interest at a meeting of the Council

## **7. Disclosure of interests**

- 7.1 Where you have a personal interest in any business of the Council and you attend a meeting of the Council at which the business is considered unless the interest is a sensitive interest (see paragraph 7(3)), you must disclose the existence and nature of that interest and then consider whether the interest is of such significance that it warrants withdrawal from and no further participation in the discussion or vote on that item, with any such withdrawal from the meeting being recorded in the minutes.
- 7.2 Where you have a statutory disclosable pecuniary interest in any business of the Council and you attend a meeting of the Council at which the business is considered, unless the interest is a sensitive interest (see paragraph 7 (3)), you must disclose the existence and nature of that interest and, unless you have been granted a dispensation (see subparagraph 7(4)), you must not take part in the discussion or vote on that item and must withdraw from the meeting room, including the public gallery, before the item is considered by the meeting.
- 7.3 You need not disclose the nature of any personal interest or disclosable pecuniary interest in an item of business where the Council's monitoring officer considers that disclosure of the details of the interest ("a sensitive interest") could lead to you or a person connected with you being subject to violence or intimidation.
- 7.4 Paragraph 7(2) and 7(3), do not apply where the monitoring officer or the Standards Committee, as the case may be, has granted a dispensation to enable you to take part in the discussion of, or vote on that item, or both.

## **Dispensations available**

### *Circumstances in which dispensations may be granted*

The Independent Chair of the Standards Committee and/or the Monitoring Officer (including his/her Deputy), may grant a dispensation to a Member in the following circumstances:

- that so many Members of the decision making body have disclosable pecuniary interests in the matter that the meeting would be inquorate; or
- that the representation of different political groups on the decision making body would be so upset as to alter the likely vote on the matter; or
- that it is in the interests of persons living within Birmingham; or
- that it is otherwise considered appropriate to grant a dispensation.

### ***Records of dispensations***

The Monitoring Officer will ensure that:

- the existence, duration and nature of any dispensation is recorded in writing; and
- that such record is kept with the register of interests.

## **8. Disclosure of Non-Pecuniary Interests**

8.1 You should in the spirit of openness, disclose any other interests on a matter being, or to be, considered at a meeting or informal meeting which a member of the public with knowledge of the relevant facts, would reasonably regard to be so significant that it would materially impact upon your judgment of the public interest, and such declarations:

- ii. should include the nature and extent of your interest;
- ii. do not impact on your ability to participate or further participate in any discussion of the matter at the meeting or participate in any vote or further vote on the matter at the meeting.

## **9. Overview & Scrutiny Committees**

9.1 Where you have participated in the executive decision of any committee and that decision is subject to scrutiny, you may not attend the meeting(s) of the Overview &

Scrutiny Committee except for the purpose of making representations, answering questions or giving evidence.

## **10. Additional voluntary provisions**

10.1 No Councillor shall provide or offer to provide a formal reference for any candidate for employment or promotion with Birmingham City Council as to do so may be perceived as bringing an unacceptable pressure to bear on the appointing officer and any officer appointed as a result of such reference.

## 11. Offences

### 11.1 You commit an offence if without reasonable excuse –

- (a) you fail to notify the Monitoring officer within 28 days of becoming a member of the Council of any statutory disclosable pecuniary interests that you have;
- (b) you fail to disclose at a meeting of the Council the nature and extent of a statutory disclosable pecuniary interest that you have, and are aware of having, in an item of business that is being considered at the meeting, unless –
  - (i) the interest is a sensitive interest and paragraph 7(3) applies;
  - (ii) the interest is entered in the Register of Members' Interests maintained by the monitoring officer; or
  - (iii) the monitoring officer has been notified that you have such an interest but the register has not yet been updated ("a pending notification");
- (c) you fail to notify the monitoring officer of a Statutory disclosable pecuniary interest when you have declared the same where it has arisen at a meeting or other decision making forum and you have not registered the same within 28 days of the date on which you made the disclosure;
- (d) you participate in any discussion of, or vote on, any item of business at a meeting of the Council in which you have a statutory disclosable pecuniary interest of which you are aware, unless you have been granted a dispensation in accordance with paragraph 7 (4), or
- (e) you have a disclosable pecuniary interest of which you are aware in any item of business to be dealt with, or being dealt with, by you as a member of the Cabinet acting under delegated powers and despite having that interest continue to deal with that item of business, except where such dealing is for the purpose of arranging for the item to be dealt with otherwise than by you.

Terms within this Code of Conduct are given their normal English meaning, for example, to bully is defined in the Oxford English Dictionary as "to use superior strength or influence to intimidate (someone) typically to force them to do something"





# PROCEDURE FOR CONSIDERING COMPLAINTS ALLEGING A FAILURE TO COMPLY WITH THE MEMBERS' CODE OF CONDUCT FOR BIRMINGHAM CITY COUNCIL

Item 7

## Context

This guidance sets out how you may make a complaint that an elected or co-opted Member has allegedly failed to comply with the Council's Code of Conduct, and sets out how the Council will deal with allegations of a failure to comply with the Council's Code of Conduct.

## The Code of Conduct

The Council has adopted a Code of Conduct for Councillors, which can be found [\(insert link\)](#) and is available for inspection on the Council's website.

## Making a Complaint

If you wish to make a complaint,

this has to be on the specific complaint form provided. This can be made available on request and is on the Council's website or by following this link [\(insert link\)](#)

You will need to cite which parts of the code you are relying upon and where possible you should provide supporting evidence.

This needs to be sent to:

The Monitoring Officer  
P O Box 15992  
Birmingham  
B2 2UQ  
[MonitoringOfficer@birmingham.gov.uk](mailto:MonitoringOfficer@birmingham.gov.uk)

You will have to identify yourself as the complainant on the form as the assumption is that any member has the right to know who has made the complaint against them. However in **exceptional** circumstances the Monitoring Officer may agree that your name can be withheld but you will need to provide detailed reasons as to why that should be the case.

Such reasons could include;

- You have reasonable grounds to believe you would be at risk of physical harm or;
- You are an officer working closely with the Member in question and you fear the employment consequences or
- It would create medical risks associated with a serious health condition.

Requests to keep your name and address confidential will not automatically be granted.

However, if you have made such a request you will be contacted and advised of the decision and, if your request is not granted, we will allow you the option of requesting the withdrawal of your complaint.

## DEFINITIONS AND GENERAL PRINCIPLES

Terms used in this document in the masculine form apply equally to the feminine form and words in the singular form include the plural form where the context allows. The following terms are defined for the purposes of this document:-

1. "Authority" or "The Council" means Birmingham City Council or a Parish/Town Council within the City of Birmingham, whichever is the Council whose code of conduct is alleged to have been breached by the Member.
2. "Code of Conduct" means the code of conduct applicable to the Authority at the material time in relation to allegation.
3. "Member" means the member/councillor (or co-opted member) who is the subject of the allegation being considered by the Monitoring Officer/Standards Committee.
4. "Monitoring Officer" means the person appointed by Birmingham City Council under section 5 of the Local Government and Housing Act 1989, and includes any person designated by him to perform any functions under these procedures.
5. "Independent Person" means the person(s) appointed by Birmingham City Council under section 28 of the Localism Act 2011 and who will be invited to attend the Hearing to provide advice to the Panel.
6. "Investigating Officer" means the person commissioned by the Monitoring Officer to investigate the allegation, and the term includes the Investigating Officer's nominated representative.
7. "Legal advisor" means the officer responsible for providing legal advice to the Standards committee. This may be the Monitoring Officer, another legally qualified officer of BCC, or someone appointed for this purpose from outside BCC.
8. "BCC" means Birmingham City Council.

## Introduction

1. This procedure should be used to deal with complaints submitted under the Members' Code of Conduct adopted by Birmingham City Council and any Parish/Town Councils in the Birmingham City Council area.
2. The Members' Code of Conduct applies to elected Members and co-opted members when they are acting in that capacity. Complaints which relate to a failure to comply with the rules about 'Disclosable Pecuniary Interests' may be directed to the West Midlands Police for their consideration. Complaints about a potential breach of the general obligations should be submitted to the Monitoring Officer for consideration.
3. The Monitoring Officer will ordinarily nominate another officer of suitable experience and seniority (usually the Deputy Monitoring officer or other senior officer) to carry out any of the functions listed in this procedure.

## Stage 1 - Initial assessment by the Monitoring Officer

4. Complaints must be submitted in writing and should be on the City Council's complaints form [{Insert link}](#). Full details of the complaint must be provided, and should outline what form of resolution the complainant is seeking. The complainant should also state how the subject member is alleged to have breached the code of conduct.
5. Other written complaints may be considered so long as they contain all of the relevant information.
6. The Deputy Monitoring Officer will consider the complaint and make a decision as to whether it will be treated as a valid complaint or not, within **7 days** of receipt of the form from the complainant.
7. The following types of complaint will not be considered as 'valid complaints' under this procedure:
  - a. Complaints which are submitted anonymously<sup>1 2</sup>;
  - b. Complaints which do not identify a subject Member;
  - c. Complaints which relate to a Member's personal or private life;

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<sup>1</sup> Complaints which contain a request for the complainant's identity to be withheld may be considered to be 'valid complaints', although the complainant's identity will only be withheld in exceptional circumstances. If the Monitoring Officer does not consider it appropriate to withhold the complainant's identity, the complainant will be given the opportunity to withdraw their complaint before it proceeds to the next stage.

<sup>2</sup> Anonymous complaints which reveal potential fraud or corruption may be dealt with by the Council's Whistle blowing Policy

- d. Complaints concerning a failure to respond to a request from a constituent or other individual;
  - e. Complaints which relate to the alleged actions of employees of the Council or co-optees;
  - f. Complaints which relate to a decision of an employee or a Committee;
  - g. Complaints which relate to a person who is no longer a Member of the Council or which refer to alleged incidents before the person became a Member of the Council<sup>3</sup>;
  - h. Complaints which refer to alleged incidents which happened so long ago that there would be little benefit in taking action now;
  - i. Complaints containing trivial allegations, or which appear to be simply malicious, politically motivated or tit-for-tat;
  - j. Complaints regarding alleged behaviour which has already been the subject of an investigation or some form of action;
  - k. Complaints which do not relate to the Members' Code of Conduct.
8. In all cases where the complaint names a Member, the Member will be notified of the complaint<sup>4</sup>.
  9. The Monitoring Officer (or his Deputy) will determine whether the investigation is invalid or whether it should proceed to Stage 2 - an initial Investigation. If the Monitoring Officer decides that the complaint is 'invalid', the notification will be made to the member for information only.
  10. If the complaint relates to an employee or is a service related issue, the Monitoring Officer will refer the complaint to the relevant service in order for them to respond to the complainant directly.
  11. In any case where the Monitoring Officer decides that the complaint is 'invalid', they will write to the complainant explaining why the complaint cannot be dealt with under this procedure. There is no appeal process for decisions taken by the Monitoring Officer at this stage.
  12. In cases involving member to member complaints, these will not be investigated until the Monitoring Officer considers other processes eg mediation or political group processes with the Group Secretaries and/or the Group Whip (see also paragraph 25 below).

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<sup>3</sup> The Monitoring Officer will only investigate allegations during the period in which the person was an elected member.

<sup>4</sup> Information shared will include details of the complainant and their complaint. The Subject Member will receive this information as a data controller in their own right and all usual data protection controls will apply.

## Stage 2 – Initial Investigation

13. If, following initial assessment, the Monitoring Officer decides that the complaint should be treated as a 'valid complaint' they will write to the complainant and explain that the matter is to be referred to the subject Member and the Deputy Monitoring Officer (or other senior officer) who will oversee the investigation.
14. The Deputy Monitoring Officer may appoint an Investigating Officer to conduct the initial review on behalf of the Monitoring Officer.
15. However in appropriate cases the Monitoring Officer may appoint an external Investigating Officer to undertake a full investigation where circumstances warrant such an appointment.
16. The complainant will also be provided with an outline of the procedure for dealing with complaints against Councillors and that the assumption is that all complaints will be resolved in accordance with this procedure.
17. The Deputy Monitoring Officer will provide the subject member with a reasonable timescale within which to respond to the complaint. This will usually be within 21 days although this may be extended at the discretion of the Deputy Monitoring Officer.
18. At the same time the Deputy Monitoring Officer will forward a copy of the complaint to the relevant Group Secretary or Group whip<sup>5</sup>.
19. Following receipt of the member's comments in response to the complaint, the Deputy Monitoring Officer /Investigating Officer will undertake an initial review based on the complaint form and any written responses.
20. Whilst the aim is to consider the complaints based on the written submissions, the Deputy Monitoring Officer /Investigating Officer can seek further clarification from any party and may request to meet with them or any witnesses. The aim is to complete any initial review within **28 days** of the Deputy Monitoring Officer receiving the subject Members response to the complaint.
21. At the end of his/her investigation, the Investigating Officer will produce a draft report with recommendations. This in the first instance will be sent to the Monitoring Officer and the Independent Chair of Standards Committee or such lay member of the committee as he/she may appoint.
22. The Monitoring Officer will review the Investigating Officer's report after consulting with the Independent Chair of Standards Committee. If the Monitoring Officer is not satisfied with the investigation he/she can ask the Investigating Officer to reconsider the report or specific elements.
23. If the Monitoring Officer and the Independent Chair of Standards Committee are in agreement with the Investigating officer's recommendations, copies of that draft report will be sent, in confidence, to the complainant and to the Member

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<sup>5</sup> If the subject Member is the Group Secretary, the complaint will be copied to his or her Group Whip. In the case of a Parish or Town Council without structured political groups, the Monitoring Officer could consider involving the Chairperson of the Council.

concerned, to give both an opportunity to identify any matter in that draft report which they disagree with or which they consider requires more consideration.

24. Having received and taken account of any comments which maybe received on the draft report, the Deputy Monitoring Officer /Investigating Officer will send his/her final report to the Monitoring Officer and the Independent Chair of Standards Committee.

### **Special provisions – member/member complaints**

25. Where a complaint is made by one councillor against another councillor, the Monitoring Officer, following consultation with the Independent Chair of Standards Committee may refer the matter to the relevant Group Secretaries/Group Whips for them to mediate between the parties.
26. After a 28 day period the Group Secretaries/Group Whips will provide a report to the Monitoring Officer and the Chair of Standards Committee with a report on whether a resolution was possible and if not what steps have been taken to resolve that matter<sup>6</sup>.
27. If the matter cannot be resolved or if mediation is not thought to be possible then the Group Secretaries/Group Whips can refer the matter back to the Monitoring Officer.
28. If required the Independent Person is available to provide advice on the severity of the complaint and what form of resolution they would consider appropriate. Providing guidance does not prevent the Independent Person from giving a view to Standards Committee about the complaint at a later date.

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

29. The Monitoring Officer will write to the complainant, the Member concerned and to his/her Group Secretary/Chief whip notifying that the Monitoring Officer is satisfied that no further action is required, or that the complaint has otherwise been resolved and enclose a copy of the Investigating Officer's final report.
30. The Monitoring Officer may consult with the Independent Chair of Standards Committee and share a copy of the Investigating Officer's final report

*Note - Although there is no internal right of appeal, the complainant or the member who is subject of the complaint may refer the Monitoring Officer's decision to the Local Government Ombudsman if there is some fault in the way that he/she has considered the complaint and there is sufficient injustice to warrant their involvement.*

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<sup>6</sup> This can be used as evidence at any full hearing

**What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct that requires a determination by Standards Committee?**

31. Where that there is potential evidence of a failure to comply with the Code of Conduct the following options are available to the Monitoring Officer :

- If there appears to be criminal misconduct, the Monitoring Officer will refer the case to the Police.
- The Monitoring Officer can seek, in consultation with the Independent Chair of the Standards Committee, to resolve the complaint informally by getting the Member to acknowledge that their conduct was unacceptable and apologise, or engage in other remedial actions on behalf of the authority.
- Refer the matter to Standards Committee for full hearing.

**Local Resolution**

32. 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 Chair of Standards and the parties involved to agree what would be considered a fair resolution which also helps to ensure higher standards of conduct for the future.

33. Such resolution may include;

- i. An explanation by the subject Member of the circumstances surrounding the complaint;
- ii. An apology from the subject Member;
- iii. An agreement from the subject Member to attend relevant training or to take part in a mentoring process;
- iv. An offer by the subject Member to engage in a process of mediation or conciliation between them and the complainant; or
- v. Any other action capable of resolving the complaint.

34. If the Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee [and if appropriate, the Parish/Town Council] for information as well as the Group Secretary/Group Whip, but will take no further action.

35. Where the Member makes a reasonable offer of local resolution, but the complainant is not prepared to accept the offer, the Independent Chair of



Standards Committee will take account of this in deciding whether the complaint merits a full hearing.

### **Stage 3 – Standards Committee Hearings**

36. The Monitoring Officer will provide for consideration by the Standards Committee the original complaint, the Investigating Officers report and details of efforts made to resolve the matter informally.
37. The Monitoring Officer must arrange for a meeting of the Standards Committee (or if appropriate a relevant Sub-Committee<sup>7</sup>) to be convened to consider the commissioned report of the complaint.
38. The Independent Chair of Standards Committee will in consultation with the Monitoring officer and Standards Committee determine the make-up of any sub-committee.
39. If the complaint relates to a Parish or Town Councillor, one of the co-opted Parish Members will be invited to attend the Committee meeting. The Parish Member will not be entitled to vote at the meeting, but will be entitled to speak at the discretion of the Chair/Deputy Chair.
40. The Standards Committee or sub-committee will consider directions to enable the matter to proceed to a Final Hearing
41. The following people<sup>8</sup> will also be invited to attend the Final Hearing meeting:
  - a. The complainant;
  - b. The subject Member;
  - c. The Independent Person.
  - d. Any witnesses
  - e. Or any other person as determined by the Chair of the Standards Committee and/or the Monitoring Officer
42. The Monitoring Officer will attend the meeting in order to advise the committee.
43. At the beginning of the meeting the Committee will be asked to consider whether the complaint should be considered in private in accordance with the provisions of Rule 10 of the Access to Information Procedure Rules relating to exempt information. If the meeting is to be held in private the press and public will be excluded<sup>9</sup>.

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<sup>7</sup> Such Sub-Committee will be made up of at least 6 Members from the Standards Committee.

<sup>8</sup> No person shall sit on a full hearing if they have previously considered any element of the complaint in order to avoid any potential conflict of interest.

<sup>9</sup> The Committee may invite people to remain in the meeting if it is considered that they could provide information relevant to the complaint.

44. After initial consideration of the commissioned report, the Committee will take statements from the following parties (either in person or in written form if the person is unable to attend the meeting):
- a. The complainant; and
  - b. The subject Member.
  - c. Or any other person as determined by the Committee
45. The Committee may also ask questions of anyone present at the meeting in order to reach a conclusion on the complaint.
46. Before reaching a final decision on the complaint, the Committee must seek, and take account of, the view of the Independent Person in relation to the complaint.
47. If the Committee is unable to reach a conclusion on the complaint on the basis of the information before it, it may adjourn the meeting and request that the Monitoring Officer seeks the further information required. However, when doing so the Committee should consider whether the information will be readily available to the Monitoring Officer.
48. Once the Committee is satisfied with the information before it, it must decide the following issues:
- a. Whether the subject Member has failed to comply with the Members' Code of Conduct;
  - b. Whether further action is warranted; and
  - c. What form of action might be appropriate.
49. If the Committee concludes that, on the balance of probabilities, the subject Member did not fail to comply with the Members' Code of Conduct, this will conclude the complaints process. In such cases no further action will be taken in respect of the complaint, although the Committee may still wish to consider making a recommendation to the authority with a view to promoting and maintaining high standards of conduct in general. Before doing so, the Committee may hear further representations from the subject member and the Independent Person. Such recommendations may include proposed changes to internal procedures and practices or training for Members in general.
50. If the Committee concludes that, on the balance of probabilities, the subject Member has failed to comply with the Members' Code of Conduct, the Committee must go on to consider whether action should be recommended in respect of the subject Member, and what form of action might be appropriate.
51. The recommendations available to the Committee include<sup>10</sup> but are not limited to:
- a. A formal letter to the subject Member from the Chair of the Standards Committee;

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<sup>10</sup> The committee may not decide to disqualify or suspend the subject Member as a Councillor.

- b. Formal censure by a motion of full Council; or
- c. Removal by the authority of the Member from a relevant Committee(s) subject to statutory and constitutional requirements.

Furthermore the Hearings Panel may:-

- Reprimand the Member;
- Request that the Member be required to make an apology at Council;
- Publish its findings in respect of the Member's conduct;
- Report its findings to Council for information;
- Recommend that he/she be removed from any or all Committees or Sub-Committees of the Council;
- Recommend to the Leader of the Council that the Member be removed from the Cabinet.
- Recommend to Council that the Member be replaced as Executive Leader;
- Instruct the Monitoring Officer to arrange training for the Member, which the Member is obliged to attend;
- Remove from all outside appointments to which he/she has been appointed or nominated by the Council;
- Exclude the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

The Hearings Panel has no power to suspend or disqualify the Member or to withdraw Members' or special responsibility allowances.

52. The Committee may make a recommendation in relation to one or more of the above sanctions to full Council or, if appropriate, the Town or Parish Council, the Group Whip or the Chair of the Standards and Conduct Committee. The Chair will confirm any such recommendations in writing within five working days of the Committee meeting.

53. The Committee may also make general recommendations to the authority with a view to promoting and maintaining high standards of conduct within the authority. As stated above, such recommendations may include proposed changes to internal procedures and practices or training for Members in general. The Monitoring Officer will be responsible for communicating such recommendations to the relevant Committee or officer for consideration.

54. Within five working days of the meeting the Independent Chair of the Standards Committee will write to the complainant and the subject Member explaining the final decision of the Committee and detailing any recommendations made.
55. There is no right of appeal against a decision of the Committee.

## **ANNEX 1 - ROLE OF THE 'INDEPENDENT PERSON'**

### **Role of the Independent Person**

The role of the independent person is set out in Section 28 of the Localism Act 2011.

Independent Members will be invited to attend meetings of the Standards Committee, with agreement of the Chair, and will be provided with agendas and minutes of such meetings.

As part of its arrangements under which decisions on allegations can be made, each principal authority must appoint at least one independent person.

The independent person's views will<sup>11</sup> be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate.

The authority may also seek the independent person's views on any complaint. However, there is no requirement for the authority to do so, or to take those views into account. Where a matter is referred to the Standards Committee or its Sub-Committee for determination, the Committee will seek the views of the Independent Persons before reaching its conclusions. Those views will be recorded in any decision notice.

Independent Persons will consider all the information relating to a complaint, the views of the parties involved in the complaint, the Code of Conduct and the law as it affects standards matters, before offering their view.

The Monitoring Officer may contact the Independent Person by telephone, email, in writing or arrange a meeting. Any communication should be formally recorded.

The Independent Person will be provided with sufficient information in order to provide their view and be given sufficient time to consider that information before providing their view. This will change on a case by case basis.

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<sup>11</sup> Section 28 (7) of the Localism Act 2011,

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.

The Independent Person should provide their views in written form, even if the views have already been given verbally.

Finally, a member or co-opted member of the authority (or of a parish council in the area) may seek the independent person's views on an allegation made against them at any time.

As part of its arrangements under which decisions on allegations can be made, each principal authority must appoint at least one independent person.

The independent person's views **may** be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate.

The authority may also seek the independent person's views on an allegation that it has not decided to investigate. However, there is no requirement for the authority to do so, or to take those views into account.

Finally, a member or co-opted member of the authority (or of a parish council in the area) may seek the independent person's views on an allegation made against them at any time.