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DATE: 22 February 2021

To: Members of the
STANDARDS COMMITTEE
Councillor Will Harmer (Chairman)
Councillor Vanessa Allen (Vice-Chairman)
Dr Simon Davey, Ken Palmer, Councillor Melanie Stevens, Councillor Michael Tickner and Councillor Stephen Wells

A meeting of the Standards Committee will be held on **TUESDAY 2 MARCH 2021**
AT 6.30 PM

PLEASE NOTE: This is a 'virtual meeting' and members of the press and public can see and hear the Committee by visiting the following page on the Council's website: –
<https://www.bromley.gov.uk/councilmeetingslive>

Live streaming will commence shortly before the meeting starts.

MARK BOWEN
Director of Corporate Services

A G E N D A

1 APOLOGIES FOR ABSENCE

2 DECLARATIONS OF INTEREST

3 MINUTES OF THE MEETING HELD ON 27 OCTOBER 2020 (Pages 1 - 4)

4 QUESTIONS

In accordance with the Council's Constitution, questions that are not specific to reports on the agenda must have been received in writing 10 working days before the date of the meeting.

Questions specifically on reports on the agenda should be received within two working days of the normal publication date of the agenda. Please ensure that questions specifically on reports on the agenda are received by the Democratic Services Team by **Wednesday 24th February 2021.**

5 DISCUSSION WITH THE GROUP LEADERS

6 MONITORING OFFICER'S GENERAL REPORT (Pages 5 - 20)

7 LOCAL GOVERNMENT ACT 1972 AS SUBSEQUENTLY AMENDED

The Chairman to move that the Press and public be excluded during consideration of the items of business listed below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of confidential information.

Items of Business

Schedule 12A Description

- | | | |
|----------|--|---|
| 8 | MONITORING OFFICER'S GENERAL REPORT - PART 2 APPENDIX (Pages 21 - 38) | Information relating to any individual. |
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STANDARDS COMMITTEE

Minutes of the meeting held at 6.30 pm on 27 October 2020

Present:

Councillor Will Harmer (Chairman)
Councillor Vanessa Allen (Vice-Chairman)
Dr Simon Davey, Ken Palmer, Councillor Melanie Stevens,
Councillor Michael Tickner and Councillor Stephen Wells

1 APOLOGIES FOR ABSENCE

There were no apologies for absence.

2 DECLARATIONS OF INTEREST

Councillor Melanie Stevens declared that she was named in Appendix 4 of the Monitoring Officer's Report.

3 MINUTES OF THE MEETING HELD ON 12 MARCH 2020

The minutes of the meeting held on 12th March 2020, were agreed and signed as a correct record.

Matters Arising from the Minutes:

In relation to the meeting with the Group Leader's, the Chairman confirmed that as there were no urgent issues to discuss with the Group Leaders the session would be carried over to the next meeting (on 2nd March 2021) when it was hoped that an 'in person', rather than a virtual, meeting could be facilitated.

Concerning the review of the Governance Statements, the Committee noted that Co-opted Members with voting rights were required to sign the Code of Conduct meaning that they were bound by rules of confidentiality. In addition, the Council's Constitution set out rules and protocols for Co-opted Members and these stressed the need to maintain confidentiality and avoid conflicts of interest. The Monitoring Officer suggested that it may be helpful to refresh the protocols and it was agreed that an item on this would be included in the agenda for the next meeting.

Members noted that the Planning Protocol had been adopted by Full Council in July 2020 and was now included in the Council's Constitution. In respect of training on planning matters, the Monitoring Officer confirmed that he worked closely with the Assistant Director for Planning to deliver training which was well attended by Members. The Member induction programme following the 2022 local elections would also include training on planning matters.

The Committee considered whether it would be helpful for the Standards Committee to have a broad overview if any training attended by Members. It was agreed that it may be helpful to review this issue at a future meeting.

4 QUESTIONS

No questions had been received.

5 MONITORING OFFICER'S GENERAL REPORT Report CSD20102

The report updated the Committee on a number of standards issues.

Revised Code of Conduct

It was noted that the revised Code of Conduct had been adopted by Full Council on 12th October 2020.

Response to Committee on Standards in Public Life

In reviewing the best practice recommendations that had been made by the Committee on Standards in Public Life, Members noted that LB Bromley had gone a long way in complying with the recommendations that had been made.

It was agreed that Members of the Standards Committee would feedback any comments on the Monitoring Officer's proposed response by Tuesday 3rd November 2020.

Members noted that the response to the Committee on Standards in Public Life was separate to the LGA Consultation on a draft Code of Conduct.

Local Government Association (LGA) Draft Code of Conduct Consultation

The Committee noted that whilst LB Bromley was not a Member of the LGA, from time-to time the LGA, at the request of the Government, took forward initiatives which impacted on Local Government as a whole. This was one such initiative and on that basis, Bromley was entitled to contribute toward the LGA draft code as the LGA were taking representations from local authorities irrespective of whether they were members.

Council Complaints Process

The Committee noted that there were two stages to the complaints handling process – 1. An initial filtering process and, 2. A full investigation. Effectively what happened was when a complaint was received it would be considered by Officers at face value, comments would be obtained from the relevant member and a view would be taken on whether firstly, the Code was engaged (i.e. determining - using the public interest test – whether the Member was acting in an official capacity), and secondly whether there was the potential,

following an investigation, for a finding that the Member may have breached of the Code of Conduct. It was noted that if the Member was not acting in an official capacity the complaint would fall immediately. Since March 2020, one of the Independent Persons had been engaged at the filtering stage to seek a view. The Independent Person became involved at the point at which the response had been drafted. The Independent Person provided feedback on the substance of the complaint and the response prior to it being forwarded to the complainant and the subject member. It was important that only one Independent Person was engaged at the filtering stage as if a matter was recommended for investigation by the Standards Committee there was an obligation to again consult with an Independent Person on any sanction or remedy taken. To date, the threshold for complaints had not been passed in the filtering exercises that had been undertaken. Experience had demonstrated that both the complainant and the subject member provided a reasonable amount of information at the filtering stage. The key point was that the investigation stage involved the formal review of documentation and the formal report to be considered by the Standards Committee with the opportunity to drill down into detail to determine whether there had been a breach. The Committee noted that all Code of Conduct complaints received by the Council received due consideration and a formal response from Officers irrespective of whether they proceeded to the investigation stage.

Members noted that in the event of a disagreement between the Independent Person and the Officer undertaking the filtering process it would ultimately be the decision of the Monitoring Officer that would prevail as the Independent Person was a consultee in the process.

In relation to concerns expressed around the disclosure of information, the Committee noted that the recent revision to the Code of Conduct made it mandatory to co-operate with a Standards Investigation as such non co-operation was itself a breach of the Code which could be dealt with regardless of the substance of the original complaint. In terms of the sanctions available, Members noted that unless a Member breached the rules around disclosure of pecuniary interest (which would create a criminal offense dealt with by the Police) there was very little that could be put in place by way of sanctions. Currently the Standards system advocated persuasion rather than regulation and an authority had to look at the sanctions it was permitted to implement rather than those it was desirable to implement.

The Committee discussed issues around social media activity and whether individuals who were clearly known to be local councillors were or were not acting in an official capacity when engaged in activity on social media. The Monitoring Officer advised that the [2006 "Ken Livingstone"](#) case created a clear distinction between the actions of an individual in their private life and their professional actions and they type of behaviour that would bring an office into disrepute. Members noted that previous cases that had been determined had held that a passive reference to being a councillor did not engage the Code. The Monitoring Officer suggested that consideration could be given to developing a Code of Practice for Members around the use of social media and the need to maintain high ethical standards.

The Committee suggested that it may be helpful to review the wording that was used in responses where it was determined at the initial filtering stage that there was little likelihood of an investigating finding that the Code of Conduct had been breached. It was suggested that the current wording did nothing to exonerate the subject of the complaint. The Monitoring Officer agreed that the wording, which was used with regularity when responding to complaints, could be reviewed however the key issue was that until a full investigation had been undertaken Officers were unable to say with certainty that the Code had not been breached consequently, the wording had an element of 'legalese' in order to reflect this. It was acknowledged that it was unpleasant for a councillor to have a complaint made against them and therefore the wording would be reviewed with the Independent Persons to see if there was a more sympathetic form of wording that could be used in cases where it was unlikely that a breach of the Code would be found.

RESOLVED: That the report be noted.

6 LOCAL GOVERNMENT ACT 1972 AS SUBSEQUENTLY AMENDED

RESOLVED that the Press and public be excluded during consideration of the items of business referred to below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

**The following summaries
refer to matters involving exempt information**

7 MONITORING OFFICER'S GENERAL REPORT - PART 2 APPENDIX

The Committee noted the Part 2 appendix.

The Meeting ended at 7.25 pm

Chairman

Report No.
CSD21024

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: **STANDARDS COMMITTEE**

Date: **2 March 2021**

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **MONITORING OFFICER'S GENERAL REPORT**

Contact Officer: Philippa Gibbs, Deputy Democratic Services Manager
Tel: 020 8461 7638 E-mail: Philippa.Gibbs@bromley.gov.uk

Chief Officer: Director of Corporate Services

Ward: All Wards

1. Reason for report

1.1 To update the Committee on a number of standards issues -

- Dispensations granted
- Gifts and Hospitality declarations
- Register of Interests
- Work Programme and Matters Outstanding
- LGA Draft Code of Conduct Consultation
- Publishing Complaints procedure on Website
- Threshold for Investigation Criteria
- Protocol for Co-opted Members
- Recruitment of an Additional Independent Person
- Complaints

2. **RECOMMENDATION(S)**

That the Committee notes and comments on the Monitoring Officer's report.

Impact on Vulnerable Adults and Children

1. Summary of Impact: Not Applicable
-

Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Excellent Council:
-

Financial

1. Cost of proposal: No Cost:
 2. Ongoing costs: Not Applicable:
 3. Budget head/performance centre: Democratic Services
 4. Total current budget for this head: £358,740
 5. Source of funding: 2019/20 revenue budget
-

Personnel

1. Number of staff (current and additional): 6.79fte
 2. If from existing staff resources, number of staff hours: Not Applicable
-

Legal

1. Legal Requirement: Statutory Requirement: Local Government Acts 1972 and 2000 and subsequent legislation.
 2. Call-in: Not Applicable: This report does not involve an executive decision.
-

Procurement

1. Summary of Procurement Implications: Not Applicable
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): The standards system affects all Members of the Council, and potentially any member of the public who considers that a member may have breached the Code of Conduct.
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Not Applicable

3. COMMENTARY

Dispensations Granted

- 3.1 The Council has delegated to the Monitoring Officer, in consultation with members of the Urgency Committee, the authority to grant dispensations to Councillors to attend and speak at meetings of the authority in circumstances where, under the Code of Conduct, they have a disclosable pecuniary interest (Scheme of Delegation to Officer, Part 2A, 3 (xxv)). Where these dispensations have been sought, they are typically about town planning issues, where the Code of Conduct means that councillors have less opportunity to assert their interests than other residents, or about employment, where technically there is a disclosable pecuniary interest, but in practice that interest is not significant. No dispensations have been granted since the last meeting.

Gifts and Hospitality Register

- 3.2 Under the Code of Conduct, Councillors are required to declare gifts and hospitality received due to their role as Councillors over the value of £25. These are published on the Council website, with a link from each Member's page. Since the last meeting no Members have registered the receipt of any gifts or hospitality.

Register of Interests

- 3.3 Under the Localism Act 2011, the Register of Interests is required to be published on the Council's website, and a link to each Councillor's declaration is provided on their page. Members of the Standards Committee are asked to review the Register of Interest prior to the meeting. The online Register of Interest will also be available at the meeting.

Work Programme and Matters Outstanding from Previous Meetings

- 3.4 Full Council at its meeting on 8th April 2019 decided that all Council Committees and Sub-Committees should include provision at scheduled meetings to consider matters outstanding from previous meetings. These matters will often form part of the future work programme. A summary of matters outstanding from previous meetings is attached at [Appendix 1](#).
- 3.5 The Council's 2021/22 programme of meetings includes three scheduled meetings of this Committee. The Committee's next meeting is scheduled to take place on Thursday 15th July 2021. Members of the Committee are requested to consider what issues they wish to consider at future meetings.

LGA Draft Code of Conduct Consultation

- 3.6 In December 2020, the LGA published a revised Model Code of Conduct following a consultation earlier in the year. The Model Code can be accessed at the following link:
<https://www.local.gov.uk/local-government-association-model-councillor-code-conduct-2020-0>
- 3.7 The Standards Committee may wish to give consideration to whether to make a recommendation to Full Council to adopt the revised LGA Model Code of Conduct.

Revised Code of Conduct

- 3.8 Bromley's revised Code of Conduct was approved at Full Council on 12th October 2020 and had been re-published on the Council's website.

Publishing Complaints procedure on Website

- 3.9 The procedure used to consider any Code of Conduct complaints that are received is being formalised in a draft document. The document will be circulated to the Standards Committee prior to the meeting on 2 March 2021 and will be attached to this report as [Appendix 4](#). Following discussion at the Standards Committee the document will be further updated and then published on the Council's website.

Threshold for Investigation Criteria

- 3.10 An Independent Person has suggested that it would be helpful to both elected Members and the public if the 'threshold for investigation criteria' for complaints was formalised and made public along with the evidence that would be used to determine how something moves forward.
- 3.11 The Code of Conduct Complaints procedure sets out some proposed thresholds for investigation criteria.

Code of Conduct and Protocol for Co-opted Members

- 3.12 Co-opted Members are subject to the same Code of Conduct as elected Members of the Council. Once appointed to a Committee, Co-opted Members are required to sign to confirm that they understand the expectation that they comply with the Code of Conduct at all times when undertaking their Co-opted Member role.
- 3.13 In addition to the Code of Conduct, Appendix 9 of the Council's Constitution (attached to this report at [Appendix 2](#)), sets out additional guidance to Co-opted Members.

Recruitment of an Additional Independent Person

- 3.14 Every principal local authority must appoint at least one independent person to be consulted by the authority or by members of the authority on standards issues. Bromley currently has two Independent Persons however, in the interests of business continuity, the Standards Committee is asked to give consideration to putting in place arrangements for the recruitment of a third Independent Person.

Complaints

- 3.15 A summary of recent complaints against Councillors, since the Committee's last meeting, is included in the Part 2 [Appendix 3](#). As these complaints contain personal details about Councillors and complainants, and also as the Councillors concerned have not necessarily done anything that is clearly against the Code of Conduct, this information is included on the part 2 (private) agenda. In addition to the usual summary of complaints presented to the Committee, details of the outcomes of two Code of Conduct Complaints relating to the same planning application have been included for further information.
- 3.16 There are no formal standards investigations at present.

Work Programme and Matters Outstanding from Previous Meetings

Matters Outstanding from Previous Meetings:

Minute No.	Issue	Update
34.	Once the Planning Protocol has embedded the Chairman of the Development Control Committee should be invited to a Standards Committee meeting to discuss the impact of the changes	Once the Programme of Meetings for 2021/22 has been approved a suitable date can be agreed.
3. (27.10.20)	That the rules and protocols within the Constitution relating to Co-opted Members be reviewed and refreshed and update be provided to the next meeting of the Standards Committee.	The protocols have been included within the Monitoring Officer's General Report.
3. (27.10.20)	That training attended by Members be reviewed at a future meeting.	An item will be scheduled once the 2021/22 Programme of Meetings has been approved by Full Council.
5. (27.10.20)	That consideration be given to developing a Code of Practice for Members around the use of social media and the need to maintain high ethical standards.	

Work Programme:

The following dates for meetings of the Standards Committee have been identified in the Programme of Meetings:

Thursday 15th July 2021
Tuesday 7th December 2021
Tuesday 8th March 2022

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LB Bromley Constitution Appendix 9. GUIDANCE TO CO-OPTED MEMBERS

1. The majority of people who sit on Council Committees are elected by local residents. However, some people can be directly appointed by the Council. These are known as co-opted members.
2. Some times an appointment is made because it is required by law. For example, between 2 – 5 parent governor representatives must be appointed to the Council's Policy Development and Scrutiny Committee which deals with education matters. Where an appointment is required by law, there will usually be a prescribed and formal election or appointment process.
3. However, most co-opted members are appointed because they can bring expertise or an additional perspective to the work of the Council. There is local choice on how most co-opted members are selected and appointed.
4. The majority of co-opted members can take part in discussions at meetings but can not be allowed to propose or second a motion or to cast a vote. However some co-opted members will have voting rights. If you are appointed as a co-opted member, you should check whether or not you have voting rights.
5. Co-opted members who have a right to vote must comply with the Members' Code of Conduct. This means that you must complete a Register of Interest form which will give information on your employment, properties you own in the borough and societies, charities, etc., that you are involved in.
6. It also means that you must comply with rules which aim to make sure you do not have a conflict of interest with the business of the Committee you sit on at the Council. Some times you will be able to declare an interest and take part in meetings, otherwise your conflict of interest may stop this happening. You will also be subject to formal disciplinary procedures which may lead to your disqualification as a co-opted member if you breach the rules.
7. Before accepting the post of a co-opted member with voting rights you should familiarise yourself with your obligations under the Code of Conduct. The Council's Monitoring Officer can assist.
8. If you do not have voting rights, you will be encouraged to comply with the Members' Code of Conduct, although if the Committee feels that you should not take part in the meeting because of the conflict of interest, you may be excluded from that part of the meeting.
9. Members who are co-opted on to a Committee on a permanent basis have the following rights regardless of whether they are allowed to vote:

- 9.1 A right to attend meetings of the committee and take part in discussions as long as you don't have a conflict of interest;
 - 9.2 A right to sit in the meeting, even for confidential items provided they do not have a conflict of interest. Co-opted members must not use any information they obtain in confidential sessions for personal gain, neither must they disclose it to any third party;
 - 9.3 The right to background documents to help you understand the issues before the Committee. This may allow you to some documents which are not available to members of the public, subject to the same criteria set out in paragraph 9.2 above.
10. If you are a co-opted member with voting rights, you can propose and second motions and vote on matters at the Committee.
 11. You do not have any rights to attend other Committees or meetings of the Council except for the Committee you have been co-opted on to, nor do you have rights to see background papers for other meetings over and above the rights of members of the public.
 12. If you are co-opted to a Member Working Group or for a time limited matter, then your rights only exist for that matter or for the period you are co-opted.



Procedure for the consideration of Code of Conduct (Standards) complaints against elected Councillors

Bromley has adopted a Code of Conduct for Councillors. If anyone - which can include an employee, a member of the public or even another councillor - feels that behaviour by a Councillor or co-opted member of the Council may have fallen short of the standards required by the Code of Conduct they need to tell us about this so that we can consider their complaint.

The Council has adopted procedures for considering Complaints against Councillors which were reviewed following the publication in January 2019 of the Committee for Standards in Public Life report on ethical standards in local government.

1. How to make a complaint

- 1.1 Anyone wishing to make a complaint against a councillor is asked to consider the [Councillors Code of Conduct](#) .
- 1.2 You will need to provide details about the nature of the complaint, which part of the code you think the councillor has breached and how, and evidence to substantiate your complaint.
- 1.3 Complaints can be submitted by completing our [complaints form](#) or alternatively please write to the Monitoring Officer, Civic Centre, Stockwell Close, Bromley BR1 3UH.

2. What happens once a complaint has been submitted

- 2.1 Complaints under the Code are addressed to the Monitoring Officer who will take a view on whether a complaint should be dealt with under the Council's Code of Conduct or another process. This stage of the process is routinely conducted by the Monitoring Officer's nominated representative.
- 2.2 Upon receipt of the complaint, the Subject Member will be notified of the complaint in writing and asked to provide comment.
- 2.3 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.
- 2.4 If the complaint identifies criminal conduct (including a failure to register disclosable pecuniary interests) or breach of other regulations by any person,

the Monitoring Officer will refer the complaint to the police or other regulatory agencies. No further action will be taken in relation to such complaints until any related criminal/regulatory investigation, proceedings or processes have been concluded.

3. The Initial Assessment Process

- 3.1 Under the Council's procedures an initial assessment known as filtering is undertaken, in consultation with the Independent Person, with complaints which do not amount to a breach of the Code of Conduct for councillors or those considered unlikely to do so following investigation being filtered out at this stage.
- 3.2 The first issue to consider is whether the Code of Conduct is engaged or not. The Standards committee has adopted criteria for considering complaints alleging Breaches of the [Code of Conduct](#).
- 3.3 The following types of complaint will usually not be considered as 'valid complaints': -
 - a) Complaints which are submitted anonymously (though the Monitoring Officer reserves the right to investigate if he/she thinks appropriate).
 - b) Complaints which do not identify a Subject Member.
 - c) Complaints which relate to a Member's personal or private life including personal use of social media.
 - 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 non-voting Co-opted Members.
 - f) Complaints which relate to dissatisfaction with a Council, Executive or Committee decision or delivery of a Council service.
 - 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, or after they have resigned or otherwise ceased to be a Member.
 - h) Complaints which refer to alleged incidents which happened so long ago that there would be little benefit in taking action now.
 - i) Complaints regarding substantially similar alleged behaviour which has already been the subject of an investigation or enquiry or some form of action.
 - j) Complaints which relate to conduct which is alleged to have taken place more than 3 months prior to the submission of the complaint, unless there are exceptional circumstances to justify the later submission of the complaint.
 - k) Complaints which are considered malicious, vexatious, politically motivated, tit-for-tat or not sufficiently serious to warrant further action.

- l) Complaints which arise from general political activity or campaigning when the Councillor is not acting as a Councillor.
- 3.4 If the Code of Conduct is engaged the Monitoring Officer will consider whether the complaint is likely to amount to a breach of the Code of Conduct having regard to the public interest test adopted by the Committee and the criteria in paragraph 3.3. Before reaching a decision, the Monitoring Officer may request further information from the Complainant and the Subject Councillor and consider information which is readily available e.g. minutes of Council meetings
- 3.5 The Monitoring Officer will, after consultation with the Independent Person, either set out the outcome of the initial assessment process in writing or seek informal resolution or instigate an investigation. If the initial assessment indicates that the Code is not engaged or no breach of the Code, or indicates no further action is required, the Monitoring Officer, after consultation with the Independent Person will advise all parties accordingly. There is no Appeal Process for decisions taken by the Monitoring Officer at this stage.

4. The Role of the Independent Person(s)

- 4.1 Throughout the process, the Council's Independent Person is consulted.
- 4.2 The Independent Persons are people who have been appointed under the Localism Act 2011, by the Council. The Independent Person must be consulted and have their views taken into account before the Council 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. The views of the Independent Person may also be sought at any other stages of the complaints process.
- 4.3 The Member complained about can seek the views of a duly appointed Independent Person.
- 4.4 The Independent Persons do not represent and are not advisors to the Councillor who is the subject of the complaint, but they can assist in providing factual information on the complaints process. The Independent Person must remain completely impartial and objective and cannot take sides. Their role is to assess complaints and form a view on them. There is no right for the complainant to seek the views of the Independent Person and no such contact will be permitted.

5. Informal Resolution

- 5.1 If following the initial Assessment Process it is considered that a breach of the Code of Conduct may have occurred, prior to referring a matter for formal investigation, The Monitoring Officer after consulting with the Independent

Person can decide whether a matter is suitable for informal resolution.

- 5.2 The Subject Member will be asked to consider whether he/she is prepared to agree to or propose an informal resolution of the complaint which will be communicated to the Complainant.
- 5.3 Whilst not an exhaustive list, types of informal resolution might include -
 - a) an apology from the Subject Member
 - b) an agreement from the Subject Member to attend relevant training or to take part in a mentoring process
 - c) an agreement from the Subject Member to engage in a process of mediation or conciliation between the Subject Member and the Complainant.
 - d) Referral of the matter to the Councillor`s Group Leader or Any other action capable of resolving the complaint or
 - e) Any other action capable of resolving the complaint.
- 5.4 The Monitoring Officer will determine if a matter has been informally resolved.

6 Referral for Investigation

- 6.1 When it is considered after the initial assessment that a complaint may amount to a breach of the Code of Conduct which has not been informally resolved and where further action may be necessary if a breach is proven, the Monitoring Officer will either undertake or commission a formal investigation.
- 6.2 The Investigator will consider all relevant material. interview all persons they consider necessary including but not limited to the Complainant and Subject Member.
- 6.3 The Subject Member as required by the Code of Conduct must co-operate fully with the Investigation and is entitled to have a friend or representative present during any interview.
- 6.4 Where an investigation report recommends that there is no evidence of failure to comply with the Members' Code of Conduct, or that no further action is appropriate the Monitoring Officer shall prepare a report to the Standards Committee who may:
 - a) accept the recommendation resolve that no further action is required and dismiss the allegation, or
 - b) remit the matter back to the Monitoring Officer for further consideration/investigation
- 6.5 If after further consideration/investigation, the Investigator concludes that there is no breach of the Code of Conduct or that further action is not required, the Committee shall dismiss the complaint.

- 6.6 Where the investigation finds evidence of a failure to comply with the Code of conduct, the Monitoring Officer in consultation with the Independent Person(s), may seek a further attempt at local resolution to the satisfaction of the complainant in appropriate cases, with a summary report for information to Standards Advisory Committee. Where such local resolution is not appropriate or not possible the Monitoring Officer shall report the investigation findings to a Hearings Panel of the Standards Advisory Committee for hearing and recommendation.

7 Standards Hearings

- 7.1 Where the investigation report concludes that a breach of the Code of Conduct has occurred and that further action may be appropriate the Monitoring Officer shall prepare a report to the Standards Committee who shall appoint a Hearing sub-committee of at least 3 Members to consider the complaint.
- 7.2 The Monitoring Officer will agree a date for the Hearing Sub-Committee with the Investigator and the Subject Member to be held within 28 days of the appointment of the Hearing Sub-committee. In advance of the Hearing the Monitoring Officer will:
- a. provide a timetable for the Member to provide details about whether they wish to give evidence (and whether orally or in writing) at the hearing and any witnesses they intend to call, and additional papers they may wish to provide in time for inclusion in the committee papers
 - b. establish whether the Member will be represented or accompanied at the hearing
 - c. establish whether the Member wishes any part of the investigation report to be kept confidential or the hearing itself to be held in private, and the reasons for this
 - d. provide information about the procedure to be used at the hearing
 - e. establish whether the Member disagrees with any of the findings of fact in the investigation report
 - f. establish whether the investigating officer intends to call any witnesses
- 7.3 The Independent Person will be invited to attend the meeting of the Hearings Sub-Committee and his or her views must be sought and taken into consideration before the Hearings Panel takes any decision on whether the Respondent'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
- 7.4 The Subject Councillor may at their own cost arrange for legal or other representation at the Hearing Sub-Committee meeting or may be accompanied by a friend.
- 7.5 The Hearing will be conducted in accordance with the procedure set out in Appendix A - Member Disciplinary Hearing Procedure.

- 7.6 The Hearing Sub Committee must decide:
- 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
- 7.7 If the Hearing Sub-Committee Considers that there has been a breach of the Code of conduct after consulting with the Independent Person(s) it may -
- a) decide no further action is required.
 - b) censure the Respondent.
 - c) request the Respondent to submit a written apology in a form specified by the Panel
 - d) request the Respondent to undertake such training as the Panel may specify
 - e) request that the Respondent participates in such conciliation as the Panel may specify
 - f) report to the relevant Council on the outcome of the hearing with an appropriate recommendation
 - g) require a report be submitted to Council requesting Council Issue a formal Censure notice
 - h) advise the Leader of the Political Group to which the person belongs, of the outcome of the hearing in order that they can consider what appropriate disciplinary or other action should be taken, taking into account any relevant case law, which could include securing the removal of a member from any Council, committees
 - i) advise the Leader of the Council, and where the Member complained of is also a Member of the Executive, request the suspension from or removal from the Executive.
 - j) where permitted by law to recommend withdrawal of facilities or equipment.
 - k) any other sanction permitted by law.
- 7.8 A Member cannot be disqualified or suspended from sitting as a Member of the Council.
- 7.9 The recommendations of the Hearing Panel shall be published.
- 7.10 There is no right of appeal available against a decision on a Code of Conduct complaint, except through the courts by way of judicial challenge.



Conduct of Standards Hearings

Where a Standards Hearing is called under Section 7 the following procedure shall apply.

- i. The Investigating Officer will present their case in the presence of the Subject Member and will call any witnesses.
- ii. The Subject Member (or his/her representative) may ask questions of the Investigating Officer and witnesses (if any).
- iii. The Subject Member (or his/her representative) will put his/her case in the presence of the Investigating Officer and will call any witnesses.
- iv. The Investigating Officer may then ask questions of the Subject Member, and witnesses (if any).
- v. The Members of the Standards Hearing Sub-committee may ask questions of the Investigating Officer, the Subject Member and their witnesses at any time.
- vi. The Investigating Officer and the Subject Member (or his/her representative) can sum up their cases if they wish.
- vii. The Investigating Officer and the Subject Member, their representatives and witnesses will then withdraw.
- viii. The Sub-Committee, with the clerk and Monitoring Officer in attendance, will consider the evidence in private. They may recall either party to clear points of uncertainty on the evidence already given. If recall is necessary, both parties are to return even if only one is concerned with the point-giving rise to doubt.
- ix. The Sub-Committee will consult with the Independent Member before deciding on any course of action.
- x. When the Sub-Committee has reached a decision, it will recall the parties and the Chairman of the Sub-Committee will announce the decision which will be confirmed in writing with full reasons within 10 working days.

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Agenda Item 8

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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