



Please reply to:

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Date: 08 March 2022

Notice of meeting

Standards Committee

Date: Wednesday, 16 March 2022

Time: 7.00 pm

Place: Council Chamber, Council offices, Knowle Green, Staines-upon-Thames TW181XB

To the members of the Standards Committee

Councillors:

I. Winter (Chairman)	R.D. Dunn	O. Rybinski
Dylan Price (Vice-Chairman)	K.M. Grant	R.W. Sider BEM
M.M. Attewell	A.J. Mitchell	R.A. Smith-Ainsley
I.J. Beardsmore	S.C. Mooney	

Substitute Members: Councillors C. Bateson, J.R. Boughtflower, T. Fidler, H. Harvey, D. Saliagopoulos and J.R. Sexton

Councillors are reminded that the Gifts and Hospitality Declaration book will be available outside the meeting room for you to record any gifts or hospitality offered to you since the last Committee meeting.

Spelthorne Borough Council, Council Offices, Knowle Green

Staines-upon-Thames TW18 1XB

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Agenda

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| 1. | Apologies and Substitutes | |
| | To receive any apologies for absence and notification of substitutions. | |
| 2. | Minutes | 3 - 4 |
| | To confirm as a correct record the minutes of the meeting held on 20 October 2021. | |
| 3. | Disclosures of Interest | |
| | To receive any disclosures of interest from councillors in accordance with the Council's Code of Conduct for members. | |
| 4. | Arrangements for dealing with allegations of breaches of the Member Code of Conduct | 5 - 24 |
| | To consider revised arrangements for dealing with complaints against councillors. | |
| 5. | Update on Complaints relating to the Member Code of Conduct | 25 - 34 |
| | To note those complaints dealt with under the Member Code of Conduct arrangements between November 2021 and February 2022. | |
| 6. | Membership of the Committee System Working Group | 35 - 38 |
| | To approve the membership of the Committee System Working Group. | |

**Minutes of the Standards Committee
20 October 2021**

Present:

I. Winter (Chairman)
Dylan Price (Vice-Chairman)

Councillors:

I.J. Beardsmore	K.M. Grant	R.W. Sider BEM
J.R. Boughtflower	S.C. Mooney	R.A. Smith-Ainsley
R.D. Dunn	O. Rybinski	

481 Apologies and Substitutes

Apologies for absence were received from Councillor Attewell.

482 Minutes

The minutes of the ordinary meeting held on 28 July 2021 and the extraordinary meeting held on 29 September 2021 were agreed.

483 Disclosures of Interest

There were none.

484 Update on complaints relating to the Code of Conduct

The report outlined the complaints that had been received between January 2020 and October 2021. Where complaints had been determined, the outcome of these were also reported.

It was confirmed that assessment panels were held in private, with investigation panels generally being held in public, depending on the subject of the complaint.

The members' code of conduct and the complaints processes were reviewed at appropriate intervals. The process for persistent and vexatious complainants was contained in a separate Council policy.

There was discussion about the upcoming standards training for councillors. The committee requested that there be a specific section on the use of social media, in particular responding to multiple or persistently challenging individuals.

The committee noted that complaints were taking some time to be considered which was due to the high number that were being received. The committee requested that the date complaints were received, determined, and by who be included in future reports. It also requested that the origin of political complaints be reported, subject to smaller groups sharing a category.

The report was noted.

Standards Committee

16 March 2022



Title	Revised arrangements for dealing with allegations of breaches of the Member Code of Conduct
Purpose of the report	To make a decision
Report Author	Victoria Statham, Monitoring Officer
Ward(s) Affected	All Wards
Exempt	No
Exemption Reason	Not Applicable
Corporate Priority	This item is not in the current list of Corporate Priorities but still requires a Committee decision.
Recommendations	Standards Committee is asked to approve the proposed revised arrangements for Member Code of Conduct complaints.
Reason for Recommendation	Revising the authority's arrangements will ensure that complaints are dealt with consistently, fairly, transparently and proportionately thereby giving the public and councillors confidence in the process.

1. Summary of the report

- 1.1 This report seeks approval for proposed revisions to the Council's arrangements for dealing with allegations of a breach of the Code of Conduct by Members.

2. Key issues

- 2.1 As reported to the Standards Committee on the 20 October 2021 there were 50 complaints received between 1 January 2020 and October 2022. A further update on complaints at this meeting notifies members of a further two complaints that have been received. Dealing with the vast number of complaints has shown that the arrangements for dealing with complaints need to be updated and refined.
- 2.2 Under Section 28 of the Localism Act 2011 (the Act), the Council must have in place "arrangements" under which allegations that a Member of the authority (i.e. a councillor or a co-opted member) has failed to comply with that Council's Code of Conduct can be investigated and decisions made on such allegations.
- 2.3 The only other requirement under the Act is that the arrangements agreed by the Council must include provision for the appointment by the authority of at least one independent person 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.

- 2.4 The law does not specify how complaints are to be handled.
- 2.5 A review by the Committee on Standards in Public Life (CSPL), led to the publication of the revised Local Government Association Model Councillor Code of Conduct, which the Council adopted in 2021. The CSPL also made recommendations for a framework in dealing with complaints in order to ensure consistency and enhance public confidence in the process.
- 2.6 The proposals for the revised arrangements (Annexed to this report) are based on Local Government Association Guidance (the Guidance) arising from the CSPL recommendations and best practice.
- 2.7 It is for each local authority to decide its own practices and arrangements, however the process for dealing with Code of Conduct complaints must be fair and be seen to be fair.
- 2.8 Under the provisions of the current arrangements, it is for the Standards Committee to establish the arrangements and it is for the Monitoring Officer to then process complaints in accordance with those approved arrangements.

3. Options analysis and proposal

Option 1 – adopt revised arrangements

- 3.1 Under [the existing arrangements](#), there is an expectation that the Monitoring Officer will refer all but the most obviously vexatious, frivolous or politically motivated complaints to an Assessment Panel comprising 3 members of the Standards Committee.
- 3.2 During the period January 2020 - November 2021, the Council received 50 complaints of which 38 were dismissed by the Monitoring Officer and 12 were sent to an Assessment Panel.
- 3.3 The Monitoring Officer recommended to the Assessment Panel that no further action was necessary in the case of 8 matters and that 4 matters should be referred for further investigation. The Assessment Panel agreed with the Monitoring Officer's recommendation in every case.
- 3.4 The process of setting up and convening several Assessment Panels for those 12 matters was time consuming and resulted in considerable delays in matters being heard. This has resulted in some loss of confidence in the current arrangements by members.
- 3.5 Monitoring Officers are at the heart of the standards framework. They promote, educate and support councillors in following the highest standards of conduct and ensuring that those standards are fully owned locally.
- 3.6 In order to satisfy the authority that an initial assessment of complaints can be carried out fairly, objectively and without undue delay, it is proposed under the revised arrangements that the Monitoring Officer is delegated to undertake a 2-step assessment, described by CSPL as the 'can/should' stages, based on specified criteria. (Appendix 2 to the proposed arrangements).
- 3.7 The proposed revised arrangements incorporate other processes detailed in the Guidance:
 - (a) Improved timescales for assessing complaints

- (b) An alternative process for assessment of a complaint by a Panel of members where the Monitoring Officer considers it appropriate based on specified criteria
 - (c) No right of appeal against a decision not to take any further action in order to operate an efficient and proportionate system.
 - (d) Consultation with the Independent Person at every stage before a proposed course of action is followed
 - (e) Best practice for conducting investigations and producing a final report
- 3.8 The investigation process has been set out in a flowchart for the first time, for clarification and is attached at Appendix 3 to the proposed arrangements.

Option 2 – Amend revised arrangements

- 3.9 The Standards Committee may make such amendments to the proposed revised procedures as it considers appropriate.

Option 3 – Retain existing arrangements

- 3.10 Retaining the existing arrangements would not result in any improvements to the timeliness with which complaints are dealt with and consequently the levels of satisfaction and confidence in the Council's processes.
- 3.11 The existing arrangements do not reflect best practice guidance resulting from the review by the Committee on Standards in Public Life.
- 3.12 Whichever option the Standards Committee chooses to progress, it should be noted that the sanctions which can be imposed on those who are found in breach of the code of conduct are limited by statute. The sanctions which can be imposed are:
- (a) require the Member to apologise either privately or in public;
 - (b) require the Member to attend training;
 - (c) censure the Member;
 - (d) send a report to Council to censure the Member;
 - (e) require the Monitoring Officer to publish a report in the newspaper or on the Council's website about the councillor's conduct;
 - (f) withdraw privileges provided by the Council such as computer equipment, internet or email access;
 - (g) recommend to the councillor's group leader that the councillor be removed from a Committee, or an outside body (as appropriate); or,
 - (h) a combination of any of the above.

4. Financial implications

- 4.1 There are no financial implications arising from the proposals in this report.

5. Other considerations

- 5.1 Details of the updates to the Arrangements for Dealing with complaints will need to be promoted to all councillors so that they are conversant with the provisions. With these new arrangements, the new code of conduct and the

corporate values, members will be fully aware of the standard of conduct expected of them.

- 5.2 The Committee may want to consider whether all councillors would benefit from a short training session on the new provisions if adopted.

6. Equality and Diversity

- 6.1 The proposed arrangements will continue to ensure that the principles of fairness, proportionality, transparency and impartiality will still apply in the way the Council deals with Code of Conduct complaints.

7. Sustainability/Climate Change Implications

- 7.1 The proposals have no bearing on sustainability or climate change issues.

8. Timetable for implementation

- 8.1 The proposed revised arrangements will be considered by the Standards Committee on 16 March 2022 and if approved will be effective immediately and published on the Council's website.

- 8.2 Any complaints received before the Committee considers this matter will be dealt with under the existing Arrangements.

9. Contact

- 9.1 Victoria Statham, v.statham@spelthorne.gov.uk

Background papers: There are none.

Appendices:

Proposed revised arrangements for dealing with complaints

Appendix 1 - Proposed revised arrangements process flowchart

Appendix 2 - Proposed criteria to support the revised process

Appendix 3 – Proposed investigation process flowchart

Spelthorne Borough Council

Standards Committee

Member Misconduct Complaints Procedure

Context

1. These “Arrangements” describe how you may make a complaint that a Member of Spelthorne Borough Council “the Council” has failed to comply with the Member Code of Conduct, and sets out how the Council will deal with allegations of a failure to comply with the Code of Conduct.
2. Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a Member of the authority (i.e. a councillor or a co-opted member) has failed to comply with that Council’s Code of Conduct can be investigated and decisions made on such allegations.
3. Such arrangements must provide for the Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation which it has decided to investigate, and whose views can be sought by the Council at any other stage, or by a Member against whom an allegation has been made.

Principles of these arrangements

4. At its meeting on 16 March 2022, the Council agreed that these arrangements or any revisions to them, should abide by the following principles:
 - a. They should reassure the public that complaints will be dealt with swiftly, properly and transparently;
 - b. They should be simple, clear and follow the rules of natural justice;
 - c. They should not be bureaucratic i.e. they should follow the law and not build in unnecessary additional measures;
 - d. They should allow the Monitoring Officer to dismiss complaints which are vexatious, frivolous, politically motivated or otherwise should be dismissed in accordance with the Assessment Criteria in Appendix B;
 - e. They should allow for the Monitoring Officer to be accountable for such decisions in (d);

- f. They should ensure there is an element of outside scrutiny and objectivity by recruiting Independent Members to the Standards Committee.

The Code of Conduct

5. The Council has adopted a Member Code of Conduct, which is available for inspection on the Council's website. The Council has tasked the Standards Committee to keep the Code of Conduct and the operation of these arrangements under review.

Making a complaint

6. If you wish to make a complaint, please complete the **Member Complaint form** and send it to-

The Monitoring Officer
Spelthorne Borough Council
Council Offices
Knowle Green
Staines-upon-Thames
Middlesex TW18 1XB

or by email to: (TBC)

7. The Monitoring Officer is a senior officer of the Council who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of member misconduct.
8. Please provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the Member Complaint Form. The Monitoring Officer will consider your request for confidentiality and, if granted, we will not disclose your name and address to the member against whom you make the complaint, without your prior consent.
9. The Council does not normally investigate anonymous complaints unless there is a clear public interest in doing so.
10. Complainants who have difficulty in making their complaint in writing (e.g. because of a disability), will be offered assistance. Please contact the Monitoring Officer on 01784 446241
11. The Council expects complaints about Members to be made without delay so that matters can be investigated promptly. Unless there are

exceptional circumstances, complaints should be made within 28 days of the incident giving rise to concern.

12. The Monitoring Officer will acknowledge receipt of a complaint within 3 working days of receiving it and will keep you informed of the progress of your complaint.
13. The Complaints Procedure Flowchart is annexed at Appendix 1 for your assistance.

Independent Person

14. The Council has appointed five Independent Persons in conjunction with:
 - Epsom and Ewell Borough Council
 - Guildford Borough Council
 - Mole Valley District Council
 - Reigate and Banstead Borough Council
 - Surrey Heath Borough Council
 - Waverley Borough Council
15. The Independent Persons are not (and have not within the last five years been) a Member or an Officer of the Council.
16. The role of the Independent Person is to advise the Monitoring Officer on action to take under these arrangements at the points stated.
17. A Member who is the subject of a complaint is also entitled to refer to the Independent Person for advice during the course of a complaint.
18. The Independent Person receives expenses for undertaking this role but no other remuneration.

Will your complaint be investigated?

19. The Monitoring Officer will review every complaint received and consider it against the Assessment Criteria set out in Appendix 2 (Annexes A and B).
20. The decision whether to investigate will be a proportionate response to the issues raised and expected outcomes will take into account the wider public interest and the costs of undertaking an investigation.
21. The Monitoring Officer will consult with the Independent Person before taking a decision as to whether it:
 - a. Merits no further investigation
 - b. Merits further investigation
 - c. Should be referred to the Standards Assessment Sub-Committee

22. This decision will normally be taken within 15 working days of receipt of your complaint. Where the Monitoring Officer has taken a decision, s/he will inform you of his/her decision and the reasons for that decision. Where the Monitoring Officer requires additional information in order to come to a decision, s/he may come back to you for such information and may request information from the member against whom your complaint is directed but s/he will not conduct an investigation.
23. The Monitoring Officer, in consultation with the Independent Person, may seek to resolve the complaint informally at any stage, in accordance with Annex C of Appendix 2. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the member or the authority makes a reasonable offer of informal resolution, but you are not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint merits further investigation.
24. If the Monitoring Officer decides that the complaint concerns a service, policy or decision of the Council then s/he may refer you to the Council's Corporate Complaints procedure.
25. If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police or other regulatory agencies.
26. There is no right of appeal for the complainant or the Member against a decision of the Monitoring Officer. All decisions will be reported to the next meeting of the Standards Committee.

Referral to the Standards Assessment Sub-Committee

27. The role of the Assessment Sub-Committee is to review those complaints which the Monitoring Officer has referred to it under the criteria set out in Appendix 2 (Annex B).
28. The Assessment Sub-Committee will comprise three voting members of the Standards Committee (councillors) selected by the Monitoring Officer in consultation with the Chairman of the Standards Committee. The councillors shall, wherever possible, be selected on a politically proportionate basis. An Independent Member is invited to Chair the Assessment Sub-Committee but legally cannot vote on the decision.
29. The Assessment Sub-Committee will consider the complaint against the Assessment Criteria set out in Appendix 2 (Annex A).
30. It is expected that the complaint will be confidential during the Assessment phase.

31. The Assessment Sub-Committee may decide whether your complaint:
 - a. Merits no further investigation
 - b. Merits further investigation
32. The decision of the Assessment Sub-Committee is final and will be reported to the next Standards Committee.
- 33. The investigation**
34. If the Monitoring Officer, or Assessment Sub-Committee, decides that a complaint merits further investigation, s/he may appoint an Investigating Officer, who may be another senior officer of the Council, an officer of another Council or an external investigator.
35. The Investigating Officer will complete the investigation in accordance with the procedure attached as Appendix 3 to these arrangements.
36. The investigation shall be carried out promptly, with the expectation that all investigations, resolutions and Hearing will be completed within a maximum period of four months. All those involved in the complaint should do their utmost to ensure that this can happen.
37. The Investigating Officer or Monitoring Officer will decide whether s/he needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents need to be seen, and who needs to be interviewed.
38. The Investigating Officer or Monitoring Officer will normally write to the member against whom you have complained and provide him/her with a copy of your complaint and ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who s/he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.
39. At the end of the investigation, the Investigating Officer will produce a draft report (the "Investigation Report") and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any factual matter in that draft report which is disputed or which you consider requires further investigation.

40. Having received and taken account of any comments which you may make on the draft Investigation Report, a final Investigation Report will be prepared by the Investigating Officer..
41. The Monitoring Officer will consult with the Independent Person on the outcomes or recommendations of the investigation.

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

42. Following consultation with the Independent Person, if the Monitoring Officer:
 - a. is not satisfied that the investigation has been conducted properly, s/he may ask the Investigating Officer to reconsider his/her report
 - b. is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned notifying you that s/he is satisfied that no further action is required and give you both a copy of the Investigation Final Report.
43. The Monitoring Officer will report the outcome of the case to the next Standards Committee. The decision is final and there is no appeal.

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

44. Following consultation with the Independent Person the Monitoring Officer will either send the matter for a hearing before the Standards Hearing Sub-Committee or seek an informal resolution.

Informal Resolution

45. The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, s/he will consult with all the parties and seek to agree a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action..
46. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee for information, but will take no further action.

47. Where the member or the authority makes a reasonable offer of informal resolution, but you are not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint should progress to a Hearing Sub-Committee.

Hearing by a Sub-Committee of the Standards Committee

48. If the Monitoring Officer considers that informal resolution is not appropriate, or the councillor concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will refer the Investigation Report to the Hearing Sub-Committee which will conduct a hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.
49. The Hearing Sub-Committee will comprise three voting members of the Standards Committee (councillors) selected by the Monitoring Officer in consultation with the Chairman of the Standards Committee. The councillors shall, wherever possible, be selected on a politically proportionate basis. An Independent Member is invited to Chair the Hearing Sub-Committee but legally cannot vote on the decision.
50. The Standards Committee may agree a procedure for Hearing Sub-Committees.
51. The Monitoring Officer may conduct a “pre-hearing process”, requiring the member to give his/her response to the Investigation Report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chairman of the Hearing Sub-Committee may issue directions as to the manner in which the hearing will be conducted.
52. To give confidence to the public it is expected that the Hearing Sub-Committee will take place in public unless there are exceptional circumstances which dictate otherwise. The Monitoring Officer will advise the Chairman whether the hearing should be in public or private. The Access to Information Rules will apply to this hearing as it would apply to any other meeting of the Council.
53. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the Member has or has not failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you, as the complainant to attend and give evidence to the Sub-Committee. The member will then have an opportunity to give his/her evidence, to call witnesses, to cross-examine and to make representations to the Sub-Committee as to why

s/he considers that s/he did not fail to comply with the Code of Conduct.

54. The Independent Person may attend the hearing but is not required to attend.
55. The Sub-Committee, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and dismiss the complaint.
56. If the Sub-Committee concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the member of this finding and the Sub-Committee will then consider what action, if any, the Sub-Committee should take as a result of the member's failure to comply with the Code of Conduct.
57. In doing this, the Sub-Committee will give the member an opportunity to make representations to the Sub-Committee, but will then decide what action, if any, to take in respect of the matter.

What action can the Hearing Sub-Committee take where a member has failed to comply with the Code of Conduct?

58. The powers of the Hearing Sub-Committee to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct are:
 - a. To require the member to apologise either privately or in public.
 - b. To require the member to attend training.
 - c. To censure the member.
 - d. To send a report to Council to censure the member.
 - e. To require the Monitoring Officer to publish a full report in the newspaper and/or on the Council's website about the member's conduct.
 - f. To withdraw privileges provided to the member by the Council such as computer equipment, internet or email access.
 - g. To recommend to the member's Group Leader that the member be removed from any or all Committees or sub-committees or Outside Body appointments (as appropriate).
 - h. Or a combination of any of the above.

and the Sub-Committee may set the time frame for the actions that are required to be taken.

59. As a matter of law, the Hearing Sub-Committee does not have the power to suspend or disqualify the member or to withdraw allowances to which members are entitled.

Appeals

60. Where a Hearing Sub-Committee makes any recommendations to a Group Leader about a penalty then that member may make representations in advance of that decision being taken.
61. Where a Hearing Sub-Committee makes any recommendations to Council about a penalty then that member may make representations in advance of that decision being taken.

What happens at the end of the hearing?

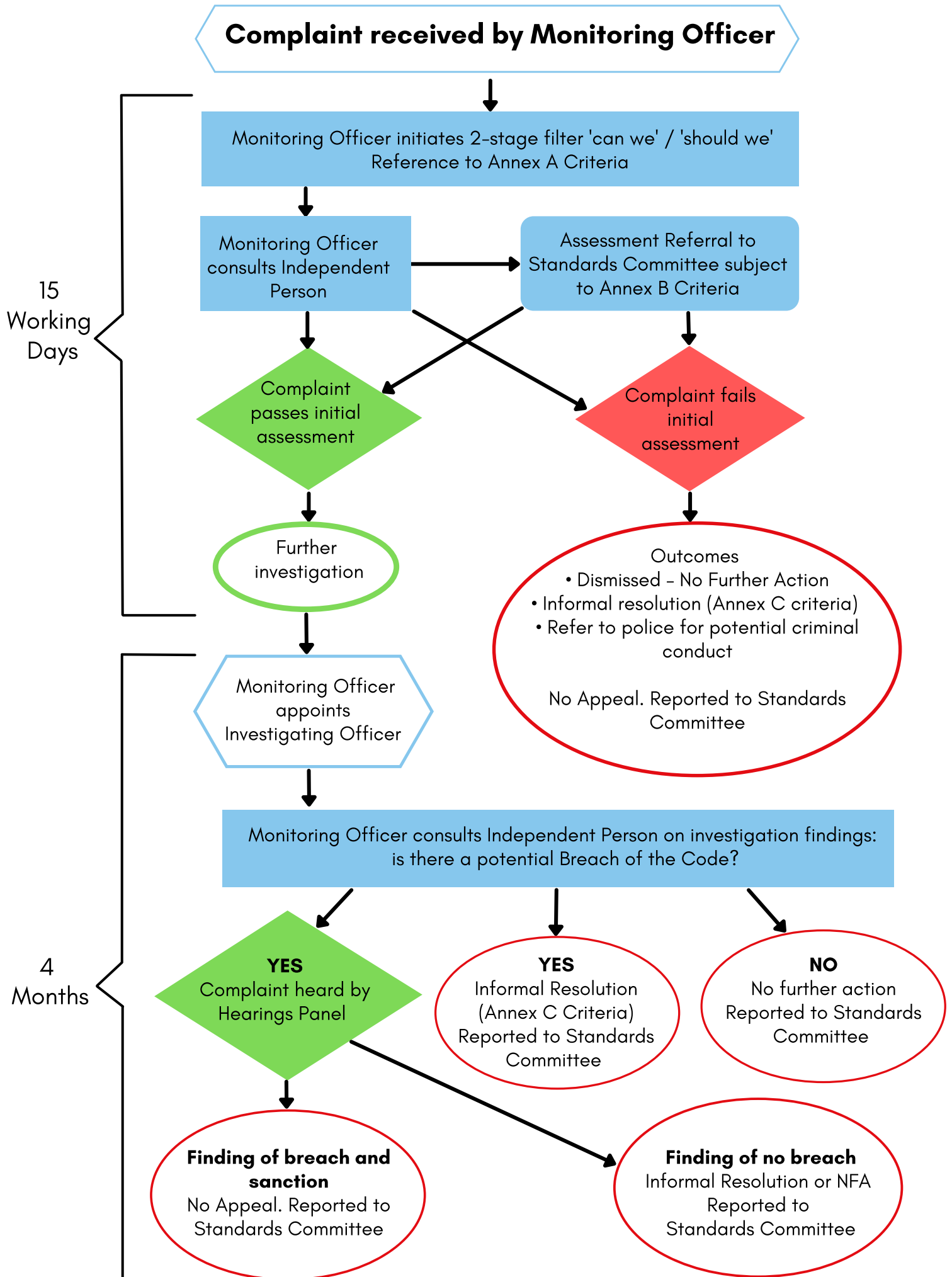
62. At the end of the hearing, the Chair will state the decision of the Hearing Sub-Committee as to whether the member failed to comply with the Code of Conduct and as to any actions which the Sub-Committee resolves to take.
63. As soon as reasonably practicable thereafter, the Monitoring Officer will prepare a formal decision notice in consultation with the Chair of the Hearing Sub-Committee, and send a copy to all the parties, and if required by the Hearing Sub-Committee, make that decision notice available for public inspection. The decision will be reported to the next convenient meeting of the Standards Committee.

Revision of these arrangements

64. The Standards Committee is delegated to amend these arrangements where necessary and has delegated to the Chair of the Hearing Sub-Committee the right to depart from these arrangements where s/he considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

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Member Complaint Procedure Flowchart



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MEMBER COMPLAINT ASSESSMENT CRITERIA AT DIFFERENT STAGES

Annex A

Criteria for initial 2-stage filter

Stage 1 – Complaints the Council cannot deal with (Jurisdictional test)

1. It is about someone who is no longer a Spelthorne Borough councillor or was not in office at the time of the alleged conduct; or
2. It appears there can be no breach of the Code of Conduct, for example,
 - it relates to the Councillor's private life; or
 - it is about dissatisfaction with a Council decision

Stage 2 – Complaints the Council would not normally refer for investigation

1. The complaint is not considered sufficiently serious to warrant investigation; or
2. There is insufficient information available for a referral or to demonstrate a potential breach of the Code; or
3. There are alternative, more appropriate, remedies that should be explored first; or
4. Where the complaint is by one councillor against another, the complaint has arisen from comments made during a robust political debate (but not personal abuse), bearing in mind the right to freedom of expression; or
5. The complaint appears to be simply motivated by malice or is "tit-for-tat"; or
6. The complaint appears to be politically motivated, vexatious or trivial; or
7. Where the member complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction; or
8. The same, or similar, complaint has already been investigated and no new material evidence has been submitted; or
9. The complaint has not been received within 3 months of the alleged misconduct unless there are exceptional circumstances e.g. allegation of bullying, harassment etc; or
10. The matter occurred so long ago that it would be difficult for a fair investigation to be carried out; or
11. It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct.

Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, deciding to investigate a complaint or to take further action will cost both public money and officers' and members' time. This is an important consideration where the complaint is relatively minor.

Annex B

Criteria for referral to Standards Assessment Sub-Committee

1. Where a complaint has been made by the Monitoring Officer or Chief Executive; or
2. Where a matter is high profile i.e. a complaint about the Leader or Mayor; or
3. Such other complaints as the Monitoring Officer considers it is not appropriate for him/her to investigate.

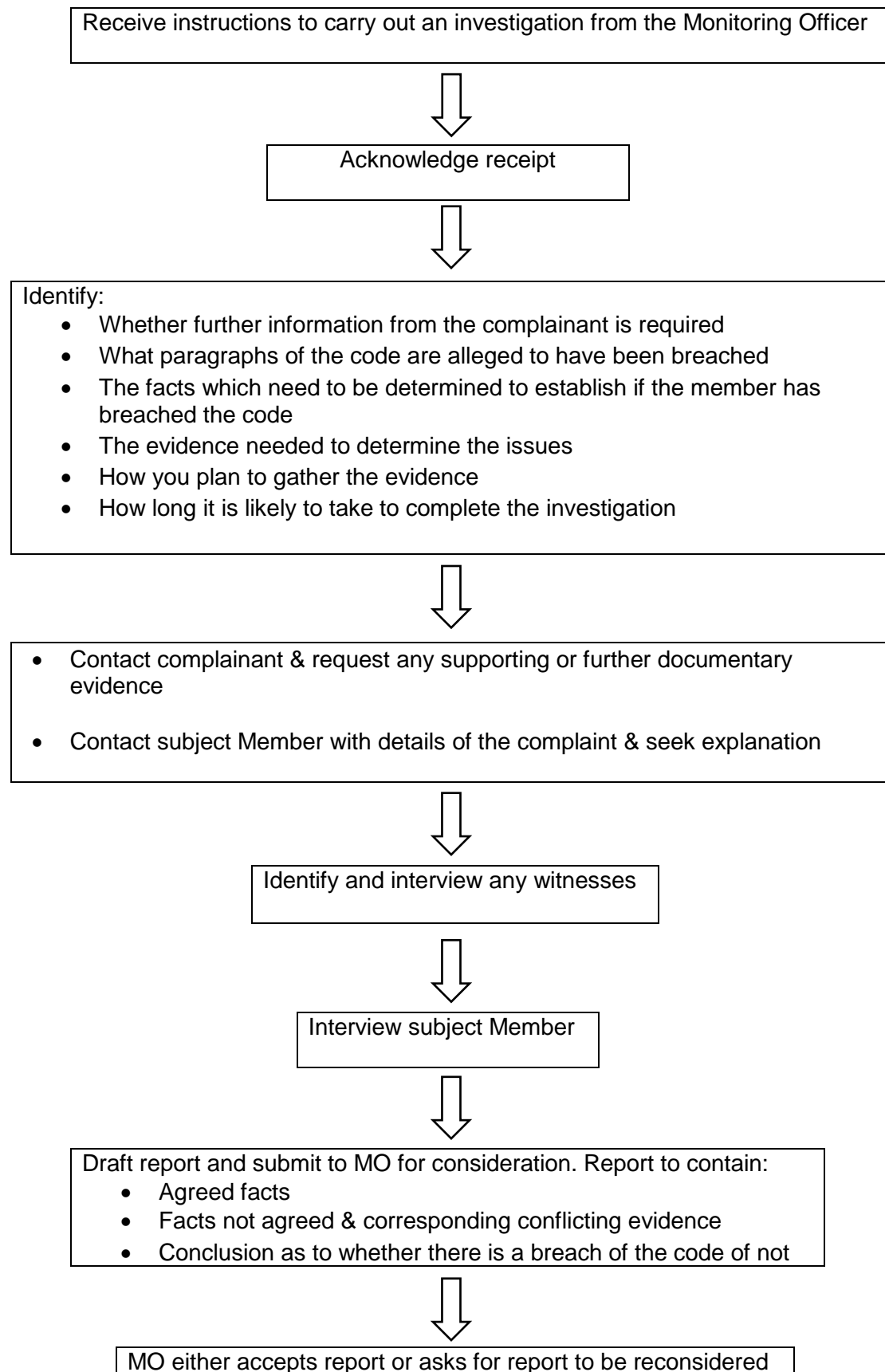
Annex C

Criteria for informal resolution at any stage in the process

Informal resolution may be considered appropriate where the matter relates to:

1. The same particular breach of the Code by many members; or
2. A general breakdown of relationships, including those between members and officers; or
3. Misunderstanding of procedures or protocols; or
4. Misleading, unclear or misunderstood advice from officers; or
5. Lack of experience or training; or
6. Interpersonal conflict; or
7. Allegations and retaliatory allegations from the same members; or
8. Allegations about how formal meetings are conducted; or
9. Allegations that may be symptomatic of governance problems within the Council; or
10. Matters which are more significant than the allegations in themselves.

This is not an exclusive list.

INVESTIGATION PROCEDURE

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Standards Committee

16 March 2022



Title	Update on Member Complaints
Purpose of the report	To note
Report Author	Victoria Statham, Monitoring Officer
Ward(s) Affected	All Wards
Exempt	No
Exemption Reason	Not applicable
Corporate Priority	This item is not in the current list of Corporate Priorities.
Recommendations	Committee is asked to note the report.
Reason for Recommendation	Not applicable

1. Summary of the report

- 1.1 This report seeks to update the Committee on those member complaints which have been dealt with since the last update provided in October 2021.

2. Key issues

- 2.1 The Council's Arrangements for dealing with complaints under the Member Code of Conduct requires that the Monitoring Officer report to the Committee on those complaints which:
- a. The Monitoring Officer has rejected
 - b. Have been referred to the Assessment or Hearing Panels

3. Complaints rejected by Monitoring Officer

- 3.1 As part of the Arrangements, the Monitoring Officer has the power to strike out complaints which are vexatious, frivolous, or politically motivated.

¹'The Monitoring Officer has power to reject complaints which are vexatious, frivolous or malicious or which are politically motivated or in some other way an abuse of process. Where the Monitoring Officer has taken a decision that a complaint falls into one of these categories, he will inform the complainant of his decision and the reasons for that decision. There is no appeal from this decision, but the Monitoring Officer will report all such decisions to the next meeting of the Standards Committee who are entitled to refer the matter for investigation if they feel that the Monitoring Officer has acted incorrectly.'

¹Principles of the Arrangements para 4(e) and (f) and also paragraph 25

- 3.2 At the time of the previous update in October 2021 (Appendix 1, paragraph 1.2), three complaints received from councillors were in process of being considered by the Monitoring Officer. All three were dismissed after consultation with the Independent Person.
- 3.3 An anonymised summary of the three complaints which the Monitoring Officer rejected as politically motivated, is attached at Appendix 2.
- 3.4 There have been two further complaints since my last report, both of which have only just been received so they are at the beginning of the process.
- 4. Complaints referred to Assessment or Hearing Panels**
- 4.1 The previous update reported that one complaint by a councillor was scheduled for consideration by an Assessment Panel (paragraph 1.3). That complaint was referred for further investigation resulting in a total of 4 complaints undergoing investigation.
- 4.2 One of those investigations has now concluded and after consulting with the Independent Person the matter is proceeding to a Hearings Panel on 23 March 2022.
- 4.3 An anonymised summary of those complaints which were referred for investigation is attached at Appendix 3.
- 5. Recommendation**
- 5.1 The Committee is asked to note this report.
- 6. Contact**
- 6.1 Victoria Statham v.statham@spelthorne.gov.uk

Background papers: There are none.

Appendices:

Appendix 1 – Report to Standards Committee 20 October 2021

Appendix 2 – Complaints rejected by the Monitoring Officer

Appendix 3 – Complaints under investigation

Standards Committee



20 October 2021

Title	Update on Complaints 2020 - 2021
Purpose of the report	To note
Report Author	Victoria Statham, Monitoring Officer
Ward(s) Affected	All Wards
Exempt	No
Exemption Reason	Not Applicable
Corporate Priority	This item is not in the current list of Corporate Priorities.
Recommendations	Committee is asked to note the report.
Reason for Recommendation	Not Applicable

1. Key issues

- 1.1 In accordance with the Arrangements for dealing with complaints under the Member Code of Conduct, this report provides an update on complaints made from January 2020 to October 2021:
- a) which the Monitoring Officer has rejected;
 - b) which have been referred to the Assessment Panel.
- 1.2 The following table summarises the number of complaints that have been made about councillors that the Monitoring Officer has had to deal with over the period:

	Number submitted	Rejected	Closed	Referred to Assessment Panel	In process
Complaints by the public	11	NA	9	2	-
Complaints made by staff	3	NA	2	1	-
Complaints by Councillors	36	10	14	9	3

Total	50	10	25	12	3
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- 1.3 Of the 12 complaints referred to Assessment Panel these can be broken down to:

	Investigation	No further action	Assessment Panel scheduled
Complaint by public	1	1	0
Complaints made by staff	1	0	0
Complaints by Councillors	1	7	1

- 1.4 As part of the Arrangements, the Monitoring Officer has the power to strike out complaints which are vexatious, frivolous, or politically motivated. The Arrangements are attached at Appendix 1. Please see Principles of the Arrangements para 4(e) and (f) and also paragraph 25:
- ‘The Monitoring Officer has power to reject complaints which are vexatious, frivolous or malicious or which are politically motivated or in some other way an abuse of process. Where the Monitoring Officer has taken a decision that a complaint falls into one of these categories, he will inform the complainant of his decision and the reasons for that decision. There is no appeal from this decision, but the Monitoring Officer will report all such decisions to the next meeting of the Standards Committee who are entitled to refer the matter for investigation if they feel that the Monitoring Officer has acted incorrectly.’*
- 1.5 The Monitoring has already reported those complaints which she has rejected to the Members’ Code of Conduct Committee on 4 February 2021 and the Standards Committee on 28 July 2021. Neither Committee asked that any rejected complaints be referred for investigation. No further complaints have been rejected by the Monitoring Officer since the last report to Committee.
- 1.6 An anonymised summary of all those complaints which the Monitoring Officer rejected as politically motivated or closed for a variety of other reasons, is attached at Appendix 2.
- 1.7 One of the principles of the Arrangements is that decisions on investigations are made by councillors in an Assessment Sub-Committee (the Panel). Councillors decide if complaints are serious enough to warrant investigation. This arrangement allows members to take the lead on dealing with the conduct of other councillors and has worked well since it was introduced in July 2012 as part of the Localism Act.
- 1.8 The Council has a static low level of complaints about councillors from members of the public. During the period January 2020 to October 2021, 11 complaints were made by members of the public compared with 36

complaints by councillors. Of the complaints referred to the Assessment Sub-Committee, 2 were from the public/staff and 9 from councillors.

- 1.9 An anonymised summary of those complaints which were referred to the Assessment Sub-Committee is attached at Appendix 3.

2. Recommendation

- 2.1 The Committee is asked to note this report.

Appendices:

Appendix 1 – Arrangements for dealing with complaints under the members' Code of Conduct

Appendix 2 – Complaints rejected by the Monitoring Officer

Appendix 3 – Complaints referred to the Assessment sub-Committee

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No.	Who by	Who against	Action
1.			Dismissed - politically motivated
2.			Dismissed - politically motivated
3.			Dismissed - politically motivated

KEY:

Conservative

United Spelthorne Group

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Number	Who by	Who against		Current status
1.			Leaking of confidential information on Twitter	Under Investigation
2.			Use of pseudonym social media account	Referred to Hearing Panel
3.			Alleged breach of Data Protection Act	Under Investigation
4.			Comments on social media	Under Investigation

KEY:

Public or staff

Conservative

United Spelthorne Group

Independent Spelthorne Group

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Standards Committee

16 March 2022



Title	Membership of Committee System Working Group
Purpose of the report	To make a decision
Report Author	Victoria Statham, Monitoring Officer
Ward(s) Affected	All Wards
Exempt	No
Exemption Reason	Not applicable
Corporate Priority	This item is not in the current list of Corporate Priorities.
Recommendations	Committee is asked to agree the membership of the Committee System Working Group to comprise all Group Leaders and Independent members that exist at the time of any meeting of the Working Group, and one additional named Conservative member.
Reason for Recommendation	To enable as wide a representation on the Working Group as possible, by members of all political persuasions.

1. Summary of the report

- 1.1 This report seeks approval of the membership of the Committee System Working Group.

2. Key issues

- 2.1 The Committee System Working Group was first established in November 2020 to develop the structure of the new Committee System. The Working Group comprised all the Group Leaders and independent members at that time. It agreed to meet periodically after adoption of the System in May 2021 to review its operation and evaluate its success.
- 2.2 At the Extraordinary Standards Committee held on 29 September 2021, the Working Group was re-established under the Committee System with terms of reference to enable it to review the operation of the Committee System and recommend any amendments. The Committee also agreed the membership of the Working Group as follows:

“Group Leaders, the Independent Green councillor and one additional named Conservative member.”

It is clear from the Minutes of that meeting (Appendix 1) that the intention was for the Working Group to consist of “all group leaders and independent members, which would allow the independent Green councillor to be part of the working group.”

The resolution wording has resulted in some confusion among members of the Working Group as it excluded an independent member who had served on the Working Group between November 2020 and March 2021 but was not an independent member at the time of the decision taken on 29 September 2021.

3. OPTIONS ANALYSIS

- 3.1 a) **Recommended:** The membership of the Committee System Working Group to comprise all Group Leaders and independent members that exist at the time of any meeting of the Working Group and one additional named Conservative member. This would reflect the principle that had been set from the Working Group's inception, that as wide a representation of political groupings as exist in the Council would be included on this Working Group.
- 3.2 This proposal would accommodate any future formations of groups, or members leaving groups to be independent.
- 3.3 This proposal was put to the Committee System Working Group at its first meeting of this year and members supported it.
- 3.4 b) **Not recommended:** Retain the membership as minuted at the Extraordinary Standards Committee on 29 September 2021. This would exclude any other members who since that date, or at a future date, became independent.

4. Recommendation

- 4.1 The Committee is asked to agree the membership of the Committee System Working Group to comprise all Group Leaders and Independent members that exist at the time of any meeting of the Working Group and one additional named Conservative member.

5. Contact

- 5.1 Victoria Statham v.statham@spelthorne.gov.uk

Background papers: There are none.

Appendices:

Appendix 1 – Minutes of Standards Committee 29 September 2021

**Minutes of the Standards Committee
29 September 2021**

Present:

I. Winter (Chairman)
Dylan Price (Vice-Chairman)

Councillors:

M.M. Attewell	R.D. Dunn	O. Rybinski
I.J. Beardsmore	K.M. Grant	R.W. Sider BEM
J.R. Boughtflower	S.C. Mooney	R.A. Smith-Ainsley

Apologies: There were none.

In Attendance: Councillors Bateson and Beecher

403 Disclosures of Interest

There were none.

404 Establishment of the Committee System Working Group

The Committee considered a report seeking to establish a Committee System Working Group (CSWG) to monitor whether the Committee system was meeting the objectives set by the Council. .

No agreement had been reached by the Committee on the composition of the CSWG at their previous meeting on 28 July 2021. The Monitoring Officer had requested comments from the political group leaders on the options available and reported the feedback received to the Committee

It was proposed by Cllr Smith-Ainsley that the Terms of Reference should be as recommended and membership should consist of all group leaders and independent members, which would allow the independent Green councillor to be part of the working group. This was seconded by Cllr Rybinski.

An amendment was proposed by Cllr Beardsmore to allow one additional nominated Conservative councillor to the working group to make it slightly more equitable in terms of political representation of the Council but not too unwieldy. This was seconded by Cllr Boughtflower and agreed unanimously.

Councillor Grant asked if substitutes could be used if members were unable to attend the working group meetings. The Monitoring Officer advised that the

Deputy Group Leader had been permitted to attend in place of a Group Leader previously if necessary.

The Committee **resolved**:

1. To establish a Committee System Working Group (CSWG) with the terms of reference as set out in Appendix A.
2. Membership of the CSWG to be Group Leaders, the Independent Green councillor and one additional named Conservative member. Deputy Group Leaders would be allowed to substitute for Group Leaders if necessary, the Conservative Group to nominate a representative in place of the Deputy Group Leader.