



Please reply to:

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Date: 09 October 2024

Notice of meeting

Standards Sub-Committee

Date: Thursday, 17 October 2024

Time: 10.00 am

Place: Council Chamber, Council Offices, Knowle Green, Staines-upon-Thames TW18 1XB

To the members of the Standards Sub-Committee

Young (Chair)
T. Burrell

S.A. Dunn
M.J. Lee

Spelthorne Borough Council, Council Offices, Knowle Green

Staines-upon-Thames TW18 1XB

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Agenda

Page nos.

1. Disclosures of Interest

To receive any disclosures of interest from councillors in accordance with the Council's Code of Conduct for members.

Procedural documents

The following procedural documents are attached for all the matters before this Assessment Panel:

- Members Code of Conduct
- Arrangements for dealing with complaints
- Member complaint procedure flowchart
- Member complaint procedure criteria stages

2. Determination of Complaint against Councillor A

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To consider the report of the Investigating Officer and determine whether the complaint against Councillor A amounts to a breach of the Members' Code of Conduct and whether any sanctions are appropriate.

The procedure to be followed at the hearing follows.

Spelthorne Borough Council

Code of conduct for councillors and co-opted members

General Obligations

You are a councillor or co-opted member of Spelthorne Borough Council and hence you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Accordingly, when acting in your capacity as a councillor or co-opted member -

1. You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.
2. You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
3. When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.
4. You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.
5. You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.
6. You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out below.
7. You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.
8. You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
9. You must treat others with respect. This means treating people fairly and equitably and with courtesy, compassion and sensitivity. You should treat other people equally as you yourself would expect to be treated. You must never use behaviour which a reasonable person would consider as offensive, overbearing, intimidating, malicious, insulting or humiliating.
10. You must discharge your duties and conduct yourself in such a way that assists the Council to comply with its duties under the Equality Act 2010.

11. You must respect the distinct but complementary roles that councillors and staff have in their work for the Council and abide by the advice in the Member Officer Protocol.
12. You must recognise that the staff working for, or on behalf of, the Council are required to be impartial and you must not do anything which compromises that impartiality.
13. If a complaint is made under this Code of Conduct then you must not interfere with the administration or investigation of the complaint and you must not intimidate any complainant, witness or likely witness or engage with them in any way which undermines the investigation.

Registering and declaring pecuniary and non-pecuniary interests

14. You must, within 28 days of taking office as a councillor or co-opted member, notify the Monitoring Officer of any "Disclosable Pecuniary Interest" as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.
15. In addition, you must, within 28 days of taking office as a councillor or co-opted member, notify the Monitoring Officer of other Non-Pecuniary Interests which the Council has decided should be included in the register.
16. The Council has decided that it is appropriate for you to register and disclose Non-Pecuniary Interests that arise from your membership of, or your occupation of a position of general control or management in, the following bodies:
 - a. bodies to which you have been appointed or nominated by the Council;
 - b. bodies exercising functions of a public nature;
 - c. bodies directed to charitable purposes;
 - d. bodies one of whose principal purposes includes the influence of public opinion or policy.
17. If an interest (under paragraphs 14-16 above) has not been entered onto the Council's register, then the councillor or co-opted member must disclose the interest to any meeting of the authority at which they are present, where they have an interest in any matter being considered and where the matter is not a 'sensitive interest'.¹
18. Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.
19. Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a Disclosable Pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions the Council places on your involvement in matters where you have a pecuniary or non pecuniary interest as defined by the Council.

¹ A 'sensitive interest' is described in the Localism Act 2011 where the councillor or person connected with the councillor could be subject to violence or intimidation.

Other guidance

20. The Members' Code of Conduct Committee publishes other guidance to assist councillors and co-opted members to meet the aspirations of this Code. You should make yourself familiar with this guidance and act accordingly:
 - a. The Planning Code
 - b. Policy on Gifts, Hospitality and Sponsorship
 - c. Conflicts of Interest Policy

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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 2;
 - 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: monitoringofficer@spelthorne.gov.uk

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?

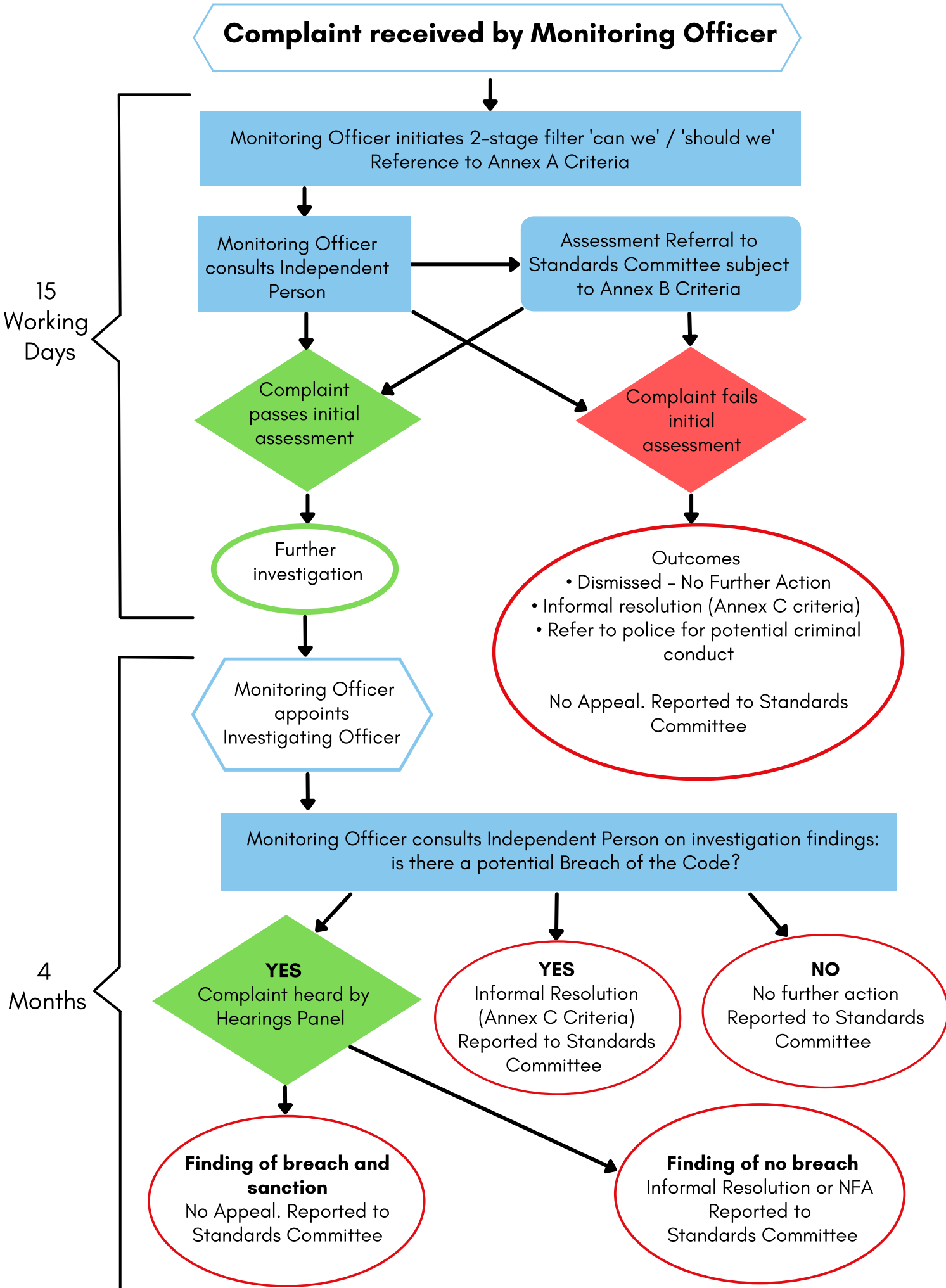
62. At the end of the hearing, the Chair will state the decision of the Hearing Sub-Committee as to whether the member failed to comply with the Code of Conduct and as to any actions which the Sub-Committee resolves to take.
63. As soon as reasonably practicable thereafter, the Monitoring Officer will 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

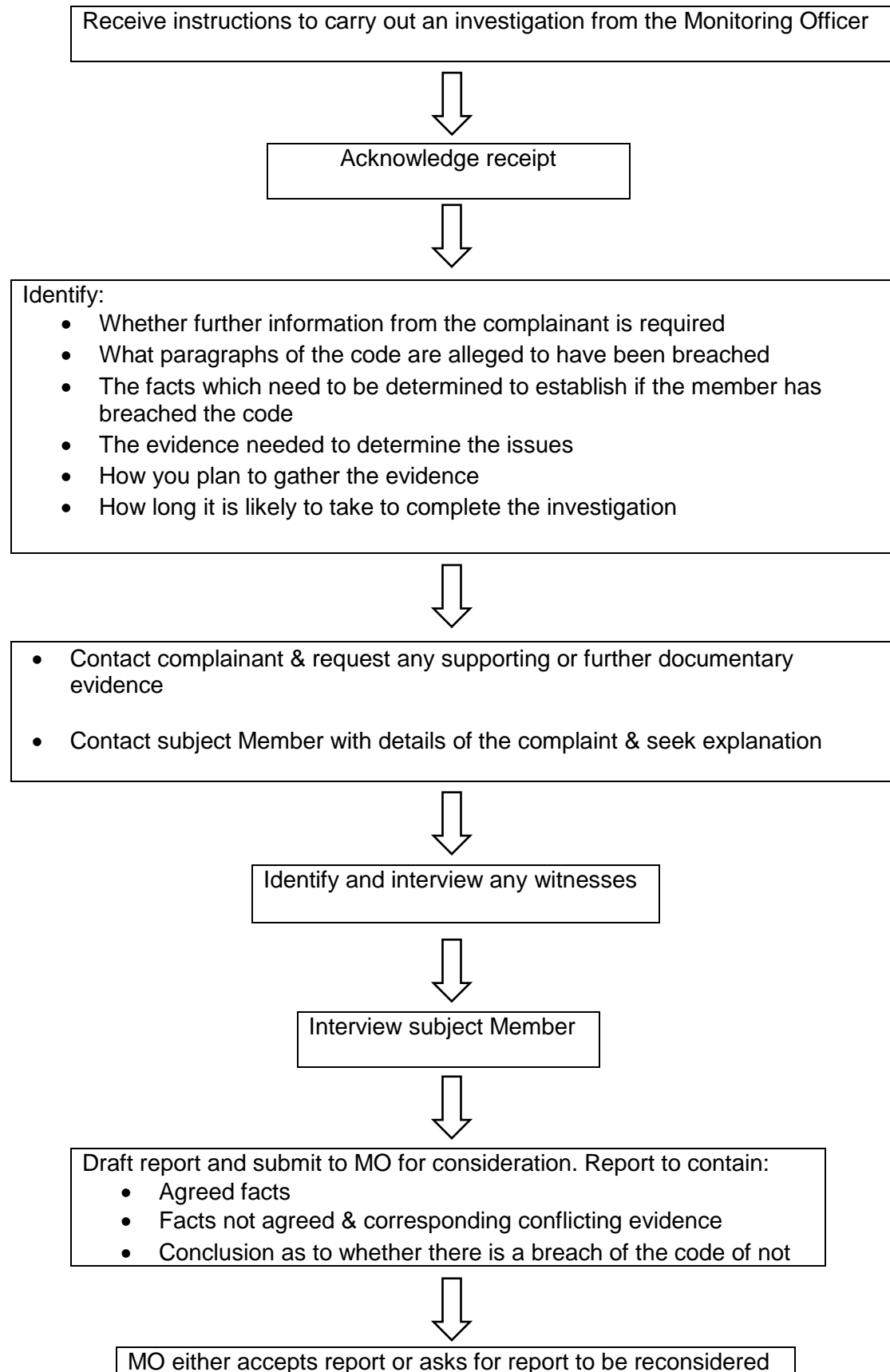
Criteria for informal resolution at any stage in the process

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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Spelthorne Borough Council

Members' Code of Conduct Committee

Hearing Procedures - Final Hearings

To encourage the confidence of members and the public the following procedures have been adopted by the Members' Code of Conduct Committee to ensure a consistent approach is taken to determining matters locally.

The Panel will comprise of 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 Panel but legally cannot vote on the decision.

The investigation shall be carried out promptly, with the expectation that all investigations, resolutions and hearings will be completed within a maximum period of three months. All those involved in the complaint should do their utmost to ensure that this can happen.

There will be an expectation that the Hearing will sit from 10.00am to 4.00pm and if there is a need for the hearing to continue then the hearing will re-convene the following day.

INTERPRETATION

Member - means the councillor or co-opted member of the authority who is the subject of the allegation being considered by the Standards Committee, unless otherwise stated.

Investigator - means the Monitoring Officer, an independent investigator appointed by the Monitoring Officer or a senior officer of Spelthorne Borough Council or another local authority who has agreed to assist the Committee.

Committee - also refers to a Hearings Panel of the Standards Committee;

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 the authority, or someone appointed for this purpose from outside the authority.

Representation - the member may be represented or accompanied during the meeting by a fellow councillor, a solicitor or counsel, or with the permission of the committee another person.

Legal Advice – the Committee may take legal advice, in private if necessary, from its legal advisor at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the committee should be shared with the Member and the Investigator if they are present.

Pre-hearing Process

1. The Monitoring Officer or the Hearings Panel may conduct a pre-hearing process in order to narrow the issues between the parties and make appropriate provision for the smooth running of the Hearing. Where this happens the Monitoring Officer will provide a letter to all parties outlining the issues to be determined for and the arrangements for making decisions about all such matters.
2. In complex cases it may be appropriate for the Hearings Panel to meet in advance to deal with all such procedural issues but the Monitoring Officer will provide an agenda for such meeting outlining the matters to be resolved.

3. The Legal Advisor 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. In order to air procedural matters properly in advance of a hearing it is normally expected that the Panel will take place in private unless there are exceptional circumstances which dictate otherwise.

Hearings Procedure

4. At the start of the hearing the Chairman will:
 - Introduce members of the committee and others in attendance
 - Explain the purpose of the meeting and how it will proceed
5. The Legal Advisor 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. In order to give confidence to the public it is expected that the Panel will take place in public unless there are exceptional circumstances which dictate otherwise.
6. The Committee will then resolve any other issues or disagreements about how the hearing should continue, which have not been resolved during the pre-hearing process.
7. If there are disagreements about the facts the Investigator, if present, will be invited to make representations to support the findings of their report and with the Committee's permission to call supporting witnesses. The committee will give the Member an opportunity to challenge any evidence put forward by a witness but any direct questions are put through the Chairman.
8. The Member will then have the opportunity to make representations to support his or her version of the facts and with the Committee's permission to call supporting witnesses. The Committee will give the Investigator an opportunity to challenge any evidence put forward by a witness.
9. At any time the Committee may question the investigator, the Member or their witnesses.
10. The Committee will not allow the member to raise a disagreement with the facts, which was not raised prior to the hearing, unless the Member satisfies the Committee there were good reasons for not raising the disagreement before. If the Investigator is not present the committee will consider whether or not it would be in the public interest to continue in the Investigator's absence. After considering the position and the Member's explanation for not raising the disagreement at an earlier stage the committee may:
 - (a) Continue the hearing, relying on the information in the Investigator's report;
 - (b) Allow the Member to make representations about the issue and invite the Investigator to respond and call any witnesses necessary; or
 - (c) Postpone the hearing to arrange for the Investigator to be present if he or she is not already or for appropriate witnesses to be present.
11. The Investigator and Member will normally be given the opportunity to make short closing statements before the Committee retires to reach its decision. The Member will speak last to have the final say.
12. The Committee will then consider its decision based on the facts presented in private.
13. If any clarification or legal advice is needed this will be undertaken with all parties present.

14. On their return to the hearing, the Chairman will announce the Committee's findings of fact and whether the Member has failed to follow the Code of Conduct.
15. If the Committee decides that the Member has failed to follow the Code of Conduct, the chairman will inform the Member of this finding.
16. The Investigator and the Member will be invited to make any final relevant points as regards the sanction which should be imposed.
17. The Committee will then consider the representations and make its decision in private and will consider any representations from the Investigator and the Member as to:
 - (a) Whether or not the committee should set a penalty; and
 - (b) What form any penalty should take.
18. The Committee will then consider in private whether or not to impose a penalty on the Member and, if so, what the penalty should be.
19. The Chairman will then announce the committee's decision.
20. The Committee will then consider whether it will make any recommendations to the Council on any future preventative measures or tightening up procedures, with a view to promoting high standards of conduct among members. In doing so they will consider any verbal or written representations from the investigator.
21. The Committee will announce its decision on the day and provide a short written decision on that day. It will issue a full written decision as soon as practicable and send it to all concerned with the hearing.

Adopted 27 February 2013

Updated July 2021

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Standards Hearing Sub-Committee



17 October 2024

Title	Determination of Complaint against a Councillor
Purpose of the report	To make a decision
Report Author	Karen Limmer Interim Group Head of Corporate Governance
Ward(s) Affected	All wards
Exempt	Yes: Appendix A
Exemption Reason	Appendix A contains exempt information within the meaning of Part 1 of Schedule 12A to the Local Government Act 1972, as amended by the Local Government (Access to Information) Act 1985 and by the Local Government (Access to information) (Variation) Order 2006 Paragraph 1 and 2 – Information relating to any individual or any information which is likely to reveal the identity of an individual.
Corporate Priority	This item is not in the current list of Corporate Priorities but still requires a decision.
Recommendations	Committee is asked to: Make a determination of the Complaint
Reason for Recommendation	In accordance with the Council's Arrangements for dealing with Allegations against Councillors, this Sub-Committee is required to make a determination of the complaint.

1. Summary of the report

What is the situation	Why we want to do something
<ul style="list-style-type: none"> Following a complaint, the Assessment Sub-Committee decided that it should be formally investigated. That has taken place, and the Hearing Sub-Committee needs to consider whether or not they agree with the findings and if so, consider any further action in relation to the complaint. 	<ul style="list-style-type: none"> To uphold the Nolan Principles and in accordance with Council's Arrangements for dealing with Complaints against councillors as published.

This is what we want to do about it	These are the next steps
<ul style="list-style-type: none"> To make a finding in relation to the investigation of the complaint. 	<ul style="list-style-type: none"> To consider the Investigator's Report.

1.1 The Sub-Committee is required to consider the Investigator's Report and determine the complaint against Councillor Jo Sexton that she has failed to comply with the Members' Code of Conduct.

1.2 The Sub-Committee is asked to review the report and hear from a number of witnesses in order to determine whether the Councillor has breached the Code of Conduct.

2. Complaint

2.1 The complaint made by an employee, the Group Head of Place, Protection and Prosperity, relates to the conduct of Councillor Sexton and whether or not it may amount to bullying, in breach of the Council's Code of Conduct.

2.2 On receipt of the complaint, the Monitoring Officer consulted with the Independent Person in accordance with the Council's published Arrangements for dealing with standards allegations. An Assessment Sub-Committee was held on 13 May 2024, and decided that the complaint should be investigated.

2.3 Mr Peter Bryant was appointed as the external investigator to consider and report on the complaint. The Final Confidential Report is attached at exempt Appendix A.

3. Hearings process

3.1 The purpose of the hearing is to consider the Report, hear any representations and make a determination on the basis of that evidence, and (if appropriate) decide on any action to be taken. The Independent Chair may direct the manner in which the hearing is to be conducted but otherwise the following general principles will apply:

(a) The Investigator will present his report and explain his conclusions

(b) The Investigator will call witnesses to support his conclusions

(c) Committee Members and the councillor concerned will have the opportunity to question the Investigator

(d) The Independent Person may be asked to comment

(e) The Councillor concerned will make representations to the Sub-Committee and give evidence

(f) The Sub-Committee (after private deliberation if necessary) will inform the Councillor of its decision and any action to be taken

(g) A written notice will be published after the hearing

4. Possible Outcomes

4.1 If the Sub-Committee finds that the Councillor did not fail to comply with the Code of Conduct, it may dismiss the complaint.

- 4.2 If the Sub-Committee finds that the Councillor did fail to comply with the Code of Conduct, it may decide on any or a combination of the following actions:
- (a) Require the Councillor to publish an apology 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.
- 4.3 The Sub-Committee may set the time frame for the actions required to be taken.
- 4.4 The Sub-Committee has no power to suspend or disqualify a councillor or withdraw allowances.

5. Contact

- 5.1 Karen Limmer Interim Group Head of Corporate Governance.

Background papers: Assessment Panel papers for the Hearing on 13 May 2024

Appendices:

Appendix A: Investigation Report of Peter Bryant

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of the Local Government Act 1972.

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