



# Public Document Pack Standards Agenda

Thursday 6 June 2019 at 7.30 pm

Conference Room 1 - The Forum

The Councillors listed below are requested to attend the above meeting, on the day and at the time and place stated, to consider the business set out in this agenda.

#### Membership

Councillor Anderson  
Councillor C Wyatt-Lowe  
Councillor R Sutton

Councillor Ransley  
Councillor Hobson

#### Independent Person

Susan Johnson

#### Independent Members

Gloria Gillespie  
Caroline Guest

For further information, please contact Corporate and Democratic Support

## AGENDA

### 1. MINUTES

To confirm the minutes from the previous meeting

### 2. APOLOGIES FOR ABSENCE

To receive any apologies for absence

### 3. STANDARDS COMMITTEE (Pages 2 - 31)

# Agenda Item 3



<b>Report for:</b>	<b>Standards Committee</b>
<b>Date of meeting:</b>	<b>6<sup>th</sup> June 2019</b>
<b>PART:</b>	<b>I</b>
If Part II, reason:	

<b>Title of report:</b>	<b>Standards Committee</b>
Contact:	Mark Brookes (Assistant Director – Corporate and Contracted Services) Directline: 01442 228236, internal extension: 2236 Mark.brookes@dacorum.gov.uk
Purpose of report:	To set out the agenda items for consideration at the Standards Committee on 6 <sup>th</sup> June 2019.
Recommendation	<ol style="list-style-type: none"> <li>1. That Members appoint a Chairman for the Committee.</li> <li>2. That Members be provided with an overview of the roles and responsibilities of the Committee.</li> <li>3. That Members be provided with an overview of the Code of Conduct for Members.</li> <li>4. That Members be provided with an overview of the Standards Complaints Procedure.</li> </ol>
Corporate objectives:	The promotion and maintenance of high standards of conduct by Members of the Council will assist the Council in achieving its priorities of performance excellence and reputation and profile delivery.
Implications: 'Value For Money	There are financial and efficiency costs to the Council in having to deal with complaints made under the Code of Conduct. There are, therefore, value for money benefits to the Council in striving to ensure that complaints against

Implications'	Members are minimised are as far as possible and any complaints that are received are dealt with as cost effectively as possible.
Risk Implications	The risk to the Council in not having in place a robust local standards regime could damage its reputation for good governance and undermine public confidence in the Council as a whole.
Monitoring Officer	This is a report prepared by the Assistant Director, Corporate and Contracted Services in his capacity as Monitoring Officer.
Consultees:	None
Background papers:	Code of Conduct For Members (copy attached) Standards Complaints Procedure (Copy attached to the report)

### Standards Committee

1. This is the first meeting of the new Committee and therefore the Committee will be required to elect a Chairman to act until the next Borough election. Please note that only the five elected members of the Borough Council are entitled to vote on the election of the Chairman.
2. There are currently no standards complaints to consider and therefore the meeting will be used to provide an overview of the following of:
  - i) Roles and Responsibilities for the committee and its members
  - ii) Overview of the Code of Conduct
  - iii) Overview of the Standards Complaints Procedure

The above will take the form of a presentation by the Monitoring Officer with opportunities for questions. No formal preparation is required but for those new members of the Committee a prior read through of the Code of Conduct for Members and Standards Complaints Procedure would be beneficial (copies are annexed to this agenda).

3. The meetings dates for this financial year are:

Committee Date	Agenda Items
6 <sup>th</sup> June 2019	Agree Chairman and introductory session

12 <sup>th</sup> September 2019	Training/case study and consider complaints (if required)
5 <sup>th</sup> December 2019	Consider complaints
5 <sup>th</sup> March 2020	Consider complaints

4. The Chairman will be responsible for approving any further agenda items but if any members wish to add items then they can be raised at the committee meetings for approval. Meetings may be cancelled at the discretion of the Chairman if there is no business to be considered.

# **DACORUM BOROUGH COUNCIL**

## **CODE OF CONDUCT FOR MEMBERS**

(Adopted by Council 11<sup>th</sup> July 2012)

### **Part 1**

#### **General Provisions**

#### **1. Introduction and interpretation**

- (1) As a member you are a representative of this authority and the public will view you as such therefore your actions impact on how the authority as a whole is viewed and your actions can have both positive and negative impacts on the authority. This Code deals with the conduct that is expected of you as a member of this authority when you are acting in that capacity.

The Code has been drawn up in accordance with Section 28 of the Localism Act 2011 (the Act). The provisions of this Code are consistent with the seven principles contained in Section 28(1) of the Act (the so-called “Nolan Principles”) and these are set out in Appendix 1.

- (2) In this Code-

“meeting” means any meeting of:

- (a) the authority;
- (b) the executive of the authority;
- (c) any of the authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees;
- (d) any Task and Finish Group or similar internal body;
- (e) one or more members with an officer or officers of the authority, including any briefings by officers and site visits organised by the authority; or
- (f) any other meeting (except party group meetings) where one or more members are attending in an official capacity (or might reasonably be regarded by a member of the public as attending in an official capacity);

#### **2. Who does the Code apply to?**

- (1) This Code applies to all members of Dacorum Borough Council, including co-opted members.

(2) It is your responsibility to comply with the provisions of this Code.

### **3. What does the Code apply to?**

(1) This Code applies to your conduct when you are acting in the capacity of an elected member or co-opted member of the Council or its Committees and Sub-Committees.

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

(a) conduct the business of the authority (which, in this Code, includes the business of the office to which you are elected or appointed); or

(b) act, claim to act or give the impression you are acting as a representative of the authority, and references to your official capacity are construed accordingly.

(3) This Code does not have effect in relation to your conduct other than where it is in your official capacity.

(4) Where you act as a representative of the authority-

(a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or

(b) on any other body, you must, when acting for that other body, comply with this Code, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

### **4. General Obligations**

(1) You must treat others with respect.

(2) You must not

(a) do anything which may cause your authority to breach any of the equality enactments ;

(b) bully any person;

(c) intimidate or attempt to intimidate any person who is or is likely to be:

(i) a complainant,

(ii) a witness, or

(iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

- (d) do anything which comprises or is likely to compromise the impartiality of those who work for, or on behalf of, the authority.

## **5. Confidential Information**

You must not-

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where-
  - (i) you have the consent of a person authorised to give it;
  - (ii) you are required by law to do so;
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is-
    - (aa) reasonable and in the public interest; and
    - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
- (b) prevent another person from gaining access to information to which that person is entitled by law.

## **6. Not bringing the authority into disrepute**

You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the authority into disrepute.

## **7. Conferring an advantage or disadvantage**

You-

- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
- (b) must, when using or authorising the use by others of the resources of the authority-
  - (i) act in accordance with the authority's reasonable requirements;
  - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

## **8. Decision-making**

- (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by-
  - (a) the authority's chief finance officer; or (b) the authority's monitoring officer; where that officer is acting pursuant to his or her statutory duties.
- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the authority.

## **9. Training**

- (1) To enable Members to fully take part in Council business Members are encouraged to attend all training, which forms part of the Member Development Programme. Council have adopted a requirement for a mandatory training programme for Members, which will be approved annually by Cabinet following consultation with the Member Development Steering Group and the Council's statutory officers. Members must attend all mandatory training in accordance with the Council's requirement.

## Part 2

### Members' Interests

#### 9. Disclosable Pecuniary Interests

You have a disclosable pecuniary interest in any business of the authority if it is of a description set out in Appendix 2 and is either-

- (a) an interest of yours, or
- (b) an interest of-
  - (i) your spouse or civil partner,
  - (ii) a person with whom you are living with as husband and wife, or (iii) a person with whom you are living with as if you were civil partners, and you are aware that that other person has the interest.

#### 10. Other Personal Interests

- (1) You have a personal interest in any business of the authority where either:
  - (a) it relates to or is likely to affect:
    - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the authority;
    - (ii) any body:
      - (aa) exercising functions of a public nature;
      - (bb) directed to charitable purposes; or
      - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)of which you are a member or in a position of general control or management;
  - (iii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
  - (iv) any person or body who employs or has appointed you; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the

majority of other council tax payers, ratepayers or inhabitants of the ward affected by the decision.

- (2) In sub-paragraph (1)(b), a relevant person is a member of your family or any person with whom you have a close association.

## 11. Disclosure of Personal Interests

- (1) Where you have a **personal interest** under paragraph 10 in any business of the authority and you attend a meeting of the authority at which the business is to be considered, you must disclose to that meeting the existence and nature of that interest before the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business which relates to or is likely to affect a body described in paragraph 10(1)(a)(i) – i.e. a body to which you have been appointed as the authority’s nominee – or 10(1)(a)(ii)(aa) – i.e. a body exercising functions of a public nature of which you are a member or in a position of general control or management - you need only disclose to the meeting the existence and nature of that interest if and when you address the meeting on that business.
- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 10(1)(a)(iii) – i.e. where you have received a gift or hospitality from a person worth at least £25 – you need not disclose the nature and existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (5) Where you have a personal interest but, by virtue of paragraph 17, sensitive information relating to it is not registered in the authority’s Register of Members’ Interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Subject to paragraph 14(c), where you have a personal interest in any business of the authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (7) In this paragraph, “executive decision” is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

## 12. Prejudicial Interests Generally

- (1) Subject to sub-paragraph (2), where you have a **personal interest** under paragraph 10 in any business of the authority you also have a prejudicial

interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

- (2) You do not have a prejudicial interest in any business of the authority where that business -
- (a) does not affect your financial position or the financial position of a person or body described in paragraph 10;
  - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 10; or
  - (c) relates to the functions of the authority in respect of -
    - (i) **housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;**
    - (ii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
    - (iv) an allowance, payment or indemnity given to members;
    - (v) any ceremonial honour given to members; and
    - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

### **13. Prejudicial interests arising in relation to overview and scrutiny committees**

You also have a prejudicial interest in any business before an overview and scrutiny committee of the authority (or of a subcommittee of such a committee) where -

- (a) that business relates to a decision made (whether implemented or not) or action taken by the authority's executive or another of the authority's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint subcommittee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

### **14. Effect of prejudicial interests on participation**

Where you have a prejudicial interest in any business of the authority under paragraph 12 which is to be considered at a meeting (including a meeting of an overview and scrutiny committee) at which you are present--

- (a) you must, unless paragraph 11(5) applies (sensitive information) disclose the existence and nature of the interest in accordance with paragraph 11(1)

and, unless the meeting is a Council meeting, you must move to the public seating area until that business has been concluded;

- (b) you must not, unless you have obtained dispensation from the monitoring officer, participate in any discussion or voting on the matter, except that you may still make representations, answer questions or give evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose;

- (c) you must not exercise executive functions in relation to that business; and (d)

you must not seek improperly to influence a decision about that business.

### **15. Effect of Disclosable Pecuniary Interests on Participation**

- (1) If present at a meeting and you are aware that you have a **disclosable pecuniary interest** under paragraph 9 in any matter to be considered, or being considered at the meeting, you must not, unless you have obtained dispensation from the monitoring officer-

- (a) participate, or participate further, in any discussion of the matter at the meeting, or

- (b) participate in any vote, or further vote, taken on the matter at the meeting,

and, unless the meeting is a Council meeting, you must move to the public seating area until that business has been concluded,

- (c) you must not exercise executive functions in relation to that business; and

- (d) you must not seek improperly to influence a decision about that business

- (2) If a function of the authority may be discharged by a member acting alone and you have a disclosable pecuniary interest in any matter to be dealt with or being dealt with in the course of discharging that function you may not take any steps or any further steps in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by yourself)

## **Part 3**

### **Registration of Members' Interests**

#### **16. Registration of members' interests**

- (1) Subject to paragraph 17, you must, within 28 days of -

- (a) this Code being adopted by the authority; or
- (b) your election or appointment to office (where that is later),

register in the authority's Register of Members' Interests (maintained by the monitoring officer under Section 29(1)) of the Act details of any-

- (i) **disclosable pecuniary interests** as referred to in paragraph 9 that you may have , or your spouse, civil partner or person with whom you live as if they were your spouse or civil partner may have in so far as you are aware of their interests at that time
- (ii) other **personal interests** that you may have where they fall within a category mentioned in paragraph 10(1)(a)

by providing written notification to the authority's monitoring officer.

- (2) Subject to paragraph 17, you must, within 28 days of becoming aware of any new disclosable pecuniary interest or other personal interest or change to any existing disclosable pecuniary interest or other personal interest registered under paragraph (1), register details of that new interest or change by providing written notification to the authority's monitoring officer.

#### **17. Sensitive information**

- (1) Where you and the authority's monitoring officer both consider that the information relating to any of your interests (whether or not a disclosable pecuniary interest) is sensitive information then copies of the register that are made available for inspection, and any published version should not include details of the interest but may state that you have an interest details of which are withheld under Section 32(2) of the Act and/or this paragraph.
- (2) You must, within 28 days of becoming aware of any change of circumstances which means that details excluded under paragraph (1) are no longer sensitive information, notify the authority's monitoring officer asking that the details be included in the authority's Register of Members' Interests.
- (3) In this Code, "sensitive information" means information which if disclosed or made available for inspection by the public could lead you, or a person connected with you, to being subject to violence or intimidation.

## **CODE OF CONDUCT**

### **APPENDIX 1**

#### **THE NOLAN PRINCIPLES AND SECTION 28(1) OF THE LOCALISM ACT 2011**

##### **SELFLESSNESS**

Members should only serve the public interest and should never improperly confer an advantage or disadvantage on any person

**INTEGRITY**

Members should not place themselves in situations where their integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour

**OBJECTIVITY**

Members should make decisions on merit, including when making appointments, awarding contracts or recommending individuals for rewards or benefits.

**ACCOUNTABILITY**

Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

**OPENNESS**

Members should be as open as possible about their actions and those of the Council and should be prepared to give reasons for those actions.

**HONESTY**

Members should not place themselves in situations where their honesty may be questioned, should not behave improperly and should, on all occasions, avoid the appearance of such behaviour.

**LEADERSHIP**

Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

## Appendix 2

### Disclosable Pecuniary Interests

The duties to register, disclose and not to participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011.

Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows –

<i>Interest</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and

(b) either—

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For this purpose –

**“the Act”** means the Localism Act 2011;

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

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

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

**“M”** means a member of a relevant authority;

**“member”** includes a co-opted member;

**“relevant authority”** means the authority of which M is a member;

**“relevant period”** means the period of 12 months ending with the day on which M gives a notification to the monitoring officer of their disclosable pecuniary interests, either– following their election or co-option for the purposes of section 30(1) of the Act, or

following a disclosure of a disclosable pecuniary interest which has not already been registered, or is not in the process of being registered, for the purposes of section 31(7) of the Act;

**“relevant person”** means M, or

M’s spouse or civil partner, or  
a person with whom M is living as husband and wife, or as if they were civil partners;

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

## **DACORUM BOROUGH COUNCIL**

### **CODE OF CONDUCT FOR MEMBERS- COMPLAINTS PROCEDURE**

#### **1. Introduction**

- 1.1 This Complaints Procedure sets out how you can make a complaint that a Member or Co-opted Member of Dacorum Borough Council has failed to comply with the Borough Council's Code of Conduct For Members, and explains how the complaint will be dealt with. It also sets out how you can make a complaint that a Member or Co-opted Member of a Town or Parish Council within the Borough has failed to comply with their own Council's Code of Conduct For Members.
- 1.2 Under Section 28(6) and (7) of the Localism Act 2011, the Borough Council must have in place "arrangements" under which allegations that a member or co-opted member of the Borough Council, or of a Parish or Town Council within the Council's area, has failed to comply with the Code of Conduct can be investigated and decisions made on such allegations.
- 1.3 Such arrangements must provide for the Borough 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 shall be investigated, and whose views can be sought by the Council at any other stage, or by the member or co-opted member against whom an allegation has been made.

#### **2. The Members' Code of Conduct**

- 2.1 The Borough Council has adopted a Code of Conduct for Members, which is available for inspection on the Council's website and on request from the Council's Monitoring Officer (see below).
- 2.2 Each Parish and Town Council has also adopted their own Code of Conduct. If you wish to inspect a Parish or Town Council's Code of Conduct, you should inspect any website operated by the Parish or Town Council or request the Parish or Town Clerk to allow you to inspect their Code of Conduct.

#### **3. Making a Complaint**

- 3.1 If you wish to make a complaint, please write or email to:

Mark Brookes  
Monitoring Officer  
Dacorum Borough Council  
The Forum, Marlowes  
Hemel Hempstead, HP1 1DN

[mark.brookes@dacorum.gov.uk](mailto:mark.brookes@dacorum.gov.uk)

Tel: 01442 228236

- 3.2 The Monitoring Officer is a senior officer of the Borough 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.
- 3.3 In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the relevant complaint form, which can be downloaded from the Council's website, next to the Code of Conduct, or is available on request from the Monitoring Officer. Please note that there are two separate complaint forms depending on whether the complaint is about a member of the Borough Council or a member of a Town or Parish Council.
- 3.4 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 complaint form. The Monitoring Officer will consider your request and if granted, we will not disclose your name and address to the member against whom you make the complaint, without your prior consent.
- 3.5 The Council will not normally investigate anonymous complaints, unless there is a clear public interest in doing so.
- 3.6 The Monitoring Officer will acknowledge receipt of your complaint within five working days of receiving it, and will keep you informed of the progress of your complaint. Unless there are exceptional circumstances, the Monitoring Officer will also immediately inform the member concerned that a complaint has been made about them and provide them with a copy of the complaint or a summary.
- 3.6 The Complaints Procedure Flowchart is annexed at Appendix 1 for your assistance.

#### **4. Will your Complaint be Investigated?**

- 4.1 The Monitoring Officer will review every complaint received and, will consult with the Independent Person before taking a decision as to whether it:
  - 4.1.1 Merits no further investigation
  - 4.1.2 Merits further investigation

#### 4.1.3 Should be referred to the Standards Committee

The decision will normally be taken within 20 working days of receipt of your complaint. Your complaint will be considered in accordance with the Assessment Criteria at Appendix 2. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision.

- 4.2 Where the Monitoring Officer requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the member against whom your complaint is directed. Where your complaint relates to a Parish or Town Councillor, the Monitoring Officer will also inform the Clerk of the Parish or Town Council of your complaint.
- 4.3 In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the Council. Where the member or the Council make 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.
- 4.4 If your complaint identifies potential criminal conduct or breach of other regulations by any person, the Monitoring Officer has the power to call in the Police or other regulatory agencies.

### **5. How is the Investigation Conducted?**

- 5.1 If the Monitoring Officer decides that a complaint merits further investigation, he/she may appoint an Investigating Officer, who may be another senior officer of the Council, an officer of another authority or an external investigator. The Investigating Officer or Monitoring Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents need to be seen and who needs to be interviewed.
- 5.2 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/she needs to see and who he/she 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 harm 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.

- 5.3 At the end of his/her investigation, the Investigating Officer or Monitoring Officer will produce a Draft Investigation Report and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.
- 5.4 Having received and taken account of any comments which you may make on the draft report, where an Investigating Officer has been appointed, the Investigating Officer will send his/her Final Investigation Report to the Monitoring Officer.

**6. What happens if the investigating officer or monitoring officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**

- 6.1 If an Investigating Officer has been appointed, the Monitoring Officer will review the Investigating Officer's report and, after consulting the Independent Person, he/she is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned (and to the Parish or Town Council where your complaint relates to a Parish or Town Councillor), notifying you that he/she is satisfied that no further action is required, and give you both a copy of the Final Investigation Report. Alternatively, the Monitoring Officer may refer the Investigating Officer's report to the Standards Committee if he/she considers it appropriate to do so.
- 6.2 If an Investigation Officer has been appointed and if the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider his/her report.

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

- 7.1 If an Investigating Officer has been appointed, the Monitoring Officer will review the Investigating Officer's Final Investigation Report and will then either send the matter for a hearing before the Standards Sub-Committee or, in consultation with the Independent Person, seek an informal resolution.

**7.1.1 Informal Resolution**

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the Council. If the member complies with the suggested resolution, the Monitoring

Officer will report the matter to the Standards Committee (and the Parish or Town Council where appropriate) for information, but will take no further action.

### 7.1.2 Hearing

If the Monitoring Officer considers that informal resolution is not appropriate, or the councillor concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will refer the Final Investigation Report to the Standards 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.

The Council has agreed a procedure for hearing complaints, which is attached as Appendix 3 to this Complaints Procedure.

At the hearing, the Investigating Officer or the Monitoring Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer or Monitoring Officer may ask you as the complainant to attend and give evidence to the Sub-Committee. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Sub-Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Sub-Committee, with the benefit of any representations from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct and dismiss the complaint. If the Sub-Committee concludes that the member did fail to comply with the Code of Conduct, the 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. In doing this, the Sub-Committee will give the member an opportunity to make representations to the Sub-Committee and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

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

- 8.1 The Council has delegated to the Sub-Committee such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly, the Sub-Committee may:-

- 8.1.1 Publish its findings in respect of the member's conduct;
  - 8.1.2 Report its findings to Council (or to the Parish/Town Council) for information but recommending that no sanction be applied;
  - 8.1.3 Recommend to Council (or to the Parish/Town Council) that he/she be issued with a formal censure or be reprimanded;
  - 8.1.4 Recommend to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
  - 8.1.5 Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
  - 8.1.6 Instruct the Monitoring Officer to (or recommend that the Parish/Town Council) arrange training for the member;
  - 8.1.7 Recommend to Council (or recommend to the Parish/Town Council) that the member be removed from all outside appointments to which he/she has been appointed or nominated by the Council (or by the Parish/Town Council)
  - 8.1.8 Recommend to Council (or recommend to the Parish/Town Council) that it withdraws facilities provided to the member by the Council, such as a computer, website and/or email and internet access; or
  - 8.1.9 Recommend to Council (or recommend to the Parish/Town Council) that it excludes the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
  - 8.1.10 Recommend to Council (or recommend to the Parish/Town Council) that it prevents the member from having access to a particular officer or officers.
- 8.2 The Sub-Committee has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

## **9. What happens at the end of the hearing?**

- 9.1 At the end of the hearing, the Chair will state the decision of the Standards Sub-Committee as to whether the member failed to comply with the Code of Conduct and as to any actions which the Sub-Committee resolves to take.

9.2 As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Sub-Committee, and send a copy to you, to the member (to the Clerk of the Parish/Town Council if applicable), make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

## **10. Who are the Standards Sub-Committee?**

10.1 It is a Sub-Committee comprising of Members sitting on the Council's Standards Committee.

10.2 The Standards Committee has decided that it will comprise of five Members of the Standards Committee. If the Councillor complained about is a member of a Parish or Town Council, one of the five members of the Sub-Committee will be a Parish or Town Councillor member of the Standards Committee.

10.3 The Independent Person will attend all meetings of the Sub-Committee and their views are sought and taken into consideration before the Sub-Committee takes any decision on whether the member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

## **11. Who is the Independent Person?**

11.1 The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of the Council.

11.2 A person cannot be "independent" if he/she:

11.2.1 is, or has been within the past 5 years, a member, co-opted member or officer of the Council;

11.2.2 is or has been within the past 5 years, a member, co-opted member or officer of a Parish or Town Council within the Borough), or

11.2.3 Is a relative or close friend of a person within paragraph 11.2.1 or 11.2.2 above. For this purpose a "relative" means:

11.2.3.1 Spouse or civil partner;

11.2.3.2 Living with the other person as husband and wife or as if they were civil partners;

11.2.3.3 Grandparent of the other person;

- 11.2.3.4 A lineal descendent of a grandparent of the other person;
- 11.2.3.5 A parent, sibling or child of a person within paragraphs 11.2.3.1 or 11.2.3.2; or
- 11.2.3.6 A spouse or civil partner of a person within paragraphs 11.2.3.3, 11.2.3.4 or 11.2.3.5; or
- 11.2.3.7 Living with a person within paragraphs 11.2.3.3, 11.2.3.4 or 11.2.3.5 as husband and wife or as if they were civil partners.

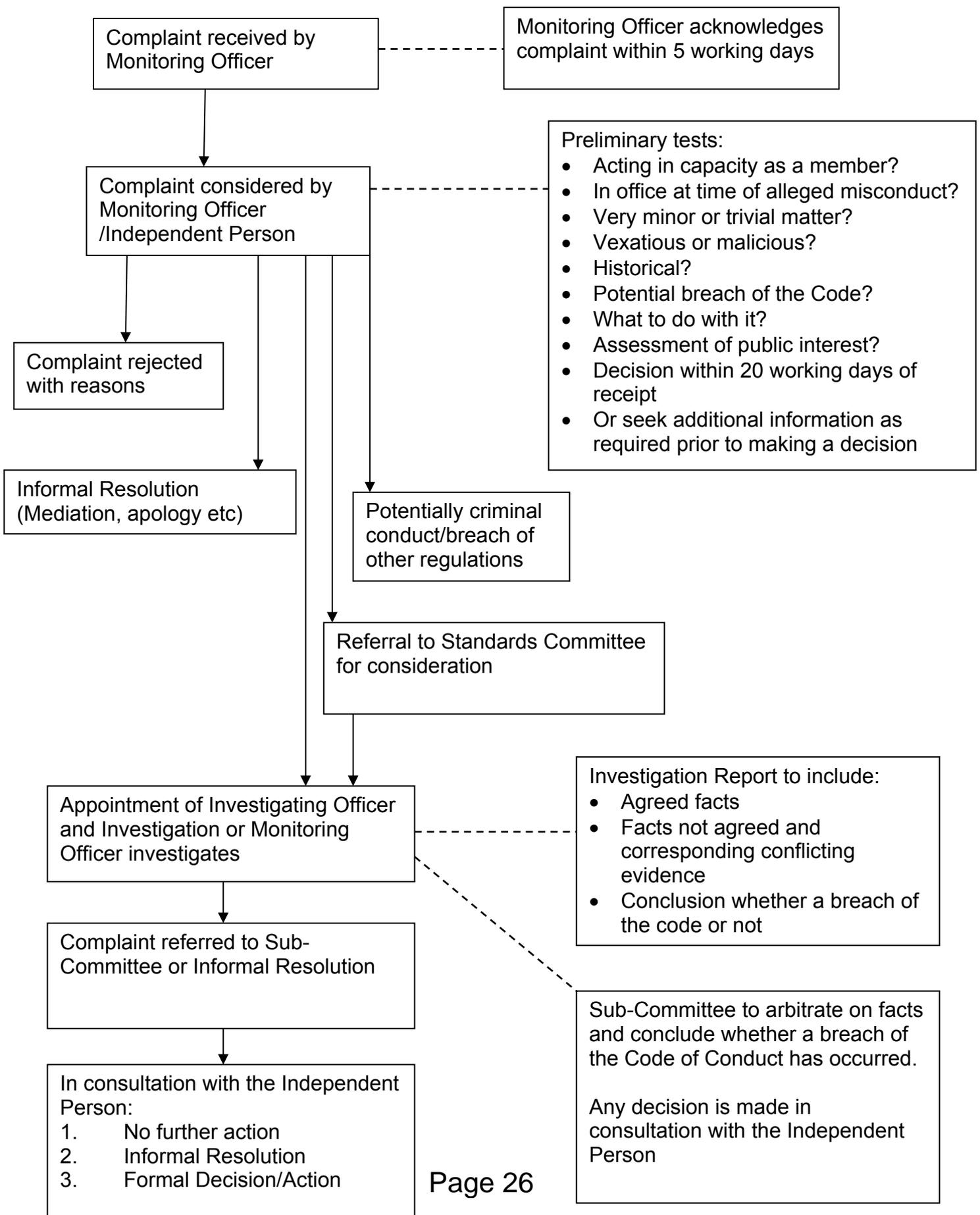
## **12. Revision of this Complaints Procedure**

The Standards Committee may agree to amend this Complaints Procedure and has delegated to the Chair of the Sub-Committee the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

## **13. Appeals**

- 13.1 There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Sub-Committee.
- 13.2 If you feel that the Council has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

## Appendix 1 Complaints Procedure Flowchart



## APPENDIX 2

### STANDARDS COMPLAINTS ASSESSMENT CRITERIA

#### Complaints which would not normally be referred for investigation

1. The complaint is not considered sufficiently serious to warrant investigation or
2. The complaint appears to be simply motivated by malice or is “tit-for-tat” or,
3. The complaint appears to be politically motivated, or
4. It appears that there can be no breach of the Code of Conduct; for example, that it relates to the Councillor’s private life or is about dissatisfaction with a Council decision; or
5. It is about someone who is no longer a Councillor
6. There is insufficient information available for a referral for investigation; or
7. The complaint has not been received within 3 months of the alleged misconduct unless there are exceptional circumstances eg, allegation of bullying, harassment etc
8. The matter occurred so long ago that it would be difficult for a fair investigation to be carried out; or
9. The same, or similar complaint has already been investigated and there is nothing further to be gained by seeking the sanctions available to the Standards Committee; or
10. It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct
11. Where the member complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction

#### Complaints which may be referred for investigation

1. It is serious enough, if proven, to justify the range of actions available to the Standards Committee; or
2. There are individual acts of minor misconduct which appear to be part of a continuing pattern of behaviour that is unreasonably disrupting the business of the Council and there is no other avenue left to deal with it other than by way of an investigation

**Complaints which may be referred to the Standards Committee for a decision on whether it should be investigated**

1. The complaint is about a high profile Member, such as the Leader of the Council, and it would be difficult for the Monitoring Officer to make a decision as to whether or not it should be investigated.
2. Such other complaints as the Monitoring Officer considers it would not be appropriate for him/her to make a decision as to whether or not it should be investigated.

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. The complaint must be serious enough to justify the public expense and Council resources in investigating it.

## APPENDIX 3

### STANDARDS SUB COMMITTEE HEARING PROCEDURE

Item No	Procedure
<b>1.</b>	<b>Quorum</b>  1.1 Three Members must be present throughout the hearing to form a quorum.  1.2 Where the complaint refers to a Parish/Town Councillor, a non-voting Parish/Town member of the Standards Committee must be present  1.3 The Sub-Committee shall nominate a Chairman for the meeting
<b>2.</b>	<b>Opening</b>  2.1 The Chairman explains the procedure for the hearing and reminds all parties to turn off mobile phones, audible alarms and pagers etc  2.2 The Chairman asks all present to introduce themselves  2.3 The Councillor will be asked whether they wish to briefly outline their position
<b>3.</b>	<b>The Complaint</b>  3.1 The Investigating Officer shall be invited to present their report including any documentary evidence or other material (and to call witnesses as required by the Investigating Officer). This report and documentary evidence must be based on the complaint made to the Council – no new points will be allowed.  3.2 The Councillor against whom the complaint has been made (or their representative) may question the Investigating Officer upon the content of their report and any witnesses called by the Investigating Officer. (This is the Councillor's opportunity to ask questions rising from the Investigator's report and not to make a statement)  3.3 Members of the Sub-Committee may question the Investigating Officer upon the content of their report and/or any witnesses called by the Investigating Officer.

Item No	Procedure
<p><b>4.</b></p>	<p><b>The Councillor's Case</b></p> <p>4.1 The Councillor against whom the complaint has been made (or their representative) may present their case (and call any witnesses as required by the Councillor or their representative)</p> <p>4.2 The Investigating Officer may question the Councillor and/or any witnesses</p> <p>4.3 Members of the Sub-Committee may question the Member and/or any witnesses</p>
<p><b>5.</b></p>	<p><b>Summing Up</b></p> <p>5.1 The Investigating Officer may sum up the Complaint</p> <p>5.2 The Member (or their representative) may sum up their case.</p>
<p><b>6.</b></p>	<p><b>Decision</b></p> <p>6.1 Members of the Sub-Committee will deliberate in private to consider the complaint in consultation with the Independent Person prior to reaching a decision</p> <p>6.2 Upon the Sub-Committee's return the Chairman will announce the Sub-Committee's decision in the following terms:-</p> <p>6.2.1 The Sub-Committee decides that the Member has not failed to follow the Code of Conduct or</p> <p>6.2.2 The Sub-Committee decides that the Member has failed to follow the Code of Conduct</p> <p>6.2.3 The Sub-Committee will give reasons for their decision</p> <p>6.3 If the Sub-Committee decides that the Member has failed to follow the Code of Conduct it will consider any representations from the Investigator and/or the Member as to:</p> <p>6.3.1 Whether any action should be taken, and</p> <p>6.3.2 What form any action should take</p> <p>6.4 The Sub-Committee will then deliberate in private to consider what action if any should be taken in consultation with the Independent Person</p> <p>6.5 On the Sub-Committee's return the Chairman will announce the Sub-Committee's decision (in relation to a Parish/Town Councillor a recommendation to the Parish/Town Council)</p>

<b>Item No</b>	<b>Procedure</b>
	<p data-bbox="373 304 1394 454">6.6 The Sub-Committee will consider whether it should make any recommendations to the Council or in relation to a Parish/Town Councillor to the Parish/Town Council with a view to promoting high standards of conduct among Members</p> <p data-bbox="373 490 1394 595">6.7 The Chairman will confirm that a full written decision shall be issued within 7 working days following the hearing and that the Sub-Committee's findings to be published.</p>