



Ribble Valley Borough Council
Model Arrangements
for dealing with standards allegations under the Localism Act
2011 (“Arrangements”)

1 Context

- 1.1 Ribble Valley Borough Council and the Parish Councils within the district have a shared legal responsibility to promote and maintain high standards of conduct by members of the authority.
- 1.2 Ribble Valley Borough Council’s approach to investigating complaints will be proportionate to the seriousness of the complaint and the Council will in particular seek to ensure informal resolution of complaints wherever possible.
- 1.3 These Arrangements set out how you may make a complaint that an elected or coopted member of this authority, or of a parish council within its area, has failed to comply with the Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with a Code of Conduct.
- 1.4 Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a member or co-opted member of the authority, or of a parish council within the authority’s area, or of a Committee or Sub-Committee of the authority, has failed to comply with that authority’s Code of Conduct can be investigated and decisions made on such allegations.
- 1.5 Such arrangements must provide for the authority to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a member, or a member or co-opted member of a parish council, against whom an allegation as been made.

2 The Code of Conduct

- 2.1 The Council has adopted a Code of Conduct for members, which can be found at Part 5 of the Council’s constitution and is available for inspection on the Council’s website and on request from Reception at the Council Offices.
- 2.2 Each Parish Council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council’s Code of Conduct, you should inspect any website operated by the Parish Council and request the Parish Clerk to allow you to inspect the Parish Council’s Code of Conduct.

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3 Making a complaint

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

The Monitoring Officer
Ribble Valley Borough Council
Council Offices
Church Walk
Clitheroe BB7 2RA

Or – mair.hill@ribblevalley.gov.uk

3.2 If a disability prevents you from making your complaint in writing you may contact the Monitoring Officer by telephone on 01200 425111.

3.3 The Monitoring Officer is a senior officer of the authority 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.

3.4 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 model complaint form, which can be downloaded from the authority's website, and is available on request from Reception at the Council Offices.

3.5 When setting out your complaint you should explain which part of the relevant code of conduct you consider has been breached.

3.6 Please do 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, in which case we will not disclose your name and address to the member against whom you make the complaint, without your prior consent. The authority does not normally investigate anonymous complaints unless there is a clear public interest in doing so.

3.7 The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it and will keep you informed of the progress of your complaint.

4 Will your complaint be investigated?

4.1 The Monitoring Officer will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. This decision will normally be taken within 14 days of receipt of your complaint. 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 he/she requires additional information 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. The Member will be informed that a complaint has been received and may request, and save in exceptional circumstances, will be required if requested, a copy of the complaint. Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation.

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4.3 The Monitoring Officer will review the complaint and after consultation with the Independent Person may decide not to investigate your complaint if he/she decides it is inappropriate to do so. Among the reasons for taking this decision are:

- The potential seriousness of the breach (if true).
- The likely cost of an investigation in time and other resources.
- The sufficiency of evidence of the alleged breach.
- Whether the complaint falls outside of the Localism Act 2011 and/or the Code of Conduct, including for example where the Member who is the subject of the complaint was not acting in their capacity as a Councillor at the time the alleged conduct occurred.
- Other actions either to remedy the complaint or prevent its re-occurrence (such as reference to the relevant Parish Clerk) or an informal resolution is seen as more appropriate.
- The Member is no longer a serving member of the relevant Council (other than referring a potentially criminal matter to the Police).
- Whether the complaint is anonymous – the Council will not normally investigate anonymous complaints unless there is a clear public interest in doing so.
- The passage of time – if the complaint happened so long ago that there would be little benefit in acting now.
- The complaint is one that the Monitoring Officer believes has been (or largely has been) determined before.
- Any other circumstances bearing upon the public interest.

Informal Resolution

4.4 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 authority. Where the member or the authority make a reasonable offer of local resolution, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

Referral to the Police or other agency

4.5 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 and other regulatory agencies.

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5 How is the investigation conducted?

5.1 The procedure for investigating a complaint is set out in Annex 1

5.2 Where complaints are received from more than one Complainant which relate to the same or similar allegations, the Monitoring Officer has discretion to consolidate the complaints so that they are dealt with as part of one investigation and if appropriate, are heard at one hearing.

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

The Monitoring Officer will review the Investigating Officer's report and, if 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 Council, where your complaint relates to a Parish Councillor, notifying you that he/she is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly or feels that there are matters requiring further clarification, he/she may ask the Investigating Officer to reconsider his/her report.

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

7.1 The Monitoring Officer will review the Investigating Officer's report in the same way as at paragraph 6 above and will then either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person, seek local resolution.

Local Resolution

7.2 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 authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Accounts and Audit Committee, and the Parish Council, if the complaints relate to a Parish council, for information, but will take no further action. If, however you tell the Monitoring Officer that any suggested resolution would not be adequate, the Monitoring Officer will consider referring the matter for local hearing and may take the Independent Person's view into account in making that decision as to whether the matter should proceed to a hearing is for the Monitoring Officer, who will exercise his/her discretion reasonably.

Local Hearing

7.3 If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to the Subcommittee. Which will conduct a local 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.

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7.4 The Council has agreed a procedure for local hearings, which is attached as Annex 2 to these Arrangements.

8 Who are the Hearing Panel?

8.1 The Hearing Panel is a Subcommittee selected from the Council's Accounts and Audit Committee. The Accounts and Audit Committee has decided it will comprise three members of the Committee.

8.2 The Independent Person is invited to all meetings of the Subcommittee and their views sought and taken into consideration before the Subcommittee 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.

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 Subcommittee as to whether the member failed to comply with the Code of Conduct and as to any actions which the Subcommittee resolves to take.

9.2 In accordance with the procedure at Annex 2, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Subcommittee, and send a copy to you, to the subject member (and to the Parish Council), make that decision notice available for public inspection and report the decision to the next convenient meeting of the Accounts and Audit Committee.

9.3 The decision notice will include a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the Subcommittee, and any sanction applied.

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

10.1 The Council has delegated to the Sub-Committee such of its powers to act in respect of individual members as may be necessary to promote and maintain high standards of conduct. These are set out in paragraph 7 of Annex 2 to these Arrangements.

11 Who is the Independent Person?

The Council has provision for three Independent Persons. Currently one is in post who applied for the post following advertisement of a vacancy for the post and was appointed by a positive vote from a majority of all the members of Council on 17 July 2012. [to be updated following current recruitment process]

12 Revision of these arrangements

The Committee may by resolution agree to amend these arrangements and has delegated to the Chairman of the Accounts and Audit Committee the right to depart from these arrangements where he/she considers that it is expedient to do so to secure the effective and fair consideration of any matter.

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13 Appeals

There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Hearings Panel

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

Annex 1

PROCEDURE FOR INVESTIGATION OF COMPLAINTS

1 Introduction

1.1 Where the Monitoring Officer has decided to refer a complaint about a Member for investigation, the Monitoring Officer must then arrange for an Investigating Officer to investigate and prepare a report.

1.2 The following is the procedure which will normally be followed in such investigations, although the Monitoring Officer may vary the procedure in any case if he/she considers this desirable in the interests of justice or fairness or the effective conduct of the investigation.

1.3 Interpretation

1.3.1 “Member” means the Member of Ribble Valley Borough Council or a Parish Council within its district who is the subject of the complaint.

1.3.2 “Investigating Officer” means the person appointed by the Monitoring Officer to undertake the investigation.

1.3.3 “Complainant” means the person who has made the complaint against the Member.

1.3.4 “Sub-Committee” means any Sub-Committee to which the Accounts and Audit Committee has delegated the conduct of the hearing.

1.3.5 “Legal adviser” means the officer responsible for providing legal advice to the Sub-Committee. This may be the Monitoring Officer, another legally qualified officer of the Authority, or someone appointed for this purpose from outside the Authority.

2. Action Following Decision to Investigate

Appointment of Investigating Officer

2.1 Where the Monitoring Officer decides that an allegation should be investigated, they will appoint an Investigating Officer and instruct him/her to investigate the allegation and produce a report thereon. The Investigating Officer may be an officer of the authority, an officer of another local authority, or an external person.

2.2 The Investigating Officer may appoint persons to assist him/her and may obtain such professional advice as may be necessary for the conduct of the investigation.

2.3 The Monitoring Officer will notify in writing the Member and the Complainant and the Independent Person(s) that an investigation is to be undertaken and will confirm:

2.3.1 the identity of the Complainant.

2.3.2 the conduct which is the subject of the allegation.

2.3.3 the section(s) of the Code of Conduct which appear(s) to be relevant to the allegation.

2.3.4 the identity of the Investigating Officer.

2.4 If the complaint relates to a Parish Council, the Monitoring Officer will at the same time also notify the Clerk to the Parish Council.

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- 2.5 The Monitoring Officer may withhold some or all this information from the Member if the Complainant has demonstrated exceptional reasons as to why such information may be withheld or where disclosure of details of the complaint to the Member at this stage of the process might prejudice the investigation.
- 2.6 In most cases, it will become necessary at some point for the Member to be informed of the identity of the Complainant and in all cases, for the Member to be informed of the nature of the allegations. The Monitoring Officer will decide whether and at what stage this information will be provided to the Member.

Initial response of the Member

- 2.7 In notifying the Member of the referral for investigation, the Monitoring Officer shall also request the Member to notify the Investigating Officer in writing, within 10 working days, of the following:
 - 2.7.1 whether the Member admits or denies the alleged breach of the Code.
 - 2.7.2 any initial comment, explanation, or representations which the Member wishes to make in relation to the allegation.
 - 2.7.3 any documents the Member would wish the Investigating Officer to take into account in the investigation, where possible providing copies of these documents, and advising where the originals can be inspected.
 - 2.7.4 the name, address, and telephone number (or other contact details) of any person whom the Member would wish the Investigating Officer to interview in the course of the investigation, and the relevance of that person.
 - 2.7.5 any information the Member would wish the Investigating Officer to seek from any person or organisation.
 - 2.7.6 any other information which the Member considers might be relevant to or assist the investigation.

Supporting information from the Complainant

- 2.6 When notifying the Complainant that the matter has been referred for investigation, the Monitoring Officer shall also request that person to notify the Investigating Officer in writing within 10 working days of:
 - 2.6.1 any documents which he/she would wish the Investigating Officer to take into account in the investigation, where possible providing copies of these documents, and advising where the original documents may be inspected.
 - 2.6.2 the name, address, and telephone number (or other contact details) of any person whom the Complainant would wish the Investigating Officer to interview in the course of the investigation and the relevance of that person.
 - 2.6.3 any information which the Complainant would wish the Investigating Officer to seek from any person or organisation.

- 2.6.4 any additional information which the Complainant has, and which might be relevant to, or assist, the investigation.

3. Conduct of Investigation

- 3.1 The purpose of the investigation is to enable the Investigating Officer to prepare a report which will provide sufficient information to determine whether the Member has acted in breach of the Code of Conduct and, where there has been a breach, whether any action should be taken, and if so, what action.
- 3.2 The Investigating Officer will conduct the investigation in such manner as he/she considers best able to ascertain all relevant facts and to achieve the purpose of the investigation, having regard to the rules of natural justice and the need for fairness.
- 3.3 The Investigating Officer will be entitled to seek all relevant information (including documents) that appears necessary or expedient to the conduct of the investigation and can make enquiries of any person believed to have such information, including the Member, the Complainant, other Members, or officers of the Council and third parties. All such persons will be expected to co-operate fully with the Investigating Officer and respond properly to such enquiries and provide such information as they can and to attend for interview by the Investigating Officer if requested.
- 3.4 The Investigating Officer will be able to seek information in such manner as he/she thinks appropriate, which may include in writing, by telephone or email, or in person. He/she will attempt to arrange any interviews at a time and place convenient to those concerned.
- 3.5 Any person who appears before the Investigating Officer for interview may be accompanied by a legal representative or friend provided such a person is not a potential witness in the investigation. An interview or telephone conversation may be tape recorded to save time and ensure accuracy, but only with the consent of both the Investigating Officer and the interviewee.

Other Breaches

- 3.6 If during the investigation, the Investigating Officer becomes aware of any other matter which appears to him/her to indicate a breach of the Code by the Member (apart from the breach which he/she is currently investigating), the Investigating Officer shall report the matter to the Monitoring Officer who will provide the Member with details of the matter and invite the Member to provide a statement as to why the additional matter does not constitute a breach of the Code. The Monitoring Officer will then determine, in consultation with the Independent Person whether the additional matter should also be investigated.
- 3.7 The Monitoring Officer may in certain circumstances defer an investigation if he/she considers it appropriate, for example because it might prejudice some other investigation or court proceedings concerning the matter.

4. The Draft Report

- 4.1 On completion of his/her investigation, the Investigating Officer shall prepare a draft report marked 'confidential' setting out:
 - 4.1.1 details of the allegation.
 - 4.1.2 the relevant provisions of the Code of Conduct and any relevant Protocol.
 - 4.1.3 the Member's response to the allegation (if any).
 - 4.1.4 any relevant information, advice and explanations obtained during the investigation.
 - 4.1.5 a list of any relevant documents.
 - 4.1.6 a list of persons interviewed or from whom information has been sought.
 - 4.1.7 a note of any person or organisation who has failed to co-operate with the investigation and the manner of such failure.
 - 4.1.8 a statement of the Investigating Officer's draft findings of fact, with reasons.
 - 4.1.9 the Investigating Officer's provisional conclusion as to whether the Member has failed to comply with the Code of Conduct, with reasons.
- 4.2 The draft report will also state that it does not necessarily represent the Investigating Officer's final finding, and that he/she will produce a final report once he/she has considered any comments received on the draft report.
- 4.3 The Investigating Officer shall send a copy of the draft report, in confidence, to the Member and the Complainant, and request that they send any comments on it to him/her in writing within 10 working days of receipt. This is an opportunity for the Member and Complainant to identify any matters with which they disagree or which they believe require further consideration.

5. The Final Report

- 5.1 After the expiry of the period referred to in paragraph 4.3 (or such extended period as the Investigating Officer may allow), the Investigating Officer shall reconsider and if appropriate amend his/her draft report in the light of any comments received and expeditiously produce a final report, which will be given to the Monitoring Officer.
- 5.2 The report will state that it represents the Investigating Officer's final findings. The report should have appended to it copies of any significant documents which the Investigating Officer has relied on in reaching his/her conclusions, such as notes of telephone conversations, letters, and notes of interviews and witnesses.

Annex 2

PROCEDURE FOR HEARING OF COMPLAINTS

1. General

1.1. These rules govern the conduct of hearings by the Hearing Sub-Committee.

1.2. The hearing will be into the written allegation(s) of failure to comply with the Code of Conduct made to the Council's Monitoring Officer and investigated in accordance with the arrangements adopted by the Council.

1.3. A hearing may cover more than one allegation, or set of allegations, and more than one investigation, if the Sub-Committee is satisfied that it is expedient and fair.

1.4. In these rules:

1.4.1 "The Monitoring Officer" means the officer designated as the Monitoring Officer to the Council, provided that if the Monitoring Officer is unable to act or has a conflict of interest (for example as a result of having conducted an investigation into the complaint) then another person or persons may perform the Monitoring Officer's role and these rules will be construed accordingly.

1.4.2 "The Subject Member" means the member or co-opted member against whom the allegation of failure to comply with the relevant Code of Conduct has been made.

1.4.3 "The Investigator" means the person who has conducted an investigation into the allegation or his or her representative at the hearing.

1.4.4 "The Complainant" means the person who made the written allegation(s) of failure to comply with the Code of Conduct.

2. Composition and voting

2.1. The Sub-Committee will comprise three voting members drawn from the Accounts and Audit Committee, one of whom shall be appointed or elected to chair the meeting. The members will be selected in accordance with the legislation on political balance on committees.

2.2. The quorum for a meeting is three members.

2.3. All matters before the Sub-Committee will be decided by a simple majority of votes cast. In the case of equality of votes, the member chairing the meeting will have a second or casting vote.

2.4. An Independent Person appointed by the Council will be normally be present at the hearing. The Sub-Committee must take the Independent Person's views into account before reaching a decision, but he or she will not participate in the hearing or in the decision as a member of the Sub-Committee. Alternatively, if the Independent Person will not be present for all or part of the hearing, he or she may submit his or her views to the Sub-Committee in writing.

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3. Before the hearing
 - 3.1. Before the hearing, the Monitoring Officer will, in order to identify the issues and the evidence to be considered, and any procedural issues, provide the Subject Member with the Investigator's report and the accompanying evidence and invite the Subject Member and the Investigator to:
 - (a) Indicate the facts that are agreed and those that are not.
 - (b) Indicate the issues in dispute.
 - (c) Indicate whether they intend to introduce any additional evidence and the witnesses they intend to call to give evidence.
 - (d) State whether they would like all or any part of the hearing to be conducted in private and, if so, why.
 - (e) State whether they intend to be present at the hearing.
 - (f) State whether they intend to be represented at the hearing and, if so, by whom.
 - 3.2. The Monitoring Officer will copy the replies to the Subject Member and the Investigator or, if they so request, to their representatives.
 - 3.3. If the member chairing the meeting, or, if none has yet been appointed or elected, the Chair of the Accounts and Audit Committee, considers that the additional evidence of any of the witnesses that are proposed to be called will not assist the Sub-Committee to determine the relevant issues (for example because the evidence or the witnesses' evidence will not be relevant, or will unnecessarily duplicate other evidence and prolong the hearing, then in consultation with the Monitoring Officer he or she may direct that the evidence or the number of witnesses should be limited. The Monitoring Officer will advise the Subject Member and the Investigator of the direction.
 - 3.4. The Monitoring Officer will prepare a report to the meeting including the Investigator's report and the accompanying evidence. The proper officer will send the report to the members of the Sub-Committee and make it available to the public in accordance with the statutory requirements, excluding public access to any part of the report or background papers which, in the proper officer's opinion, relate only to any part of the hearing which is not likely to be open to the public.
4. Requests for adjournment and absence of parties
 - 4.1. If before the hearing the Subject Member requests an adjournment or indicates that he or she will not be present or represented, the Monitoring Officer will consult the member chairing the meeting, or, if none has yet been appointed or elected, the Chair of the Standards Committee. The member consulted will consider any written representations made by the Subject Member and may direct either that the hearing be adjourned or that the hearing will take place.

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- 4.2. If the hearing then takes place, or if there has been no prior request but the Subject Member is not present at the start of the hearing, or if the Subject Member is present or represented and makes an oral request for an adjournment, then the Sub-Committee will decide whether to adjourn or proceed with the hearing, taking into account the representations that have been made. The Sub-Committee will consider whether it is satisfied with the reasons given for a request for an adjournment or whether, in exceptional circumstances, it is not so satisfied, and whether it is in the public interest to hear the allegations expeditiously. In the latter case the Sub-Committee may proceed with the hearing in the Subject Member's absence.
- 4.3. The Complainant may attend the meeting if called as a witness, or otherwise, but need not do so.
5. Representation at the hearing
 - 5.1. The Subject Member may choose to be accompanied or represented at the hearing by a professional representative, fellow Councillor, friend, or colleague.
 - 5.2. The Complainant can be accompanied by a friend or colleague. Unless called as a witness, or requested by the Sub-Committee to address them, the Complainant has no right to participate in the meeting.
6. Conduct of the hearing
 - 6.1. Subject to the exercise of discretion by the Chair, the order of business at the hearing shall be as set out below.
 - 6.2. The Chair may vary the order of business at his or her discretion where he or she considers it expedient and fair to do so.
 - 6.3. The Sub-Committee may adjourn the hearing at any time.
 - 6.4. The Sub-Committee can decide at any time to resolve to exclude the press and public for the following part of the hearing, or for the remainder of the hearing, if it is likely otherwise that confidential or exempt information would be disclosed, in accordance with the provisions of the Local Government Act 1972.
 - 6.5. The first items of business shall be:
 - (a) the election of the Chair if none has been appointed.
 - (b) any apologies for absence.
 - (c) any declarations of interest.
 - (d) if relevant at this time, consideration whether to exclude the press and public.
 - (e) if relevant, consideration of any request for an adjournment, and/or whether to proceed with the hearing in the absence of the Subject Member.
 - 6.6. The Chair will then introduce (if present) the members of the Sub-Committee, the Independent Person, the Subject Member, any person representing the Subject Member. the Investigator,

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the Monitoring Officer, and any other officers present to clerk the meeting or provide legal advice to the Sub-Committee. The Chairman will explain their roles and outline the procedure for the hearing.

- 6.7. Any witnesses of fact present in the room will then leave the room, apart from the Subject Member. In exceptional circumstances the Chair may permit the Complainant to remain in the room unless it would be unfair to do so.
- 6.8. The evidence presented must be relevant to the issues under consideration and should not be unduly repetitious.

Presentation of the Investigation Report

- 6.9. The Investigator will present his or her report and accompanying evidence and call his or her witnesses, who may include the Complainant. The Investigator will not normally be permitted to introduce new issues or evidence at this stage.
- 6.10. The Subject Member or his or her representative may question the Investigator on the content of his or her report and may question the witnesses called by the Investigator on their evidence.
- 6.11. The members of the Sub-Committee may question the Investigator on the content of his or her report and may question the witnesses called by the Investigator on their evidence.

Presentation of the Subject Member's case

- 6.12. The Subject Member or his or her representative will present his or her case and evidence and call his or her witnesses.
- 6.13. The Investigator may question the Subject Member and the witnesses called by the Subject Member or his or her representative on their evidence.
- 6.14. The members of the Sub-Committee may question the Subject Member and the witnesses called by the Subject Member or his or her representative on their evidence.

Summing up

- 6.15. The Investigator will sum up his or her case.
- 6.16. The Subject Member or his or her representative will sum up his or her case.
- 6.17. In summing up, the Investigator and the Subject Member or his or her representative should express a view on any conflict of evidence and explain why, in their view, the evidence discloses or does not disclose a failure to comply with the Code of Conduct. No new evidence may normally be introduced at this stage.

Views of the Independent Person

- 6.18. The Chair will invite the Independent Person, if present, to express a view on the evidence and on whether it discloses a failure to comply with the Code of Conduct.
- 6.19. If the Independent Person is not present the Chair will read out the Independent Person's written representations.

Deliberations of the Sub-Committee

- 6.20. If the press and public are present, the Sub-Committee will decide whether to resolve to exclude them from their deliberations. They will normally do so, because otherwise they would disclose their views on the individuals who have participated and their evidence, and the balance of the public interest favours free discussion on these matters.
- 6.21. The Subcommittee may clear the room or retire to another room. They may be accompanied by the Monitoring Officer (provided that he or she has not been involved in the hearing in any other capacity) or the legal adviser, whose role shall be limited to the provision of legal advice.6.22 The Sub-Committee may reopen the hearing at any stage in order to seek additional evidence from the Investigator, the Subject Member, or any witnesses present. If the additional material is not available, the Sub-Committee may adjourn the hearing and direct its production and by whom.
- 6.23 In principle the Sub-Committee should first find the material facts, including resolving any conflict of evidence, then decide if they disclose a failure to comply with the Code of Conduct.
- 6.24 The Sub-Committee must take its decision on the balance of probabilities (“is it more likely than not?”) based on the evidence before it at the hearing and, exceptionally, matters within the general knowledge of the members.

The decision

- 6.25 The Sub-Committee will reconvene the hearing and the Chair will announce whether or not, on the facts found, the Sub-Committee considers that there has been a failure to comply with the Code of Conduct.
- 6.26 If the Sub-Committee has found that there is a failure to comply with the Code of Conduct, the Chair will invite the Investigator, the Subject Member, and the Independent Person to make representations on the seriousness of the failure, whether or not any sanctions should be applied and, if so, what form they should take.
- 6.27 The Sub-Committee may also invite the Monitoring Officer to comment on those matters, if he or she has not been involved in the hearing in any other capacity.
- 6.28 The Sub-Committee may make recommendations as to any other matter arising to the Council, a committee or sub-committee, or the appropriate officer.

Deliberations as to sanction

- 6.29 The Sub-Committee will then consider whether to impose any sanction and, if so, in what form.
- 6.30 If the press and public are present, the Sub-Committee will decide whether to resolve to exclude them from their deliberations. The same considerations apply as under paragraph 6.13 (a).
- 6.31 The Sub-Committee will seek to ensure that any sanction is reasonable and proportionate to the behaviour of the Subject Member.

6.32 The Sub Committee will have regard to all the circumstances including any local factors and also including the following:

- What was the Subject Member's intention, was he or she aware of the failure to comply with the Code of Conduct, or reckless as to the risk of so doing.
- Had the Subject Member received or declined training on the Code?
- Did the Subject Member receive advice (including in particular advice from officers) and, if so, did he or she act on that advice in good faith?
- Has there been a breach of trust, malice, or dishonesty?
- Has there been financial impropriety?
- Was the subject member exercising his or her right to the freedom of expression, and if so:
 - First, was this the expression of political opinion (indicating a higher level of tolerance and a lesser sanction).
 - Second, is the sanction necessary to respond to a pressing social need, such as maintaining standards in public life, and proportionate?
- What was the result or the impact on others of the failure to comply with the Code of Conduct?
- How serious was the failure?
- Did the Subject Member stand to gain personally from the failure?
- Does the Subject Member accept that he or she was at fault?
- Did the Subject Member apologise and, if so, in what terms?
- Does the Subject Member have a record or history of misconduct, has he or she previously been reprimanded or warned of similar misconduct, and/or has he or she previously been found to have failed to comply with a code of conduct?
- Does the Subject Member have a record or history of public service and good conduct?
- How experienced is the member and does he or she have any particular role or responsibilities within the Council?
- Is there likely to be a repetition of the failure to comply with the Code of Conduct?
- Is this an isolated incident or event or is there a wider problem within the Council?

6.33 If evidence before the Sub-Committee indicates other potential failures to comply with the Code of Conduct, which have not previously been addressed, the Chair will outline the concerns and the Sub-Committee will decide whether to refer them to the Monitoring Officer.

7. Possible sanctions

- 7.1. The Sub-Committee may apply or recommend any one or more of the following sanctions for failure to comply with the Code of Conduct. The list is not exhaustive.
 - 7.1.1 Censuring the member in such terms as the Sub-Committee considers appropriate.
 - 7.1.2 Reporting the findings to the Council, or the Parish Council, for information.
 - 7.1.3 Publishing the findings in such a manner as the Sub-Committee thinks appropriate and proportionate.
 - 7.1.4 Recommending to the Council that he or she should be removed be removed from any or all Committees, Sub-Committees of the Council or from any or all positions or bodies to which the member has been appointed by the Council.
 - 7.1.5 Seeking an apology from the Subject Member (which may be in terms to be approved on behalf of the Sub-Committee) if the Subject Member agrees.
 - 7.1.6 Arranging training for the Subject Member if the Subject Member agrees.
 - 7.1.7 If there is a clear connection between the failure to comply with the Code of Conduct and the use of Council facilities (email or equipment, for example) or premises, and it would be appropriate and proportionate to do so, withdrawing facilities or limiting access to premises: provided that although the sanction may inconvenience the Subject Member, it must not prevent the Subject Member from performing his or her core function as a representative of his or her local electorate.
- 7.2. The Sub-Committee may specify that any sanction may take effect immediately or at a future time and/or be time limited.
- 7.3. Any sanction may be suspended on condition that the Subject Member gives a satisfactory apology or attends training within a reasonable period.
- 7.4. The Sub-Committee may adjourn the hearing to give the Subject Member an opportunity to make a satisfactory apology and reconvene either to acknowledge that an apology has been given or to further consider the matter of sanctions.
- 7.5. The Sub-Committee has no power to disqualify or suspend the Subject Member or withdraw basic or special responsibility allowances.

8. Publication and notification

- 8.1. The Monitoring Officer will publish the name of the Subject Member and a summary of the Sub-Committee's decision and any recommendations and the reasons for them on the Council's website within 10 working days of the announcement of the decision.
- 8.2. The Monitoring Officer will provide a full written decision and the reasons for the decision, and any recommendations, within 10 working days of the announcement of the decision to:
 - 8.2.1 the Subject Member

Appendix 3

- 8.2.2 the Complainant
- 8.2.3 the Clerk to the Parish Council (if the complaint is against a Parish Council member or co-opted member acting in that capacity)
- 8.2.4 the members of the Sub- Committee.
- 8.3. The Monitoring Officer will report the decision and any recommendations to the next ordinary meeting of the Accounts and Audit Committee for information.