

# STANDARDS COMMITTEE

## MINUTES

### 14 JUNE 2012

**Chairman:** \* Dr J Kirkland

**Councillors:** \* Mano Dharmarajah \* Victoria Silver  
\* Brian Gate \* Simon Williams  
\* Paul Osborn

**Independent Persons:** † Mr J Coyle \* Mr D Lawrence

\* Denotes Member present

† Denotes apologies received

### RECOMMENDED ITEMS

#### 82. The Standards Regime

The Chairman introduced the report and explained that the Committee were required to make a decision on the report to allow recommendations to be submitted to the Full Council meeting on 5 July 2012. The report was divided into several themes. The first theme to be considered was the future arrangements to deal with complaints against Members.

The Head of Legal Services explained that a flow chart had been contained in the report to provide a visual representation of the process. The officer also reported the following points:

- the complaints process had included a filter at an initial stage to rule out complaints which were not within the scope of the Code of Conduct and / or which were vexatious;
- the complaint then progressed to an informal Assessment Working Group who could form recommendations on whether an investigation should take place or if there should be no further action;

- if there was disagreement on the outcomes reached by the Assessment Working Group between the Monitoring Officer and the relevant Independent Person, the complaint would then be referred to a formal Assessment Sub-Committee. They could formally decide whether to carry out an investigation or whether there should be no further action;
- if an investigation was conducted and concluded, it proceeded to the Hearing Sub-Committee who could hear evidence and require people to attend.

During the discussion on this theme, Members raised a number of issues which the officer responded to as follows:

- there had been an alternative structure proposed by inserting an additional tier before the Hearing Sub-Committee. This would involve having a Hearing Working Group. This would have a similar role to the Assessment Working Group but would consider the investigation report prior to making any recommendations to the Monitoring Officer. Officers had concerns with this proposed body in that it would not be formal and may encounter difficulties in getting parties to attend its meetings;
- sanctions imposed as a result of a complaint had to be determined either by a formal body or the Monitoring Officer;
- it was important to note that there had only been four formal Hearings held since 2007, which was a relatively low number.

During the discussion on this theme, Members of the Committee made a number of wide-ranging comments as follows:

- there were concerns that the Hearing Sub-Committee was not being chaired by an Independent Person. This could mean that the public perception would be significantly impacted upon in terms of dealing with and resolving complaints fairly;
- retaining Independent Members as part of the complaints process was vital and it was important for the public perception that Independent Members played a key role in their determination;
- if all Members did not support the proposed structure for dealing with complaints, it would not operate successfully;
- there were concerns that there had not been any discussions between the political groups on the Council concerning the future arrangements in relation to complaints;
- it was believed that any Hearing body would not meet often, but when it did it was important that it had the confidence of everyone involved;

- the structure of dealing with complaints as proposed would encourage good behaviour amongst Members and would lead to less complaints being made. The extra level suggested by another Member could not be supported;
- the structure proposed would have added advantages in relation to minimising costs. However another Member commented that there would be no significant cost difference;
- political proportionality would automatically apply to the Hearing Sub-Committee due to the relevant legislation;
- the decision was to be taken by the Full Council. They could decide to amend any recommendations made by the Committee at its next meeting.

At the conclusion of the debate on the complaints process, a Member of the Committee proposed an amendment to create a Hearing Working Group which would meet once an investigation had taken place in relation to a complaint. They would form their recommendations, which if the Monitoring Officer and Independent Person agreed with, could then be implemented. If there was disagreement between the Monitoring Officer and the Independent Person this would then proceed to the Hearing Sub-Committee.

Upon a vote the amendment was not agreed. Councillors Paul Osborn and Simon Williams wished to be recorded as having voted in favour of the amendment.

The Chairman suggested that if possible discussions should take place between the two political groups prior to the next Full Council meeting to see if any agreement could be reached on this specific part of the proposals. The Chairman also expressed his regret that discussions between the political groups had not taken place prior to the meeting.

The next theme the Committee then considered was the future of the Committee or any overarching body overseeing standards issues. The Head of Legal Services explained that it had been proposed to continue with the Committee and that Terms of Reference for the new Committee had been tabled at the meeting. The Head of Legal Services further confirmed that the Committee was able to recommend to Full Council changes to the Constitution as requested without the need to proceed to the Constitution review Working Group.

During the discussion on this item, a Member of the Committee suggested that the rules relating to the Mayor and Leader being prohibited from serving on the Committee should be removed. He suggested that if the Leader of the Council was a Member of the Committee, this would be helpful in terms of imposing any sanctions arising from resolving complaints and also would still ultimately be the decision of the Leader of the Council as to whether to be a Member. It would simply mean that the prohibition would be removed. Other

Members of the Committee disagreed with this suggestion as they believed the current rules worked well. The Committee agreed that this was something that could be revisited in the future.

The next theme the Committee considered was the proposed Code of Conduct and Register of Interests. The Head of Legal Services advised that the relevant regulations had been produced into what constituted disclosable pecuniary interests. A tabled document had been circulated as the regulations came into force at the time the agenda went out, which contained a proposed Code of Conduct and relevant section on Register of Interests. It was also reported that the Monitoring Officer would be writing to all Members after the meeting to request the declaration of pecuniary interests before 29 June 2012.

During the discussion, Members raised some queries relating to the application of the new Register of Interests. The Head of Legal Services responded by stating that the Regulations had just been published earlier that week. As a result officers had been provided with very little time to analyse it and on how it would be applied. However officers would be conducting a series of comprehensive briefings for Members on this subject where issues would be examined more closely.

The Head of Legal Services also reported that it had been reported that the limit for registering gifts, hospitality or benefits could increase from £25 and that £100 was proposed. The Committee agreed that this was a sensible proposal. Upon a suggestion from a Member of the Committee, the Head of Legal Services also agreed that it would be prudent to combine paragraphs 13.1, 13.2 and 14 of the Code of Conduct, as they addressed similar issues.

The Head of Legal Services also explained that there was an issue for the Committee to make a recommendation on in terms of on a declaration of a prejudicial interest, whether a Member had to withdraw from the room or retire to the public gallery. The Committee agreed that it was their view the Member concerned should retired from the room entirely. This was to ensure no undue influence on the decision making process.

Finally the Head of Legal Services proposed that Dispensations would be determined by the future Standards Committee. A Member commented that as meetings of the Committee were not frequent, it was important to use urgent non-executive actions to determine where necessary.

At the conclusion of the meeting, the Chairman thanked Members and Officers for the input and guidance provided during the Committee's existence in its current form. A Member of the Committee returned thanks to the Chair and other Independent Members thanking them for bringing independence and honesty to the role.

**Resolved to RECOMMEND** (to Council): That

- (1) the Code of Conduct for Councillors as contained in appendix 1 to these minutes be agreed;

- (2) the Procedure for dealing with complaints as contained in appendix 2 to these minutes be agreed;
- (3) the arrangements for the appointment of Independent Persons and dealing with dispensations be agreed;
- (4) the current Independent Members be appointed as Independent Persons;
- (5) the Independent Persons be remunerated on the same basis as Independent Members;
- (6) a new Standards Committee, with terms of reference contained at appendix 3 to these minutes, be established comprising five elected Members of the Council, appointed proportionally and the Independent Persons as informal advisers to the Committee;
- (7) the Leader of the Council be requested to nominate to the Standards Committee only one Member who is a member of the Executive, excluding the Leader of the Council;
- (8) a Hearing Sub-Committee and Assessment Sub-Committee be established to be sub-committees of the Standards Committee, with terms of reference contained at Appendix 4 to these minutes;
- (9) the Assessment Working Group be set up as an informal working group;
- (10) Council delegate authority to the Hearing Sub-Committee to take decisions in respect of a Member who is found in hearing to have failed to comply with the Code of Conduct as listed in this report;
- (11) the Monitoring Officer be appointed as the Proper Officer to receive complaints of failure to comply with the Code of Conduct;
- (12) the Monitoring Officer prepare and maintain a new register of members' interests (Once regulations are received) to comply with the requirements of the Act and of the Council's Code of Conduct, once adopted, and ensure that it is available for inspection as required by the Act;
- (13) the Monitoring Officer ensure that all members are informed of their duty to register interests;
- (14) the Code of Conduct includes a provision that members update their Register of Interests within 28 days of a change occurring;
- (15) the Monitoring Officer be instructed upon receipt of the regulations on members' interests to recommend to Council a Standing Order which equates to the current Code of Conduct requirement that a member must withdraw from the meeting room, including from the public gallery, during the whole of consideration of any item of business in which

he/she has a Disclosable Pecuniary Interest, except where he/she is permitted to remain as a result of the grant of a dispensation;

- (16) the Council delegates to the Standards Committee the power to authorise dispensations.

## **A. CODE OF CONDUCT FOR COUNCILLORS**

### **Background**

The Localism Act 2011 requires the Harrow Council to promote and maintain high standards of conduct by Members and Co-opted Members of the Council. It also requires the Council to adopt a code of the conduct expected of such Members when acting in that capacity.

This Code has been prepared and adopted by Harrow Council

The Council having adopted this Code will, from time to time, revise and replace it as is appropriate but will publicise such changes through its website and otherwise for the information of people living in its area.

### **Part 1**

#### **General provisions**

### **Introduction and interpretation**

- 1.1 This Code defines the standards of conduct, which will be required of you and in your relationships with the Council and its Officers. It has been created to embrace the 10 general principles of conduct which are set out in the Appendix.
- 1.2 The Code represents the standard against which the public, fellow Councillors, and the Authority's Standards Committee will judge your conduct. A breach of the Code may also constitute a criminal offence.
- 1.3 You should familiarise yourself with the requirements of this Code. You should regularly review your personal circumstances, particularly when those circumstances change. If in any doubt, you should seek advice from the Authority's Monitoring Officer.
- 1.4
  - (1) This Code applies to you as a member of the Council..
  - (2) You should read this Code together with the general principles set out in the Appendix.
  - (3) It is your responsibility to comply with the provisions of this Code.
  - (4) In this Code –

**“Co-opted Member” means a person who is not a Member of the Council but who:**

- (i) is a member of any committee or sub-committee of the Council, or**

## Appendix 1

- (ii) **is a member of, and represents the Council on, any joint committee or joint sub-committee of the Council.**

“meeting” means any meeting of -

- (a) the Council ;
- (b) the executive of the Council ;
- (c) any of the Council’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees;

“Member” includes a co-opted member and an appointed member.

**“subject to a pending notification” means a notification made of a disclosable pecuniary interest to the Monitoring Officer which has not yet been entered into the Register of Interests.**

### Scope

2. (1) You must comply with this Code whenever you **are acting in your capacity as a Member of the Council**

### General obligations

3. (1) You must treat others with respect.
- (2) You must not-
- (a) do anything which may cause the Council to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006)
  - (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 the Council’s code of conduct; or



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

(3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.

### 4. 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.

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

### 6.1 (1) 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 Council -

(i) act in accordance with the Council'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.

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- 6.2 You may have dealings with the Council on a personal level, for instance as a council tax payer, as a tenant, or as an applicant for a grant or a planning permission. You should never seek or accept preferential treatment in those dealings because of your position as a Member. You should also avoid placing yourself in a position that could lead the public to think that you are receiving preferential treatment. Likewise, you should never use your position as a Member to seek preferential treatment for friends or relatives, or any firm or body with which you are personally connected.
- 6.3 You should always make sure that any facilities (such as transport, stationery, or secretarial services) provided by the Council for your use in your duties as a Councillor or a committee member or member of the Executive are used strictly for those duties and for no other purpose.
- 7.1 (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by –
- (a) the Council's chief finance officer; or
  - (b) the Council'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 your authority.
- 7.2 When reaching decisions you should -
- (i) not act or cause the Council to act unlawfully, in such a manner as would give rise to a finding of maladministration, in breach of any undertaking to the Court, or for the advantage of any particular person or interest rather than in the public interest; and
  - (ii) take into account all material information of which you are aware and then take the decision on its merits and in the public interest

## Part 3

### Registration of Members' Interests

#### Registration of Members' interests

13. (1) You must, within 28 days of –
- (a) this Code being adopted by the Council or
  - (b) your election or appointment to office (where that is later),

**register in the Council's register of members' interests (maintained under details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to the Council's monitoring officer.**

**(2) You must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to the Council's monitoring officer.**

### **Sensitive information**

**14. (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.**

**(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.**

**(3) In this Code, "sensitive information" means information whose availability or inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.**

## APPENDIX

### **THE 10 GENERAL PRINCIPLES OF CONDUCT**

Members are reminded of the 10 General Principles of Conduct (as set out below), which govern the conduct of members.

1. **Selflessness** - Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
2. **Honesty and Integrity** - Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.
3. **Objectivity** - Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.
4. **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.
5. **Openness** - Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.
6. **Personal judgement** - Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.
7. **Respect for others** - Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.
8. **Duty to Uphold the Law** - Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.
9. **Stewardship** - Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.
10. **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 1

# Code of Conduct for Members

Appendix 1

## 1 Disclosable Pecuniary Interests

You must -

- 1.1 comply with the statutory requirements to register, disclose and withdraw from participating in respect of any matter in which you have a disclosable pecuniary interest
- 1.2 ensure that your register of interests is kept up to date and notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of your disclosable pecuniary interests
- 1.3 make verbal declaration of the existence and nature of any disclosable pecuniary interest at any meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent
- 1.4 "Meeting" means any meeting organised by or on behalf of the authority, including –
  - 1.4.1 any meeting of the Council, or a Committee or Sub-Committee of Council
  - 1.4.2 any meeting of the Cabinet and any Committee of the Cabinet
  - 1.4.3 in taking a decision as a Ward Councillor or as a Member of the Cabinet
  - 1.4.4 at any briefing by officers; and
  - 1.4.5 at any site visit to do with business of the authority

## 2 Other Interests

- 2.1 In addition to the requirements of Paragraph 3, if you attend a meeting at which any item of business is to be considered and you are aware that you have a "non-disclosable pecuniary interest or non-pecuniary interest" in that item, you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent
- 2.2 You have a "non-disclosable pecuniary interest or non-pecuniary interest" in an item of business of your authority where –
  - 2.2.1 a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or a person with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority's administrative area, or
  - 2.2.2 it relates to or is likely to affect any of the interests listed in the Table in the Appendix to this Code, but in respect of a member of your family (other than a "relevant person") or a person with whom you have a close associationand that interest is not a disclosable pecuniary interest.

## 3 Gifts and Hospitality

- 3.1 You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £100 which you have accepted as a member from any person or body other than the authority.
- 3.2 The Monitoring Officer will place your notification on a public register of gifts and hospitality.

- 3.3 This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the authority for this purpose.

## Appendix

### 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 vacation	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 for the purposes of section 30(1) or 31(7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

“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.

DRAFT Arrangements  
for dealing with standards allegations under the  
Localism Act 2011

## 1 Context

These “Arrangements” set out how you may make a complaint that an elected or co-opted member of this authority has failed to comply with the authority’s Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the authority’s Code of Conduct. 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 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. 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 against whom an allegation has been made.

## 2 The Code of Conduct

The Council has adopted a Code of Conduct for members.

## 3 Making a complaint

If you wish to make a complaint, please write or email to –  
“The Monitoring Officer”

Civic Centre  
PO Box 2  
Station Road  
Harrow  
HA12UH

Or – [monitoringofficer@harrow.gov.uk](mailto:monitoringofficer@harrow.gov.uk)

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. 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, next to the Code of Conduct, and is available on request from Reception at the Civic Offices. 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. Your complaint must be made in writing. 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?

## Appendix 2

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person and taking into account his/her views, take a decision as to whether it merits formal referral to the Assessment Sub-Committee which is a committee of elected members. The Monitoring Officer in consultation with the Independent Person is able to filter out complaints that do not fall within the code of conduct or are considered to be vexatious. If the Monitoring Officer does not use his/her delegated authority then the complaint proceeds to the Assessment Working Group. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision. Where he/she 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. This member will be asked to put their response about your complaint in writing to the Monitoring Officer. 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.

If you are willing for your complaint to be dealt with by way of mediation then this option will be given to you if the Monitoring Officer feels that this is appropriate.

If the Monitoring Officer considers that the complaint does fall within the Code and is not vexatious, the matter will be passed to the Assessment Working Group (AWG).

The AWG is an advisory group to Council. The meetings are usually not open to the public. It is chaired by an Independent Person. The Working Group will receive written representations from both parties.

The AWG will consider the complaint and give a view about whether an investigation should take place.

The Monitoring Officer will consider the view of the AWG and will take one of the following decisions:

- that an investigation should not take place, in which case the matter will proceed no further; or
- That the matter should be investigated; or
- Not to exercise his/her power to decide the matter.

If the Monitoring Officer decides not to use his/her delegated powers, the matter will pass to the Assessment Sub-Committee (ASC) which is a sub-committee of the Standards Committee. The ASC will then decide whether the matter should be investigated or whether no further action should be taken.

## **5 How is the investigation conducted?**

The Monitoring Officer will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating 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 the Investigating Officer needs to see, and who the Investigating Officer needs to interview. The Investigating Officer would normally write to the member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview.

## Appendix 2

At the end of his/her investigation, the Investigating Officer will produce a draft 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.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

### **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 in consultation with the IP and, if he is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned, notifying you that he 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, he 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?**

The Monitoring Officer will review the Investigating Officer's report and will then send the matter for local hearing before the Hearing Sub-Committee.

## **Local Hearing**

The Monitoring Officer will report the Investigating Officer's report to the Hearing Sub-Committee 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. The Committee is a sub-committee of the Standards Committee. Essentially, the Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Hearing Sub-Committee may issue directions as to the manner in which the hearing will be conducted.

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

The Hearing Sub-Committee, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Hearing 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 Hearing Sub-Committee will then consider what action, if any, it should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Hearing 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 Hearing Sub-Committee take where a member has failed to comply with the Code of Conduct?**

The Council has delegated to the Hearing 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 Hearings Sub-Committee may –

- Report its findings to Council for information and place them on the Council's website;
- Inform the Group Leader (or in the case of an independent member, Council) of its recommendation that a member be removed from any or all Committees or Sub-Committees, or outside body appointments;
- Inform the Group Leader of any recommendations that the member be removed from the Cabinet, or removed from particular portfolio responsibilities;
- Remove the member from outside body appointments;
- Instruct the MO to arrange training for the member;
- Where the breach involves inappropriate use of facilities, withdraw such facilities provided to the member by the Council, such as a computer, website and/or email and internet access; or
- Exclude the member from the Council's offices or other premises, with the exception of meeting rooms necessary for attending Council, Committee and Sub-Committee meetings; or
- Censure the member for the breach, in which case the MO will be asked to write to the Member and a press report will be issued.

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

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

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

## **10 Who are the Hearings Sub Committee?**

The Hearing Sub-Committee is a Sub-Committee of the Council's Standards Committee. The meetings are held in public. The Standards Committee has decided that it will comprise a maximum of five members of the Council, including not more than one member of the authority's Executive and comprising members drawn from at least 2 different political parties. Subject to those requirements, it is appointed on the nomination of party group leaders in proportion to the strengths of each party group on the Council.

## Appendix 2

The Independent Person is invited to attend all meetings of the Hearings Sub-Committee and his views are sought and taken into consideration before the Hearings 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?**

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 Council.

A person cannot be "independent" if he/she –

- 11.1 Is, or has been within the past 5 years, a member, co-opted member or officer of the authority;
- 11.2 Is a relative, or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, "relative" means –
  - 11.2.1 Spouse or civil partner;
  - 11.2.2 Living with the other person as husband and wife or as if they were civil partners;
  - 11.2.3 Grandparent of the other person;
  - 11.2.4 A lineal descendent of a grandparent of the other person;
  - 11.2.5 A parent, sibling or child of a person within paragraphs 11.3.1 or 11.3.2;
  - 11.2.6 A spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5;
  - 11.2.7 Living with a person within paragraphs 11.3.3, 11.3.4 or 11.3.5 as husband and wife or as if they were civil partners.

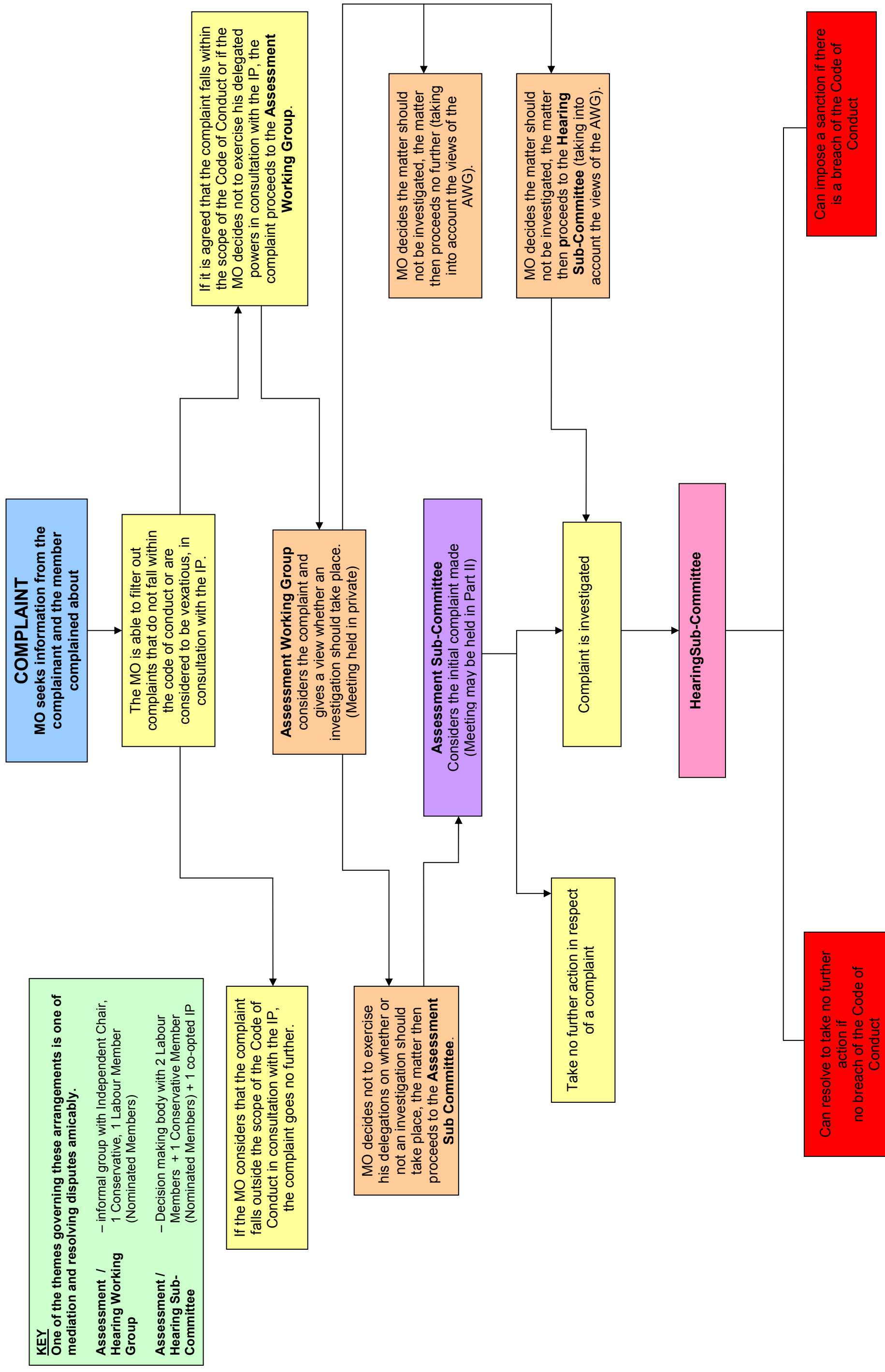
### **12 Revision of these arrangements**

The Council may by resolution agree to amend these arrangements, and has delegated to the Chair of the Hearing 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**

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

# NEW STANDARDS ARRANGEMENTS FOR DEALING WITH COMPLAINTS





## **NEW STANDARDS ARRANGEMENTS FOR DEALING WITH COMPLAINTS**



**STANDARDS COMMITTEE**

The Standards Committee will have the following powers and duties:

- (a) promoting and maintaining high standards of conduct by Councillors, co-opted members and “church” and parent governor representatives;
- (b) assisting Councillors, co-opted members and “church” and parent governor representatives to observe the Members’ Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members’ Code of Conduct;
- (d) monitoring the operation of the Members’ Code of Conduct;
- (e) developing and recommending local protocols to the Council to supplement the Members’ Code of Conduct;
- (f) enforcing local protocols and applying sanctions in respect of breaches as appropriate;
- (g) advising, training or arranging to train Councillors, co-opted members and “church” and parent governor representatives on matters relating to the Members’ Code of Conduct;
- (h) granting dispensations to Councillors, co-opted members and “church” and parent governor representatives from requirements relating to interests set out in the Members’ Code of Conduct;
- (j) to keep under review and amend, as appropriate, the Protocol on Councillor/Officer Relations;
- (k) to keep under review the Officer Code of Conduct and, after consultation with unions representing staff, make recommendations to Council for amendment or addition;
- (l) to receive reports and keep a general overview of probity matters arising from ombudsman investigations, Monitoring Officer reports, reports of the Chief Financial Officer and Audit Commission;
- (m) to have oversight of the Council’s Whistleblowing Policy;
- (n) to agree the policy for decisions on payments to those adversely affected by Council maladministration (under section 92 Local Government Act 2000)
- (o) To establish sub-committees and working groups to deal with complaints that a member or a co-opted member has failed to comply with the Council’s Code of Conduct
- (p) To consider any application received from any officer of the Authority for exemption from political restriction under Sections 1 and 2 of the Local Government and Housing Act 1989 in respect of the post held by that officer and may direct the Authority that the post shall not be considered to be a politically restricted post and that the post be removed from the list maintained by the Authority under Section 2(2) of that Act.
- (q) Upon the application of any person or otherwise, consider whether a post should be included in the list maintained by the Authority under Section 2(2) of the 1989 Act, and may direct the Authority to include a post in that list.

Membership rules:

- i. An Elected Mayor or the Leader may not be Members;
- ii. The Chair of the Committee must not be a Member of the Executive;
- iii. Only one member of the Executive can be a member of the Committee;

## **ASSESSMENT SUB-COMMITTEE**

The Assessment Sub-committee has the following powers and duties:

- (a) To receive a referral from the Monitoring Officer in respect of allegations that a member or co-opted member of the Authority has failed, or may have failed, to comply with the Authority's Code of Conduct in circumstances where the Monitoring Officer has not exercised his/her delegation to decide:
  - i. To filter out a complaint as being vexatious and/or outside the Code of Conduct; or
  - ii. To investigate a complaint
- (b) Upon receipt of a referral from the Monitoring Officer, the Sub-Committee shall make an assessment of the allegation and shall decide whether the complaint should be filtered out/an investigation should take place in respect of each allegation in accordance with the terms of the referral.
- (c) To decide whether a complaint shall proceed to the Hearing Sub-Committee in circumstances where the complaint has been investigated and the investigating officer has concluded that the member complained about has not breached the Code of Conduct
- (c) The Sub-Committee shall state its reasons for that decision

## **HEARING SUB-COMMITTEE**

The Hearing Sub-committee has the following powers and duties

- (a) To consider allegations referred to it following investigation that a member or co-opted member has failed to comply with the Council's Code of Conduct for Councillors
- (d) To determine whether or not there has been a breach of the Code of Conduct taking into account the findings and conclusions of the investigation report.
- (e) If the Sub-Committee decides that there has been a breach of the Code of Conduct, to decide that no sanction should be imposed or to impose one of the following sanctions:
  - i. Report its findings to Council for information and place them on the Council's website;
  - ii. Inform the Group Leader (or in the case of an independent member, Council) of its recommendation that a member be removed from any or all Committees or Sub-Committees, or outside body appointments;
  - iii. Inform the Group Leader of any recommendations that the member be removed from the Cabinet, or removed from particular portfolio responsibilities;
  - iv. Remove the member from outside body appointments;
  - v. Instruct the MO to arrange training for the member;

- vi. Where the breach involves inappropriate use of facilities, withdraw such facilities provided to the member by the Council, such as a computer, website and/or email and internet access; or
- vii. Exclude the member from the Council's offices or other premises, with the exception of meeting rooms necessary for attending Council, Committee and Sub-Committee meetings; or
- viii. Censure the member for the breach, in which case the MO will be asked to write to the Member and a press report will be issued.