

APPENDIX III

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 (IP), 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 – standards.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?

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 informal advisory group. 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. The Monitoring Officer will contact you to inform you and the Councillor of the decision.

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 s/he needs to see and who s/he needs to interview.

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 Investigating Officer's report will be put to the Hearing Working Group who will pass on their views to the Monitoring Officer who will then decide whether or not to use his delegated authority to determine that no further action should be taken. The Monitoring Officer will write to you and to the member concerned, notifying you that s/he is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the monitoring Officer is not satisfied that the investigation has been conducted properly, s/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 Working Group.

Local Hearing

The Monitoring Officer will report the Investigating Officer's report to the Hearing Working Group 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.

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 Working Group 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 Working Group. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearing working Group as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Hearing Working Group, 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 Working Group 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 Working Group 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 Working Group will give the member an opportunity to make representations to the Working

Group and will consult the Independent Person, but will then decide what action, if any, to recommend that the Monitoring Officer should take in respect of the matter. If the Monitoring Officer does not agree with the recommendation of the Hearing Working Group then he may not use his delegated powers and the matter will proceed to the Hearing Review Sub Committee which is a formal sub committee. They will consider the findings of the Hearing Working Group and the Monitoring Officer's views and make a decision.

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

The Council has delegated to the Hearing Review Sub-Committee and the Monitoring Officer such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. The Monitoring Officer may only use his delegated powers in accordance with the appropriate scheme of delegation.

Accordingly the Hearings Review Sub-Committee or Monitoring Officer may –

- Report its findings to the Standards Committee and then 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 Monitoring Officer 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 Monitoring Officer 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 Review Sub-Committee as to whether the member failed to comply with the Code of Conduct and as to any actions which the Hearing Review 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 Hearing Review 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 Hearing Review Sub Committee?

The Hearing Review 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 three 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.

The Independent Person is invited to attend all meetings of the Hearing Review Sub-Committee and his views are sought and taken into consideration before the Hearing Review 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 IP 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 11.2.1 or 11.2.2;
 - 11.2.6 A spouse or civil partner of a person within paragraphs 11.2.3, 11.2.4 or 11.2.5;
 - 11.2.7 Living with a person within paragraphs 11.2.3, 11.2.4 or 11.2.5 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 Review 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 Hearing Review 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.