

STANDARDS COMMITTEE PROCEDURES

I. Introduction

- I.1 This procedure is the means by which the Standards Committee and the Standards Panel (assessment) and the Standards Panel (determinations) will deal with complaints that a current or former member or co-opted member of an authority (the 'Member') has failed to comply with the Members' Code of Conduct of the authority concerned. The Standards Committee is able to consider complaints involving alleged breaches of the Code of Conduct of Charnwood Borough Council and the 27 Town and Parish Councils in the Borough ('relevant authorities').
- I.2 Complaints that members of the Borough Council have failed to comply with the Council's codes and protocols other than the Members' Code of Conduct are dealt with in accordance with a separate procedure which is contained within this document.
- I.3 The precise conduct and order of events of a meeting of the Standards Committee or a Standards Panel will be a matter for the Chair of the Committee or Panel as he or she and the Committee or Panel consider appropriate in the circumstances. In exercising their discretion they must have regard to the guidance of the Standards Board for England on these matters and the objective of ensuring the fairness and good administration of the local assessment process.
- I.4 In order to ensure that the assessment process is fair and impartial, and in addition to any requirements under the Members' Code of Conduct and paragraph 6.3 of this procedure, no member of the Standards Panel or Borough Council officer will be involved in the assessment process if they:
 - (a) are, or are closely associated with, the Member or the complainant;
 - (b) are, or are closely associated with, a potential witness or victim relating to a complaint;
 - (c) are, or are closely associated with, a person involved in the circumstances relating to the complaint;
 - (d) have provided advice in respect of the complaint to the Member or the complainant;
 - (e) would undertake the investigation of the complaint if the Panel decided to refer the complaint for investigation.
- I.5 As a result of the requirements set out in paragraph I.4 above and in other circumstances it may be necessary for a person other than the Monitoring Officer to carry out the functions assigned to the Monitoring Officer below. As a result references to the Monitoring Officer below also include any other person appointed by the Monitoring Officer to carry out that function.

Local Assessment of Complaints

2. Receiving complaints

- 2.1 This procedure and a summary of the arrangements for making complaints and the procedure for the local assessment of complaints will be published and kept updated.
- 2.2 Complaints that a Member has failed to comply with the Code of Conduct of a relevant authority must be made in writing and should be addressed to the Standards Panel. A complaint form will be made available to assist complainants in making complaints. The complaint form will include provision for complainants to request that their name or details of the complaint should be withheld from the Member so that such requests can be considered by the Standards Panel who will decide whether to withhold that information or not.
- 2.3 The Monitoring Officer will arrange for appropriate support to be provided to those complainants requiring assistance to put their complaint in writing, for example where they have a disability or English is not their first language.
- 2.4 Where complaints are addressed to the Monitoring Officer, or another officer of the Borough Council, and it is unclear whether the complainant wishes to make a formal complaint to the Standards Panel, the Monitoring Officer will contact the complainant and determine whether the complainant wishes the complaint to be referred to the Standards Panel.
- 2.5 Where a complaint that a Member has failed to comply with the Code of Conduct of a relevant authority is received the Monitoring Officer will write to the complainant to acknowledge receipt of the complaint and explain the process for dealing with the complaint.
- 2.6 If in the Monitoring Officer's view there is additional, readily available factual information, such as the minutes of meetings and entries in the Register of Members' Interests, which will assist the Standards Panel in considering the complaint, the Monitoring Officer will obtain that information and submit it to the Panel with the complaint.
- 2.7 In exceptional circumstances where the complaint is unclear the Monitoring Officer will contact the complainant to clarify the terms of the complaint.

3. Before the meeting of the Standards Panel (assessment)

- 3.1 Where a complaint that a Member has failed to comply with the Code of Conduct of a relevant authority is received the Panel will, wherever possible, meet to consider the complaint within 20 working days of its receipt.
- 3.2 Where a complaint that a Member has failed to comply with the Code of Conduct of a relevant authority is received the Monitoring Officer will appoint a Standards Panel from among the members and reserve members of the Standards Committee to consider the complaint. If the Member is a Parish or Town Councillor, the Panel will comprise one Independent Member, one Parish Member and one Borough Councillor member of the Committee. If the Member is a Borough Councillor, the Panel will comprise one Independent Member, one Borough Councillor member and one other member of the Committee.
- 3.3 Except in exceptional circumstances, an agenda for the meeting will be sent to the members of the Panel at least five clear working days before the meeting. In addition to the documentation supplied by the complainant, the agenda papers for the meeting will include a report by the Monitoring Officer setting out a summary of the complaint, the relevant paragraphs of the Code of Conduct and any additional factual information obtained by the Monitoring Officer in accordance with paragraph 2.6 above.

4. The meeting of the Standards Panel (assessment)

- 4.1 Meetings of the Standards Panel will not be held in public. There is no public right of access to agendas, agenda papers and minutes for meetings of the Panel and those documents will be marked accordingly.
- 4.2 The Panel will be chaired by an Independent Member of the Standards Committee. If there is more than one Independent Member on the Panel the first item of business will be to appoint a Chair. The Chair will deal with the following administrative matters prior to the consideration of any complaints:
- (a) ensuring the meeting is quorate;
 - (b) dealing with any disclosures of interest;
 - (c) ensuring that the members of the Panel understand the procedure to be followed.
- 4.3 The Panel will come to one of the following decisions in respect of each complaint submitted to it:
- (a) to refer the complaint to the Monitoring Officer or to the monitoring officer of another authority for local investigation;
 - (b) to refer the complaint to the Monitoring Officer or to the monitoring officer of another authority for other action;
 - (c) to refer the complaint to the Standards Board for England for investigation;
 - (d) to take no action in respect of the complaint.
- 4.4 The Standards Committee has agreed criteria for reaching the decisions referred to in paragraph 4.3 above to ensure that the local assessment decisions taken by the Standards Panel are fair and consistent. The criteria are set out in section 8 of this procedure. The Panel will apply these criteria in reaching its decisions on the complaints referred to it.
- 4.5 **Anonymous complaints** – The Standards Panel will only refer anonymous complaints for investigation or other action where they are accompanied by documentary, photographic or other evidence which indicates an exceptionally serious or significant matter which can be satisfactorily dealt with without the need to interview the complainant.
- 4.6 **Withdrawn complaints** – The Standards Panel will consider requests by the complainant to withdraw a complaint which are made prior to its meeting. The Panel will not refer for investigation or further action complaints which are withdrawn except where the public interest in taking action due to the seriousness of the complaint significantly outweighs the complainant's desire to withdraw the complaint and the complaint is accompanied by documentary, photographic or other evidence which indicates the matter can be satisfactorily dealt with without the need to interview the complainant. Requests to withdraw complaints will be considered in conjunction with the criteria for dealing with requests for

confidentiality set out in paragraph 4.7 below to determine whether that offers an alternative to withdrawing the complaint.

4.7 The Standards Panel will consider requests by complainants that their identity and/or the nature of the complaint are withheld from the Member. As a matter of fairness and natural justice Members should usually be told who has made a complaint against them and what the complaint is about. In exceptional circumstances the Panel will agree to a request that the identity of the complaint should not be disclosed to the Member. The circumstances in which such requests will be agreed to are:

- (a) the complainant has reasonable grounds for believing that they will be at risk of physical harm if their identity is disclosed;
- (b) the complainant is an officer who works closely with the Member and they are afraid of the consequences to their employment if their identity is disclosed;
- (c) the complainant has provided reasonable evidence that they suffer from a serious health condition and there are medical risks associated with their identity being disclosed;
- (d) in cases where at least one of (a), (b) or (c) applies and the complaint is referred for further action, that further action can be completed while the confidentiality of the complainant is maintained .

4.8 Where the Panel decides to refer a complaint for investigation it will, in exceptional circumstances, decide not to provide the Member with all or part of the summary of the complaint if to provide the information would be against the public interest or prejudice the investigation. Before reaching such a decision the Panel will seek the advice of the Monitoring Officer. The circumstances in which all or part of the summary of the complaint will be withheld are:

- (a) the Member is likely to attempt to intimidate the complainant or witnesses;
- (b) the Member is likely to attempt to tamper with evidence and this is not outweighed by the fairness to the Member of being able to preserve evidence;
- (c) the disclosure to the Member of details of the complaint is likely to result in the identity of the complainant becoming apparent and the Panel has decided to withhold that information from the Member.

4.9 The Panel will decide whether to include the name of the Member in the publicly available record of its decision. The name of the Member will only be withheld where its disclosure is not in the public interest or would prejudice any investigation. The Panel will only include the name of the Member in the publicly available record of a decision to take no action in respect of a complaint in exceptional circumstances. The Panel will not include more information in the publicly available summary of the complaint than is made available to the Member in accordance with paragraph 4.8 above.

5. After the meeting of the Standards Panel (assessment)

5.1 Within five working days of the meeting, and subject to any decisions reached by the Panel under paragraphs 4.7 and 4.8 above, written notice of the Panel's decision will be given to the Member, the complainant and, where the Member is a parish/town councillor, the Parish/Town Clerk. The notice will include the following information:

- (a) a summary of the complaint;
- (b) the identity of the Member and the complainant;
- (c) the main points considered by the Panel;
- (d) the decision reached by the Panel including, where appropriate, details of the action other than investigation which is to be taken;
- (e) the reasons for the Panel's decision;
- (f) in the case of a decision to take no further action, details of the complainant's right to request a review of that decision.

5.2 After the written notice referred to in paragraph 5.1 above has been given, and subject to any decisions reached by the Panel under paragraph 4.9 above, a copy of the Panel's decision will be made available for inspection by members of the public at the Council Offices. The decision will comprise:

- (a) a summary of the complaint;
- (b) the identity of the Member;
- (c) the main points considered by the Panel;
- (d) the decision reached by the Panel including, where appropriate, details of the action other than investigation which is to be taken;
- (e) the reasons for the Panel's decision;
- (f) in the case of a decision to take no further action, details of the complainant's right to request a review of that decision.

5.3 Where the Panel refers a complaint to the Monitoring Officer for action other than an investigation as described in section 3.1 of appendix I, the Monitoring Officer will submit a report to the Standards Committee within three months of the referral giving details of the action taken. If the Standards Committee is satisfied by the action taken it will give notice to that effect to the Member, the complainant and, where the Member is a parish/town councillor, the Parish/Town Clerk. If the Standards Committee is not satisfied by the action taken it may issue a further direction to the Monitoring Officer.

- 6. Review of decision by Standards Panel (assessment) to take no action**
- 6.1 Where the Panel has taken a decision to take no action in respect of a complaint the complainant will have a right to request a review of that decision. Complainants who wish to exercise their right to request a review must make their request in writing within 30 days of the date of the written notice described in paragraph 5.1 above and must provide the reasons why they wish a review to take place.
- 6.2 Where a valid request for a review is received the Monitoring Officer will:
- (a) write to the complainant to acknowledge receipt of the request and explain the process for dealing with the request;
 - (b) write to the Member to state that a request to review the Panel's decision to take no action has been received and explain the process for dealing with the request.
 - (c) where the Member is a parish/town councillor, write to the Parish/Town Clerk to state that a request to review the Panel's decision to take no action has been received.
- 6.3 Where a valid request for a review is received the Monitoring Officer will appoint a Standards Panel from among the members and reserve members of the Standards Committee to consider the request. If the Member is a Parish or Town Councillor, the Panel will comprise one Independent Member, one Parish Member and one Borough Councillor member of the Committee. If the Member is a Borough Councillor, the Panel will comprise one Independent Member, one Borough Councillor member and one other member of the Committee. None of the members of the assessment panel which considered the complaint will be eligible to be a member of the review panel for the same complaint.
- 6.4 There is a legal requirement for the Panel to consider any request for a review within three months. Where a valid request for a review is received the Panel will, wherever possible, meet to consider the request within 20 working days of its receipt.
- 6.5 Except in exceptional circumstances, an agenda for the meeting will be sent to the members of the Panel at least five clear working days before the meeting. In addition to the reasons supplied by the complainant for wishing the decision to be reviewed, the agenda papers for the meeting will include the agenda papers for the meeting of the Panel which considered the original complaint.
- 6.6 The Panel will use the same procedure and criteria in reaching its decision as set out in section 4 above, taking into account the reasons for requesting the review provided by the complainant. The Panel will consider the complaint and the reasons in full and will come to one of the decisions set out in paragraph 4.3 as it would when considering any complaint. The review will

not be limited to considering whether the original decision to take no action was reasonable or not.

- 6.7 Where the complainant in requesting the review has provided such additional information as to constitute, in the Panel's view, a new complaint the Panel may decide that the matter should be treated as a separate complaint rather than as a review of the initial complaint. Where the Panel reaches such a decision the Monitoring Officer will deal with the matter in accordance with this procedure as if it were a new complaint.
- 6.8 Within five working days of the meeting, and subject to any decisions reached by the Panel under paragraphs 4.7 and 4.8 above, written notice of the Panel's decision will be given to the Member, the complainant and, where the Member is a parish/town councillor, the Parish/Town Clerk. The notice will include the following information:
- (a) a summary of the complaint;
 - (b) the identity of the Member and the complainant;
 - (c) the main points considered by the Panel;
 - (d) the decision reached by the Panel including, where appropriate, details of the action other than investigation which is to be taken;
 - (e) the reasons for the Panel's decision including its reasons in respect of the reasons for requesting the review provided by the complainant.
- 6.9 After the written notice referred to in paragraph 6.8 above has been given, and subject to any decisions reached by the Panel under paragraph 4.9 above, a copy of the Panel's decision will be made available for inspection by members of the public at the Council Offices. The decision will comprise:
- (a) a summary of the complaint;
 - (b) the identity of the Member;
 - (c) the main points considered by the Panel;
 - (d) the decision reached by the Panel including, where appropriate, details of the action other than investigation which is to be taken;
 - (e) the reasons for the Panel's decision.

7. Referral back of matters to the Standards Panel (assessment)

7.1 Where the Panel has referred a complaint for investigation by the Monitoring Officer, the Monitoring Officer, or another person appointed by the Monitoring Officer to carry out the investigation (the 'Investigator'), may refer the complaint back to the Panel where:

- (a) as a result of the investigation the Investigator believes that the complaint is materially more or less serious than was apparent when the Panel took its decision;
- (b) as a result of new evidence the Investigator believes that the Panel would have taken a different decision if it had been aware of that evidence;
- (c) in cases where (a) or (b) apply the Investigator will also consider factors such as whether during the course of the investigation there has been a failure to co-operate by people involved in the complaint, whether there have been further complaints about the conduct of the Member or other members of the relevant authority;
- (d) the Member has died, is seriously ill or has resigned from the relevant authority and the Investigator believes that it is no longer appropriate to continue the investigation;
- (e) the Panel has not, as the result of a previous referral back by the Investigator, decided that no further referrals will be considered.

7.2 Where the Panel has referred a complaint for investigation by the Standards Board for England, the Standards Board may refer the complaint back to the Panel where it does not consider that the complaint meets its criteria for accepting complaints (see section 3.2 of appendix 1).

7.3 Where a complaint is referred back to the Panel the Monitoring Officer will make arrangements for the complaint to be reconsidered by either a Panel comprising the same members that took the original decision or a new Panel as appropriate in the circumstances. The Panel will use the same procedure and criteria in reaching its decision as set out in section 4 above, taking into account the reasons given by the Investigator for referring the complaint back to the Panel or the decision by the Standards Board not to accept the referral. Where the Standards Board refers a complaint back, the Panel will not refer the complaint to the Standards Board.

7.4 Within five working days of the meeting, and subject to any decisions reached by the Panel under paragraphs 4.7 and 4.8 above, written notice of the Panel's decision will be given to the Member, the complainant and, where the Member is a parish/town councillor, the Parish/Town Clerk. The notice will include the following information:

- (a) a summary of the complaint;
- (b) the identity of the Member and the complainant;
- (c) the main points considered by the Panel;
- (d) the decision reached by the Panel including, where appropriate, details of the action other than investigation which is to be taken;

- (e) the reasons for the Panel's decision.
- (f) in the case of a decision to take no further action, details of the complainant's right to request a review of that decision.

7.5 After the written notice referred to in paragraph 7.4 above has been given, and subject to any decisions reached by the Panel under paragraph 4.9 above, a copy of the Panel's decision will be made available for inspection by members of the public at the Council Offices. The decision will comprise:

- (a) a summary of the complaint;
- (b) the identity of the Member;
- (c) the main points considered by the Panel;
- (d) the decision reached by the Panel including, where appropriate, details of the action other than investigation which is to be taken;
- (e) the reasons for the Panel's decision;
- (f) in the case of a decision to take no further action, details of the complainant's right to request a review of that decision.

8. Criteria to be applied by the Standards Panel (assessment) in reaching local assessment decisions

8.1 The following criteria have been agreed by the Standards Committee to assist the Standards Panel in determining whether complaints referred to it warrant further action or not and if they warrant further action what course of action is appropriate. The criteria are set out below in a number of stages and the Standards Panel will consider the criteria in that order in order to determine the following:

- whether the complaint falls within the Panel's remit;
- whether the complaint merits further action;
- if further action is required what the most appropriate course of action is.

8.2 Does the complaint fall within the Panel's remit?

The Standards Panel will only consider for further action complaints that meet both of the following criteria. The Panel will take no action in respect of all other complaints.

- (i) The complaint is about the conduct of a current or former member or co-opted member of the Borough Council or one of the 27 Parish/Town Councils in the Borough who was in office and the Code of Conduct in force at the time of the alleged conduct.
- (ii) The conduct would, if proven, be a breach of the Code of Conduct.

8.3 Does the complaint merit further action?

Even if the complaint falls within the remit of the Panel the Panel will not normally refer the matter for further action if it meets one of the following criteria.

- (i) The complainant has submitted insufficient information to enable the Panel to determine whether the conduct would, if proven, be a breach of the Code of Conduct or to determine whether it meets one of the other criteria set out below.
- (ii) A complaint relating to the same conduct has already been the subject of a decision taken by the Panel and the complaint provides no significant new information relating to the matter.
- (iii) The complaint is about conduct that happened so long ago that it would be difficult for any investigation to reach a finding or there would be little benefit in taking action now.
- (iv) The conduct referred to in the complaint is not sufficiently serious to warrant further action.
- (v) The complaint appears to be simply vexatious, malicious, politically motivated or tit-for-tat. The Panel will not decide to take no action in respect of a complaint for this reason unless there is sufficient evidence to warrant such a decision.

- (vi) The conduct which is the subject of the complaint is being, or would be more appropriately, dealt with by another route for example as a criminal investigation by the Police or an employment grievance and there is no public interest in taking action in respect of the complaint.
- (vii) Taking action in respect of the complaint is not in the public interest. In unusual circumstances, for example where the Member has resigned or is seriously ill it may not be in the public interest to take further action in respect of the complaint.

In considering these criteria (particularly (iii), (iv) and (v)) the Panel will weigh the public benefit of taking action in respect of complaints about possible misconduct and the cost both in terms of money and the time of officers and members of taking action, particularly if that action is an investigation.

8.4 Alternatives to investigation

In most cases where the Standards Panel decides that a complaint warrants further action that action will be a local investigation by the Monitoring Officer or another person appointed by the Monitoring Officer. The Panel will also consider whether alternative action to an investigation is more appropriate to resolve the issues identified by the complaint. The Panel will only consider alternative action where the complaint discloses a potential breach of the Code of Conduct which warrants further action according to the criteria set out in section 2 above. The Panel will consult the Monitoring Officer before reaching a decision to take alternative action.

The Panel will consider, among others, the following forms of alternative action:

- (i) asking the Monitoring Officer to arrange for the Member or the Member and other members of the relevant authority to attend training on the Code of Conduct;
- (ii) asking the Monitoring Officer to assist the relevant authority to adopt or improve its procedures to assist members in complying with the Code of Conduct;
- (iii) asking the Monitoring Officer to arrange conciliation or mediation between the Member and the complainant or another person.

In deciding whether to refer a complaint to the Monitoring Officer for investigation or alternative action the Panel will consider how to most effectively deal with the issues raised by a complaint and whether an investigation is required to achieve this. The Panel is more likely to decide that an investigation is the appropriate course of action where the conduct complained about is more serious and more clearly the result of behaviour by a single member. The Panel is more likely to decide that alternative forms of action are appropriate where the conduct complained about is less serious and there is evidence from the complaint or a series of complaints that conduct was as a result of ignorance of the requirements of the Code or the standard of behaviour required by the Code.

Once the Panel has decided that a complaint should be referred for alternative action the complaint will not be referred back to the Standards Panel even if the proposed course of action cannot be completed or does not satisfactorily address the conduct identified by the complaint and no conclusion will be reached as to whether the Member failed to comply with the Code of Conduct. Normally, the Panel will, therefore, only refer a complaint for alternative action where it considers that the proposed course of action is likely to succeed and will not refer for alternative action complaints where:

- (i) there are insufficient resources available at the relevant authority to enable it to succeed and these cannot be adequately supported by the Monitoring Officer;
- (ii) the complaint or previous related complaints suggests that positions have become too entrenched to enable it to succeed.

8.5 Referral to Standards Board for England

In most cases where the Standards Panel decides that a complaint should be investigated it will be investigated locally by the Monitoring Officer or, more often, another person appointed by the Monitoring Officer for that purpose. Having regard for the guidance published by the Standards Board for England, the Standards Panel may in the following circumstances, and where it would not be in the public interest for the complaint to be investigated locally, refer the matter to the Standards Board to investigate:

- (i) the Member is a member or co-opted member of the Borough Council and a political group leader, Cabinet Member or member of the Standards Committee;
- (ii) the complainant is a member or co-opted member of the Borough Council and a group leader, Cabinet Member, a member of the Standards Committee or the Borough Council's Chief Executive or the Monitoring Officer;
- (iii) the complaint is so serious or complex, or involves so many members or so much evidence that it cannot be reasonably handled locally;
- (iv) the Standards Committee or relevant officers are unable to be involved in the assessment or investigation of the complaint because of conflicts of interest and no other alternative arrangements are available;
- (v) the complaint would benefit from an external investigation, for example if it involves long-term or systematic member/officer bullying or is a potentially significant case which could benefit from a national ruling;
- (vi) there are exceptional local circumstances which mean that the complaint cannot reasonably be dealt with locally.

8.6 Referral to the Monitoring Officer of another local authority

If the complaint is about the conduct of a former member of the Borough Council or one of the 27 Parish/Town Councils in the Borough who is a

member of another local authority the Panel will, if it thinks it more appropriate than referring the complaint to the Monitoring Officer, refer the complaint to the monitoring officer of that other local authority.

Consideration of Investigation Reports

9. Consideration of investigation reports

- 9.1 Following receipt by the Monitoring Officer of the report on the outcome of an investigation, the Monitoring Officer will arrange for the report to be considered by the Standards Panel (consideration).
- 9.2 The Monitoring Officer will appoint a Standards Panel from among the members and reserve members of the Standards Committee to consider the complaint. If the Member is a Parish or Town Councillor, the Panel will comprise one Independent Member, one Parish Member and one Borough Councillor member of the Committee. If the Member is a Borough Councillor, the Panel will comprise one Independent Member, one Borough Councillor member and one other member of the Committee.
- 9.3 Except in exceptional circumstances, an agenda for the meeting will be sent to the members of the Panel at least five clear working days before the meeting. The report may be considered as exempt information by the Committee under paragraph 7C of Schedule 12A to the Local Government Act 1972.
- 9.4 The Panel will be chaired by an Independent Member of the Standards Committee. If there is more than one Independent Member on the Panel the first item of business will be to appoint a Chair. The Chair will deal with the following administrative matters prior to the consideration of any reports:
- (a) ensuring the meeting is quorate;
 - (b) dealing with any disclosures of interest;
 - (c) ensuring that the members of the Panel understand the procedure to be followed.
- 9.5 The Standards Panel (consideration) will consider the report and come to one of the following decisions:
- (i) that it accepts the investigator's finding that the Member did not fail to comply with the Code;
 - (ii) that the matter should be considered by the Standards Panel (determinations);
 - (iii) that the matter should be referred to the Adjudication Panel for England for determination.
- 9.3 The Standards Panel (consideration) may only refer the matter to the Adjudication Panel if it considers that the action it could take against the Member would be insufficient were a finding of a failure to comply with the Code to be made and if the Adjudication Panel is willing to accept the referral.
- 9.4 If the Standards Panel (consideration) accepts the investigator's finding that the Member did not fail to comply with the Code, the Monitoring Officer will provide written notice of the decision to the Member, the complainant, the

investigator, and where the Member is a parish/town councillor, the Parish/Town Clerk. The Monitoring Officer will also arrange for the publication of a notice of the Committee's decision in a local newspaper and on the Council's website unless the Member requests that no notice is published.

Local Determination of Complaints

10. Before the meeting of the Standards Panel (determinations)

- 10.1 If the Standards Committee decides that the complaint should be determined by the Standards Panel (determinations), the Monitoring Officer will undertake a pre-hearing process and then prepare a report for the Standards Panel (determinations) setting out the results of the process.
- 10.2 The object of the pre-hearing process is to enable the hearing to take place fairly and as efficiently as is reasonably practicable, through conveying to the Panel those aspects, issues and matters related to the investigatory report and the observations or representations made or received in respect of it that are relevant to the matter which was the subject of the investigation. As such, the Monitoring Officer's covering report will concern itself with procedure and shall not contain any recommendation as to the outcome of the hearing.
- 10.3 The Monitoring Officer will invite the Member and investigator to participate in the pre-hearing process. The Monitoring Officer will
- (i) write to the Member enclosing a copy of the investigator's report, where possible to inform the Member of the provisional date(s) of the Panel hearing and to request him or her to return the following documents, or their like, within 14 day:
 - Form A - Member's response to the evidence set out in the investigator's report;
 - Form B - Member's evidence relating to the allegation not previously submitted or identified in the investigator's report;
 - Form C - Mitigating circumstances desired to be submitted by or on behalf of the Member;
 - Form D - Arrangements for the Standards Committee/Panel hearing (witnesses, representation, request for documents or matters to be considered in private, etc.); and
 - Form E - Details of proposed witnesses which are wished to be called.
 - (ii) Upon receipt of the Member's comment in response to the investigator's report, the Monitoring Officer will copy that response to the investigator and request within 14 days the return of documents (Forms E and F), or their like, relating to:
 - Form E - the witnesses which the investigator wishes to be called.
 - Form F - whether the investigator is to attend or be represented;
 - any request that documents or matters be considered in private; and
 - any comments that he or she would wish to make or, if not attending, to be relayed in their absence.

- 10.4 The Monitoring Officer will produce his or her report on the outcome of the pre-hearing process. The report will:
- (i) collate the paperwork to be presented or submitted to the hearing
 - (ii) identify main facts of the case that are in dispute;
 - (iii) identify those issues, where appropriate, that are not relevant to the Panel's hearing of the complaint;
 - (iv) list those witnesses which may be called to give evidence; and
 - (v) determine what papers (if any) are likely to be considered in the absence of press or public at the hearing and therefore exempted from publication prior to the hearing,
- 10.5 The Monitoring Officer will arrange for the Standards Panel (determinations) to meet:
- (i) no later than three months after the date on which the investigator completed their report or, in cases where the investigator is an Ethical Standards Officer, the date the Monitoring Officer received the report, and
 - (ii) no sooner than fourteen days after the date on which the Monitoring Officer has sent a copy of the report to the Member, unless the Member has agreed to the hearing being held earlier.
- 10.6 The Monitoring Officer will appoint a Standards Panel from among the members and reserve members of the Standards Committee to determine the complaint. If the Member is a Parish or Town Councillor, the Panel will comprise one Independent Member, one Parish Member and one Borough Councillor member of the Committee. If the Member is a Borough Councillor, the Panel will comprise one Independent Member, one Borough Councillor member and one other member of the Committee.
- 10.7 Except in exceptional circumstances, an agenda for the meeting will be sent to the members of the Panel, at least five clear working days before the meeting. The agenda will include the investigator's report and the Monitoring Officer's report described in 10.4 above.
- 10.8 The Monitoring Officer will provide the Member and the investigator with a copy of the agenda. The Monitoring Officer will publish that part of the agenda which he or she considers does not contain exempt information.

11. Local Determination Hearing Principles

- 11.1 Local determination hearings are not a court and, therefore, evidence will not be taken on oath and persons attending the Panel will not be expected to stand when addressing the meeting or giving evidence. However, the Panel remains quasi-judicial and the principles of natural justice will be applied. All comments or questions must be put to, or through, the Chair. The Panel will reach its decisions on the balance of probabilities based on the evidence presented to it.
- 11.2 The Member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the committee, another person. The Panel may take legal advice, in private if necessary, from its legal adviser at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Panel should be shared with the Member and the investigator if they are present.
- 11.3 During the course of the hearing, the Panel can ask the Monitoring Officer to obtain further information if the Panel decides that it requires that information in order to reach a decision. The hearing will be adjourned until the Monitoring Officer provides that information. The Panel can make such a request only once per hearing;
- 11.4 In the case where the investigator is an Ethical Standards Officer, during the course of the hearing, the Panel can ask the Ethical Standards Officer to obtain further information if the Panel decides that it requires that information in order to reach a decision. The Panel must set out its reasons why the case should be referred and can make such a request only once per hearing. The Ethical Standards Officer will respond to the request within 21 days. If the Ethical Standards Officer directs the Panel to continue with the hearing, the hearing must be held within three months of the direction.

12. The meeting of the Standards Panel (determinations)

12.1 The Chair of the Panel will:

- (i) introduce those present at the hearing;
- (ii) deal with preliminary matters of the quorum of the meeting and disclosures of interest;
- (iii) ensure that the Member and the participants understand the procedure to be followed; and
- (iv) ensure that the Member, if unaccompanied, was made aware that he or she could have been represented by solicitor or counsel or, with the permission of the Panel/Committee, another person but that the cost of any such representation must be met by the Member.

12.2 If the Member is not present at the start of the hearing:

- (i) the Chair will ask the Monitoring Officer whether or not the Member has indicated his or her intention not to attend the hearing and, if so, the Panel will take into consideration any reasons which the Member has provided for not attending the hearing; and
- (ii) the Panel will then consider any reason put before it for such failure by the Member and may:
 - unless it is satisfied that there is sufficient reason for such failure, consider the allegation and make a determination in the absence of the member; or
 - adjourn the hearing to another date.

12.3 The Chair will ask the Member, the investigator and the Monitoring Officer whether they wish to ask the Panel to exclude the press and public from all or any part of the hearing. The Panel will then decide whether to exclude the press and public from access to all or any part of the hearing or documentation available to the hearing

12.4 The Panel will then consider the Monitoring Officer's report of the pre-hearing process and resolve any issues or disagreements about how the hearing should continue, which have not been resolved during the pre-hearing process.

12.5 After dealing with any preliminary issues, the Panel will consider whether there are any significant disagreements about the facts contained in the investigator's report. If there is no disagreement about the facts, the Panel will announce its findings of fact and move on to paragraph 5.9 of the procedure.

12.6 If the Member disagrees with most of the facts, it may make sense for the investigator to start by making representations on all the relevant facts, instead of discussing each fact individually.

12.7 If the Member disagrees with any relevant fact in the investigator's report, without having given prior notice of the disagreement through the pre-

hearing process, they must give good reasons for not mentioning it before the hearing. If the investigator is not present, the committee will consider whether it would be in the public interest to continue in their absence. After considering the member's explanation for not raising the issue at an earlier stage, the committee may then:

- (i) continue with the hearing, relying on the information in the investigator's report;
- (ii) allow the subject member to make representations about the issue, and invite the investigator to respond and call any witnesses, as necessary;
- (iii) postpone the hearing to arrange for appropriate witnesses to be present, or for the investigator to be present if they are not already.

- 12.8 If there is a disagreement, the investigator, if present, will be invited to make any necessary representations to support the relevant findings of fact in the report. With the Panel's permission, the investigator may call any necessary supporting witnesses to give evidence. The Panel may give the Member an opportunity to challenge any evidence put forward by any witness called by the investigator.
- 12.9 The Member will then have the opportunity to make representations to support their version of the facts and, with the Panel's permission, to call any necessary witnesses to give evidence. The Panel may give the investigator an opportunity to challenge any evidence put forward by any witness called by the Member.
- 12.10 At any time, the Panel may question any of the people involved or any witnesses.
- 12.11 Once the Panel has sufficient information to enable it to determine its findings of fact the members of the Panel will withdraw to consider the representations and evidence in private. On their return, the Chair will announce the Panel's findings of fact.
- 12.12 The Panel will then consider whether, based on the facts it has found, the Member has failed to comply with the Code of Conduct.
- 12.13 The Member will be invited to give relevant reasons why the Panel should decide that they have not failed to follow the Code. The Panel will then consider any verbal or written representations from the investigator. The Panel may, at any time, question anyone involved on any point they raise on their representations. The Member will be invited to make any final relevant points.
- 12.14 Once the Panel has sufficient information to enable it to determine whether the Member has failed to comply with the Code of the Panel will withdraw to consider the representations and evidence in private. On their return, the Chair will announce the Panel's decision.

- 12.15 If the Panel decides that the Member has not failed to comply with the Code of Conduct, the Panel will move on to paragraph 5.16 of the procedure.
- 12.16 If the Panel decides that the Member has failed to comply with the Code of Conduct, it will consider any verbal or written representations from the investigator and the subject member as to:
- (i) whether the committee should apply a sanction;
 - (ii) what form any sanction should take.
- 12.17 The Panel may question the investigator and member, and take legal advice, to make sure they have the information they need in order to make an informed decision.
- 12.18 The Panel may impose one or more of the following sanctions, to:
- (i) censure the Member (this is the only sanction available where the Member is no longer a member of a relevant authority);
 - (ii) restrict for a period not exceeding six months of that member's access to the premises of the authority or that member's use of the resources of the authority, provided that those restrictions:
 - (a) are reasonable and proportionate to the nature of the breach; and
 - (b) do not unduly restrict the person's ability to perform the functions of a member;
 - (iii) suspend or partially suspend the Member for a period not exceeding six months or, providing it does not exceed six months, until the Member submits an apology in a form specified by the Panel, undertaken training in a form specified by the Panel or participated in conciliation in a form specified by the Panel;
 - (iv) require the Member to submit a written apology in a form specified by the Panel;
 - (v) require the Member to undertaken training in a form specified by the Panel;
 - (vi) require the Member to participate in conciliation in a form specified by the Panel.
- 12.19 The Panel may impose a sanction to begin immediately or within a period of six months after the imposition of the sanction.
- 12.20 Once the Panel has sufficient information to enable it to determine whether a sanction should be applied and, if appropriate, what the sanction should be, the Panel will withdraw to consider the representations and evidence in private. On their return, the Chair will announce the Panel's decision.
- 12.21 After considering any verbal or written representations from the investigator, the Panel will consider whether it should make any recommendations to the authority, with a view to promoting high standards of conduct among members which will be announced by the Chair.

13. After the meeting of the Standards Panel (determinations)

- 13.1 The Panel will announce its decision on the day and, wherever possible, provide a short written decision on that day. The Panel will, wherever possible, issue its full written decision and reasons within 10 working days of the end of the hearing.
- 13.2 The written decisions will be provided to the Member, the complainant, the investigator, the Standards Board for England and where the Member is a parish/town councillor, the Parish/Town Clerk.
- 13.3 The written decision will, if a finding has been made that the Member had failed to comply with the Code of Conduct, also provide information as to the Member's right to apply to the Adjudication Panel for England for permission to appeal against the finding.
- 13.4 Where the Panel has determined that the Member failed to comply with the Code of Conduct, the Monitoring Officer will arrange for the publication of a notice of the Panel's findings and the Member's right to appeal to the Adjudication Panel for England in a local newspaper and on the Council's website.
- 13.5 Where the Panel has determined that the Member did not fail to comply with the Code of Conduct, the Monitoring Officer will arrange for the publication of a notice of the Panel's findings in a local newspaper and on the Council's website unless the Member requests that no notice is published.

Non-Code of Conduct Complaints

14. Before the meeting of the Standards Panel

- 14.1 The Monitoring Officer will make enquiries and, where he or she considers it appropriate, investigate any allegations of misconduct in accordance with the Monitoring Officer Protocol.
- 14.2 Any investigation will be conducted as quickly as is reasonably possible, having regard to the nature of the complaint. Within 10 working days of initiating an investigation the Monitoring Officer will inform the complainant and the Member that the investigation is taking place, the matter being investigated and of the likely length of the investigation.
- 14.3 If, following an investigation, in the opinion of the Monitoring Officer there is no case to answer or the matter can be resolved by agreement of the parties involved, the Monitoring Officer will inform the parties involved and the Chair of the Standards Committee of that finding.
- 14.4 If, following an investigation, in the opinion of the Monitoring Officer there is a case to answer and there is no possibility of the matter being resolved by agreement of the parties involved, the Monitoring Officer will:
- (i) prepare a report and inform the Member of the procedure which will be used;
 - (ii) once the report is completed, inform the Member and send him/her a copy of the report;
 - (iii) ask the Member or his/her representative to provide details of the evidence which he/she wishes to present at the hearing and the witnesses which he/she wishes to call at the hearing.
- 14.5 The Monitoring Officer's report will normally include:
- (i) details of the alleged offence;
 - (ii) a summary of the investigation;
 - (iii) the names of any witnesses and copies of any documentary evidence to be presented at the hearing.
- 14.6 The Monitoring Officer will arrange for the Standards Panel (determinations) to meet:
- (i) no later than two months after the date on which the investigator completed their report, and
 - (iii) no sooner than 10 working days after the date on which the Monitoring Officer has sent a copy of the report to the Member, unless the Member has agreed to the hearing being held earlier;
- 14.7 The Monitoring Officer will appoint a Standards Panel from among the members and reserve members of the Standards Committee to determine the complaint. The Panel will comprise one Independent Member, one Borough Councillor member and one other member of the Committee.

14.8 Except in exceptional circumstances, an agenda for the meeting will be sent to the members of the Panel, at least five clear working days before the meeting. The Monitoring Officer will provide the Member and the investigator with a copy of the agenda.

15. The meeting of the Standards Panel

15.1 The Chair of the Panel will:

- (i) introduce those present. Those will include the investigating officer, the Monitoring Officer or another senior officer not involved in the investigation to clarify points of law and procedure and an officer to record the proceedings;
- (ii) establish that the hearing is quorate (the Panel's quorum is three members);
- (iii) deal with any disclosures of interest;
- (iv) ensure that the participants understand the procedure to be followed;
- (v) ensure that the Member, if unaccompanied, was made aware that they could have been represented.

15.2 If the Member is not present, the Panel will consider any indication from the Member that he/she would not be present and any reasons provided. The Panel will then determine whether to hold the hearing in the absence of the Member or adjourn the hearing to another date.

15.3 The investigating officer will put the case against the Member and may call witnesses. The Member and/or his/her representative may ask questions of the investigating officer and any witnesses. The Panel may ask questions of the investigating officer and any witnesses.

15.4 The Member and/or his/her representative will put his/her case and may call witnesses. The investigating officer may ask questions of the Member and any witnesses. The Panel may ask questions of the Member and any witnesses.

15.5 The investigating officer will sum up first, followed by the Member and/or his/her representative. No new evidence may be introduced at this stage.

15.6 The Panel will withdraw to consider the case and come to a decision in private. The legal advisor and the officer recording the proceedings will remain with the Panel. If it is necessary to recall either party to clarify certain points, both parties will return.

15.7 The Panel's decision will be confirmed to both parties, preferably verbally and at the same time. The Panel's decision will be confirmed in writing within five working days of the hearing.

15.8 If the Panel finds against the Member, he/she will be asked if he/she wishes to respond to the finding. If the Panel finds against the Member, unless the Member exercises the right of appeal set out in section 4, the finding of the Panel, a report of the proceedings and a recommendation of a suitable sanction or range of sanctions will be submitted to the next available meeting of the Borough Council to enable it to consider the imposition of any sanction(s) it deems to be appropriate.

16. The Right of Appeal

- 16.1 If the Panel finds against the Member, the Member may ask for that decision to be reviewed. A request for a review must be made in writing, giving the reasons for the request, to the Monitoring Officer within 10 working days of the date of the written notification of the Panel's decision.
- 16.2 The appeal will be heard by a Standards Panel (determinations) comprising members or reserve members of the Committee who were not involved in the original hearing. The appeal will normally be heard within four weeks of the receipt of the written request stating the wish for the finding to be reviewed.
- 16.3 The review will be conducted following the procedure set out in section 3, but will consider only material relevant to the reasons for the review request set out by the Member.

17. Timetable

Receipt of complaint that the Monitoring Officer considers it appropriate to investigate

↓ Ten working days

Initial investigating officer's report giving likely timetable

↓ As soon as Reasonably possible

Decision by investigating officer that hearing needs to take place

Investigating officer's report sent to Councillor

↓ Two months

↓ Not less than ten working days

Hearing

↓ Five working days

Confirmation of finding in writing

↓ Ten working days

Notification by Councillor of wish for review giving grounds*

↓ Four weeks

Review Panel hearing*

Consideration of sanctions by Borough Council*

* If necessary