

Public Document Pack



Councillor Conduct Committee

Monday, 22 May 2017 at 6.30 pm
Room 3, Civic Centre, Silver Street, Enfield,
EN1 3XA

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Councillors: Claire Stewart (Chair), Glynis Vince (Vice-Chair), Katherine Chibah,
Elaine Hayward and Bambos Charalambous

Independent Persons: Christine Chamberlain and Sarah Jewell

AGENDA – PART 1

1. WELCOME AND APOLOGIES

2. SUBSTITUTIONS

Any member who wishes to appoint a substitute for this meeting must notify the Monitoring Officer in writing, before the beginning of the meeting, of the intended substitution.

Any notifications received will be reported at the meeting.

3. DECLARATION OF INTERESTS

Members are asked to declare any disclosable pecuniary, non pecuniary or other interests relating to items on the agenda.

4. APPEAL HEARING (Pages 1 - 26)

To carry out a hearing in relation to an appeal against a Monitoring Officer decision on a councillor complaint.

A report on the complaint will be published and dispatched as soon as it is available. (Report No: 5)

Copies of the Councillor Code of Conduct, the Procedure for Handling Complaints against Councillors and Co-opted Members and the Procedure for Hearing Complaints against Councillors and Co-opted Members and for Appeals against Monitoring Officer Decisions on Complaints are attached for information.

5. DATES OF FUTURE MEETINGS

To note the dates agreed at Council (10 May 2017) for future meetings of the Councillor Conduct Committee:

- Thursday 6 July 2017

- Thursday 5 October 2017
- Thursday 7 December 2017
- Tuesday 6 March 2018

All meetings will take place at 6.30pm unless otherwise indicated.

6. EXCLUSION OF PRESS AND PUBLIC

To pass a resolution under Section 100A(4) of the Local Government Act 1972 excluding the press and public from the meeting for any items of business moved to part 2 of the agenda on the grounds that they involve the likely disclosure of exempt information as defined in those paragraphs of Part 1 of Schedule 12A to the Act (as amended by the Local Government (Access to Information) (Variation) Order 2006).

There is no part 2 agenda.

[Updated Council 04/07/12 & 17/07/13]

The Code of Conduct for Members of London Borough of Enfield

Purpose of the Code

1. The purpose of this Code of Conduct is to assist you in the discharge of your obligations to the Authority, the local communities and the public at large by:
 - a) setting out the standards of conduct that are expected of you when you are acting in that capacity, and in so doing
 - b) providing the openness and accountability necessary to reinforce public confidence in the way in which you perform those activities.
2. The Code applies equally to co-opted members of Council Committees who are entitled to vote on any issues coming before those committees.

Scope of the Code

3. The Code applies to you in all aspects of your activities as a member, including when acting on Authority business, ward business or when otherwise purporting to act as a member. It does not seek to regulate what you do in your private and personal lives.
4. The obligations set out in this Code are also complementary to related Codes and Protocols of the Authority within the Council's Constitution and elsewhere.
5. References to committees or meetings of the Authority within this Code also refer to Council, Cabinet, sub-committees, panels and working groups, as well as joint-committees.

Public Duties of Members

6. You have a duty to uphold the law, including the general law against discrimination and the requirements of the Localism Act, and to act on all occasions in accordance with the public trust placed in you.

7. You have an overriding duty to act in the interests of the London Borough of Enfield's area as a whole, but also have a particular duty to represent the views of the residents of your ward.

General Principles of Conduct

8. In carrying out your duties, in exercising the functions of the Authority, or otherwise acting as a Councillor, you will be expected to observe the following general principles of conduct. These principles will be taken into consideration when any allegation is received of breaches of the provisions of the Code.

8.1 Selflessness

You should take decisions solely in terms of the public interest. You should not seek to gain financial or other material benefits for yourself, your family, or friends.

8.2 Integrity

You should not place yourself under any financial or other obligation to outside individuals or organisations that might influence you in the performance of your official duties.

8.3 Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, you should make choices on merit.

8.4 Accountability

You are accountable for your decisions and actions to the public and must submit yourself to whatever scrutiny is appropriate to your office.

8.5 Openness

You should be as open as possible about all the decisions and actions that you take. You should give reasons for your decisions and restrict information only when the wider public interest clearly demands.

8.6 Honesty

You have a duty to declare any private interests relating to your public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

8.7 *Leadership*

You should promote and support these principles by leadership and example.

8.8 *Respect for Others*

You 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. You should respect the impartial role of the authority's statutory officers, and its other employees.

8.9 *Duty to Uphold the Law*

You should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in you.

8.10 *Stewardship*

You should do whatever you are able to do to ensure that the Authority uses its resources prudently and in accordance with the law.

Expectations of Conduct

9. You shall base your conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.
10. You shall at all times ensure that your use of expenses, allowances, facilities and services provided from the public purse is strictly in accordance with the rules laid down on these matters, and that you observe any limits placed by the Authority on the use of such expenses, allowances, facilities and services.
11. You shall at all times conduct yourself in a manner which will maintain and strengthen the public's trust and confidence in the integrity of the Authority and never undertake any action which would bring the Authority, you or other members or officers generally, into disrepute.

Rules of Conduct

12. You shall observe the following rules when acting as a Member or co-opted Member of the Authority:
 - (1) Treat others with respect and courtesy.
 - (2) You must not -
 - (a) Do anything which may cause your authority to breach any of its equality duties (in particular as set out in the Equality Act 2010)

- (b) Bully any person;
 - (c) Lobby, intimidate or attempt to lobby or intimidate any person who is or is likely to be:
 - (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration or determination of any investigation or proceedingsin relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
 - (d) Do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.
- (3) You should 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;
- (4) You must not 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 legal advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is:
 - (a) reasonable and in the public interest; and
 - (b) made in good faith and in compliance with the reasonable requirements of the authority
- (5) You must not prevent another person from gaining access to information to which that person is entitled by law.
- (6) You should not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

13. You shall observe the following rules when using the resources of the Authority, or authorising the use of those resources by others:
 - (1) Act in accordance with the Authority's reasonable requirements including the requirements of its ICT policy and the policies listed in the Constitution which you are deemed to have read and understood.
 - (2) Ensure that such resources are not used improperly for political purposes (including party political purposes);
 - (3) Have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
14. You shall observe the following rules when making decisions on behalf of or as part of the authority:
 - (1) Have regard to any relevant advice provided to you by the Council's Chief Financial Officer and Monitoring Officer where such advice is offered pursuant to their statutory duties.
 - (2) Give reasons for the decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the authority.
 - (3) Have regard to the rules and advice on the registration and disclosure of interests as set out in paragraphs I & J of this Code.

Registration and Declaration of Interests

15. You shall fulfil conscientiously the requirements of the Authority in respect of the registration of interests in the Register(s) of Members' Interests and, where it is required or appropriate to do so, shall always draw attention to any relevant interest in any proceeding of the Authority or its Committees, or in any communications with the Authority, its Members or officers.
16. Such disclosures must be made even if the interest has already been included on the register of interests or where there is a notification pending to the Monitoring Officer.
17. In accordance with this Code, you must keep the register up-to-date and refresh such interests as requested by the Monitoring Officer.
18. These interests extend to those of your spouse, partner, civil partner, family members or persons with whom you have a close association or personal relationship and you are aware that they have the interest.

Duties in respect of the Authority's Councillor Conduct Committee and the Monitoring Officer

19. The application and guidance on this Code shall be a matter for the Authority and for the Councillor Conduct Committee and, as appropriate, the Monitoring Officer, acting in accordance with their terms of reference.
20. You shall co-operate, at all stages, with any investigation into your conduct by the Authority or those persons acting on its behalf. Failure to do so is likely to be a breach of this Code.
21. All complaints will be dealt with according to the Council's Procedure for Handling Complaints against Councillors and Co-opted Members as set out in Appendix A to the Code of Conduct.

Registration of Interests

22. You must comply with the requirements of the law and the Council in registering your interests in the Register of Members' Interests. These are explained on the following pages. These interests extend to those of your spouse, partner, civil partner, family members or persons with whom you have a close association or personal relationship.
23. When considering registering or disclosing any interests, you should ask yourself:

"Would a member of the public, with knowledge of the relevant facts, reasonably regard your interest as so significant that it is likely to prejudice your judgement of the public interest? "

If the answer to this question is "yes", then you should disclose that interest.
24. Within 28 days of becoming a member of the Authority, or of knowing you have a disclosable pecuniary interest, you must notify the Monitoring Officer. You must also draw attention to any relevant interest, where it is required or appropriate to do so, in any proceeding of the Council or its Committees with which you are involved or in any communications with any colleague, officer or outside body in your role as a member. Such registration and disclosures must be made even if the interest has already been included in the register of interests or where there is a notification pending to the Monitoring Officer.
25. You should approach the Authority's Monitoring Officer if you feel that your interest should be treated as sensitive because it could lead to you, or a person connected with you, being subject to violence or intimidation. If it is agreed that you have such an interest, you will be obliged to register it but details will not be disclosed in the published version of the register. Similarly, when at a meeting, you only need to state the fact that you have a disclosable interest, and not details of the interest itself.

Disclosable Pecuniary Interests

26. The following will constitute pecuniary interests for the purposes of section 30(3) of the Localism Act 2011

Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses 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 your 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 your 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.

Other Pecuniary Interests

27. Other financial interests (if any) that would qualify as grounds for bias in an application to quash a decision of the Authority.

Other Non-Pecuniary Interests

28. Other interests that would qualify as grounds for bias in an application to quash a decision of the Authority.

Memberships

29. In addition, this Code requires you to disclose any interests in any business of the Authority where it relates to, or is likely to affect, either:

- (i) any body of which you are a member, or in a position of general control or management, and to which you are appointed or nominated by your Authority;
- (ii) any body which exercises functions of a public nature, is directed to charitable purposes, or has a primary purpose of influencing public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management.

Register of Gifts and Hospitality

- 30 You shall comply with the Council's agreed policy on gifts and hospitality and disclose to the Monitoring Officer the offer or receipt of any gift or hospitality with an estimated value of £25 or more. Offers made but refused must also be disclosed.

Disclosure and Duties in Respect of Interests Held by Members

31. Declaration of interests not included in the Register

- (1) If you have an interest in a matter under discussion at a meeting of the authority and are aware of that interest, you must disclose the interest to the meeting (unless the Authority's Monitoring Officer considers that it is a sensitive interest – see paragraph I 3 of this Code)
- (2) You must notify the Authority's Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure (unless it is subject of a pending notification)
- (3) You must then act in accordance with paragraph 2 below.

32. Disclosable Pecuniary Interests

- (1) Where you
 - (a) are present at a meeting of the authority and
 - (b) have, or become aware that you have, a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting,

You must

- (c) not participate, or participate further, in any discussion of the matter at the meeting
 - (d) not participate in any vote, or further vote, taken on the matter at the meeting
 - (e) leave the room until the conclusion of the matter under discussion
- (2) Where you are an executive member taking a portfolio decision and are aware you have a disclosable pecuniary interest, you must notify the Monitoring Officer of that interest within 28 days and take no action in respect of the matter other than refer to another executive member to take the decision.
- (3) Where you have taken a portfolio decision that is subsequently discussed at a

meeting of the authority, you must not try to influence the outcome of that discussion or take any further part in the proceedings unless answering questions to facilitate those discussions

- (4) If you have a disclosable pecuniary interest in a matter coming before a meeting of the authority, you can make a written request to the Monitoring Officer beforehand for a dispensation, which may allow you to participate in the discussion and vote.

A dispensation may be granted in the following circumstances:

- (a) Where members of the decision making body have disclosable pecuniary interests in a matter that would “impede the transaction of the business”
- (b) That without the dispensation, the representation of different political groups on the body conducting the business would be so upset as to alter the outcome of any vote on the matter
- (c) That the authority considers that the dispensation is in the interest of persons living in the authority's area
- (d) That the authority considers that it is otherwise appropriate to grant a dispensation.

Any grant of dispensation must specify how long it will last, up to a maximum of 4 years.

Dispensations under (a) and (b) above shall be decided by the Monitoring Officer, with the right of appeal to the Councillor Conduct Committee. Those in (c) and (d) shall be considered by the Councillor Conduct Committee, after consultation with the Independent Person(s).

The following standard exemptions in relation to the granting of dispensations, in relation to members' allowances, business rates, plus housing matters and rents have been agreed by the Councillor Conduct Committee:

- (i) An allowance, payment or indemnity given to members or any ceremonial honour given to members.
- (ii) Setting a local scheme for the payment of business rates, including eligibility for rebates and reductions, for the purposes of the Local Government Finance Act 2012 as amended from time to time and any superseding legislation.
- (iii) Housing matters and rents (provided that those functions do not relate particularly to the members tenancy or lease).

- (5) Failure to register a disclosable pecuniary interest could be a breach of the Code and a criminal offence. You must register all such interests relating to you, your spouse, civil partner or partner.
- (6) If a disclosable pecuniary interest arises in relation to your family member or person with whom you have a close association or personal relationship, and you are aware that they have the interest, you must disclose and register that interest. Failure to do so could be in breach of this Code.
- (7) If you fail to comply with the Code of Conduct (whether or not the finding is made in accordance with the Council's agreed arrangements) the Authority may have regard to that failure in deciding:
 - (a) whether to take action in relation to you, and
 - (b) what action to take.

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London Borough of Enfield

Procedure for Handling Complaints against Councillors and Co-opted Members

1. Introduction

- 1.1 The Council has established a Councillor Conduct Committee to implement the relevant requirements of Section 28 of the Localism Act 2011. These include arrangements for dealing with allegations that a councillor or co-opted member has failed to comply with the Authority's Code of Conduct.
- 1.2 The Councillor Conduct Committee comprises 4 members of the Council and deals with policy, complaints against councillors and issues concerning the members' Code of Conduct. The Localism Act also set up a role of Independent Person who will be consulted in respect of complaints received and before findings and sanctions are agreed. The Independent Person will not be a councillor and will be drawn from the local community. The Council has agreed to appoint two Independent Persons who will be recruited through public advertisement and a competitive interview process. Further information on the role of the Committee and the Independent Persons can be found at (insert hyper link)
- 1.3 Further reference to 'councillor' or 'member' in this document also refers to co-opted members of the Authority.

2. Key principles

The procedure for dealing with complaints should:

- 2.1 Be relevant to the Council's Code of Conduct
- 2.2 Have the confidence of the public, Council members and council staff.
- 2.3 Be as simple and economical as possible
- 2.4 Be speedy and fair to all parties
- 2.5 Be decisive
- 2.6 Provide oversight and support to the Monitoring Officer
- 2.7 Be proportionate and comply with the principles of natural justice

3. Criteria for eligibility of complaints

- 3.1 Complaints must be received by the Council's Monitoring Officer in writing within three months of the alleged matter, stating why it is felt the councillor concerned has breached the Code of Conduct. It will be considered solely on the evidence presented. The Council encourages complainants to provide their name and contact details. If the complainant asks for their identity to be protected, the Council will not disclose such details without their consent. The Council will not accept anonymous complaints. The Monitoring Officer will consult the Councillor Conduct Committee or relevant Independent Person as appropriate throughout the process – subject to neither being at risk of being compromised in the event of them being involved at some future point.
- 3.2 Complaints will not be accepted where:
- (a) They are considered to be malicious, vexatious or frivolous
 - (b) The subject matter has already been considered by the Council - except where new evidence has become available which could not previously have been produced
 - (c) It would be more appropriate for the complaint to be dealt with by a court or under another complaints or arbitration procedure
 - (d) One of the parties had registered their intention to take legal action on all or some of the matters complained about
 - (e) Legal action is under way
 - (f) Some or all of the matters complained about have been resolved through litigation.
 - (g) The complaint is being/has been dealt with by another independent complaints process.
 - (h) The complainant seeks to overturn decisions made by the Council.
- 3.3 If a complaint is rejected on the basis of 3.2 above, there is no right of appeal.

4. Process

- 4.1 All complaints must be made using the Councillor Conduct Complaint Form attached as Appendix 1.
- 4.2 The Council will use its best endeavours to determine a complaint within 3 months of receipt. It will acknowledge the complaint within 5 working days, giving the complainant a contact name and details. The complainant will be kept informed of progress throughout. The process may include:
- (a) Requests for further information/evidence
 - (b) Informal resolution to the satisfaction of all parties

- (c) Mediation
 - (d) Investigation and/or
 - (e) Referral to the Councillor Conduct Committee where the Monitoring Officer feels it would not be appropriate for him/her to take a decision
- 4.3 The Monitoring Officer, based primarily on the criteria set out in paragraph 3.2 above, will consider the complaint received and, in consultation with an Independent Person, will determine whether it warrants further action.
- 4.4 If it is decided that the complaint does not warrant further action as it falls within the criteria in 3.2, the Monitoring Officer will advise the complainant accordingly with reasons.
- 4.5 If the complaint is referred for further action, the Monitoring Officer will determine, in consultation with the Independent Person, the most appropriate way of dealing with the complaint. The Monitoring Officer can either decide to determine the matter her/himself or refer it to the Councillor Conduct Committee.

5. Consideration of Complaints by Monitoring Officer

- 5.1 The Monitoring Officer may decide to undertake any investigation and other actions him/herself or appoint another person to act as investigating officer on his/her behalf. Whichever option is chosen, the outcome will be the responsibility (and in the name) of the Monitoring Officer.
- 5.2 Following an investigation which may involve requests for further information and advice, the Monitoring Officer or his/her representative will seek to resolve the matter to the satisfaction of all parties or carry out mediation.
- (a) If the complaint is resolved, there will be no further action.
 - (b) If this is not possible the Monitoring Officer will either determine the matter her/himself or refer it to the Councillor Conduct Committee at this stage.
- 5.3 The Monitoring Officer will report quarterly to the Councillor Conduct Committee on:
- (a) The number and nature of complaints received
 - (b) Those rejected with reasons
 - (c) Those resolved through informal resolution and other methods (eg mediation)
 - (d) The number investigated,
 - (e) Outcome/progress of investigations and action taken.

6. Appeals against Monitoring Officer decisions

- 6.1 In cases where the Monitoring Officer has either found no breach of the code or has determined the matter him/herself the complainant will have a right of appeal against this decision.

A councillor will also have a similar right of appeal against a Monitoring Officer decision.

- 6.2 Such appeals must be submitted on the template attached as Appendix 2 within 10 working days of the receipt of the decision.
- 6.4 Appeals under 6.1 above will be considered by the Councillor Conduct Committee, with advice from an Independent Person not previously involved, if available.
- 6.5 When considering the appeal the Councillor Conduct Committee will follow the procedure for appeal hearings (to be reviewed).
- 6.6 The attendance of the appellants will not be required unless the committee decides otherwise
- 6.7 If the Councillor Conduct Committee do uphold the appeal, and consider that there has been a breach of the code, they will have the option of considering further action, imposing sanctions or adjourning to seek further information.
- 6.8 There is no further right of appeal to the Council against the decision of the Councillor Conduct Committee. The decision made will be final and binding.
- 6.9 If the complainant feels that the Council has failed to deal with a complaint properly, and that this failure has caused injustice, a complaint can be taken to the Local Government Ombudsman.

7. Consideration of complaints by Councillor Conduct Committee

- 7.1 If appropriate, the Monitoring Officer (in consultation with the Independent Person) may refer the outcome of an investigation to the Councillor Conduct Committee.
- 7.2 The Committee will consider the Monitoring Officer/Investigating Officer's report which should include evidence and representations from both parties associated with the complaint. The attendance of the complainant(s) and the member(s) against whom the allegations were made will not be required, unless the Committee decides otherwise.
- 7.3 The Committee will follow the procedure for Councillor Conduct Committee hearings. (to be reviewed)
- 7.4 The Committee after considering the investigating officer's report will decide either that:

- (a) The member concerned has breached the Code of Conduct; or
- (b) There has been no breach

7.5 In the event of a finding of a breach of the Code, the Committee will have the option of recommending a sanction against the member concerned. This can include:

- (a) Reporting the findings to full Council
- (b) Recommending to the relevant Group Leader that the councillor be removed from relevant meetings of the Authority of which they are a member
- (c) Recommending to the Leader of the Council that the member be removed from the Cabinet or from particular portfolio responsibilities
- (d) Withdrawing facilities provided to the member by the Council – such as computer access and/or e mail or internet access
- (e) Excluding the member from the Council's offices or other premises for a defined period of time – with the exception of meeting rooms as necessary for the purpose of attending meetings of the Authority of which they are a member
- (f) Publishing the findings in the local media.

7.6 The decision will be communicated to all parties with reasons

7.7 Where there is a finding of no breach, the Committee will communicate the decision to all parties together with reasons.

8. Appeals against decisions of the Councillor Conduct Committee (in relation to 7 above).

The decision of the Councillor Conduct Committee will be final and binding with no further right of appeal to the Council. If the complainant feels that the Council has failed to deal with the complaint properly and that this failure has caused injustice, they can make a complaint to the Local Government Ombudsman.

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London Borough of Enfield

Procedure for Hearing Complaints against Councillors and Co-opted Members and for Appeals against Monitoring Officer Decisions on Complaints

1. General Principles

- 1.1 The Councillor Conduct Committee will decide, on a balance of probabilities, whether the allegation(s) is or are upheld. They will be able to call on the advice of relevant council officers and the Independent Person, who had not previously been consulted on the complaint. (where we have two independent persons)
- 1.2 Papers will be sent out in advance of the hearing, including the Monitoring Officer/Investigating Officer report with all the evidence gathered, and representations from both the complainant and the member complained against. They will both have the opportunity to comment, in advance, on the report and evidence put forward. Any comments will be provided for the committee in advance of the meeting.
- 1.3 The Committee will make a decision by considering the Monitoring Officer/Investigating officer's report and any representations by the Monitoring/Investigating officer or their representative and the written representations made by the complainant or member complained against, and any information provided at a hearing. Both parties will have the opportunity to make written representations, irrespective of whether they are invited to attend the hearing.
- 1.4 There will be no requirement for either the complainant or the member(s) complained against, to attend committee hearings unless the committee decides otherwise. All parties will be advised of this beforehand.
- 1.5 If the Committee does decide to invite them to attend, the complainant and the member complained against may be accompanied during the investigation hearing.
- 1.6 The public and press will be excluded for those parts of the hearing where confidential or exempt information under Schedule 12A of the Local Government Act 1972, as amended, is disclosed. At the start of the hearing, the Committee will make a decision as to whether or not all or part of the hearing should be held in public.

2. Procedure at Investigation Hearings

The Legal Representative will be the advisor to the Committee and may seek further information or ask questions at any point in these proceedings. During

the hearing all questions and other proceedings shall be addressed through the chair.

2.1 Presentation of the Monitoring Officer Report

- a. The Monitoring/Investigating Officer will present his/her report and any relevant information to the committee members.
- b. The Independent Person, who has been consulted on the Monitoring Officer decision, may include their comments.
- c. The committee members will have an opportunity to ask questions of the Monitoring Officer and the Independent Person.

2.2 If the Complainant and Member Complained Against are Invited to Attend the Hearing

- a. The Committee will consider the merits of each case, individually, when deciding if they feel it is necessary to invite the complainant and member complained about to attend the hearing.
- b. If the Committee require the attendance of the member complained against and complainant, they will specify the reasons for their attendance in advance.
- c. In these cases the chair will decide how to manage any contributions to be made at the meeting, including any representations and make this clear to all present at the beginning of the meeting.

2.3 Consideration of the Outcome

- a. The Monitoring/Investigating Officer, Independent Person and any other relevant parties will all withdraw. The Legal Representative and Committee Administrator will remain.
- b. The Committee will consider all the information and make a decision as to whether or not there has been a breach of the code of conduct.
- c. If it is decided that there had been a breach of the code, the Committee will then consider and agree what sanctions should be imposed. A list of possible sanctions is set out in Appendix A.

2.4 Outcome of the Hearing

A formal written notice of the decision will be communicated to all parties including the member complained against, the Monitoring Officer/Investigating Officer, the members of the committee and the complainant with reasons. This must be within five working days of the conclusion of the hearing.

2.5 General Recommendations from the Hearing

After the hearing the Committee may consider whether there are any general recommendations in relation to ethical governance matters which they may wish to make arising from consideration of the allegation.

3. Procedure at an Appeal Hearing Against a Decision by the Monitoring Officer

The attendance of the complainant and member complained against will not be required unless the Committee decides otherwise.

3.1 Presentation of the Monitoring Officer Report

- a. The Monitoring/Investigating Officer will present his report and any other information to the committee members along with any comments submitted in writing by the complainant or member(s) complained against.
- b. The Independent Person, who had been consulted on the Monitoring Officer decision, may include their comments.
- c. The committee members will have an opportunity to ask questions of both the Monitoring Officer and the Independent Person.

3.2 Consideration of the Evidence

- a. The Monitoring/Investigating Officer and Independent Person will then withdraw. The Legal Representative and Committee Administrator will remain in the appeal hearing.
- b. The Committee will consider all the information and make a decision as to whether or not to uphold the Monitoring/Investigating Officer decision.

3.3 Agree Outcome

If the outcome of the appeal results in Committee confirming that a breach of the code has occurred then it will need to consider what sanctions it wishes to impose as a result. A list of sanctions is attached as Appendix A.

3.4 Outcome of Hearing

A formal written notice of the decision will be communicated to all parties including the member complained against, the Monitoring Officer/Investigating Officer, the members of the committee and the complainant with reasons. This must be within five working days of the conclusion of the appeal hearing.

3.5 General Recommendations from the Hearing

After the appeal hearing the Committee may consider whether there are any general recommendations in relation to ethical governance matters which they may wish to make arising from consideration of the allegation.

Appendix A

In the event of a finding of a breach of the Code, the Committee will have the option of recommending a sanction against the member concerned. This can include:

- Reporting the findings to full Council.
- Recommending to the relevant Group Leader that the councillor be removed from relevant meetings of the Authority of which they are a member.
- Recommending to the Leader of the Council that the member be removed from the Cabinet or from particular portfolio responsibilities.
- Withdrawing facilities provided to the member by the Council – such as computer access and/or e mail or internet access.
- Excluding the member from the Council's offices or other premises for a defined period of time – with the exception of meeting rooms as necessary for the purpose of attending meetings of the Authority of which they are a member.
- Publishing the findings in the local media.

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Appendix B – Helen Osman’s Appeal

The following documents are included:

1. Appeal Complaint Form from Helen Osman
2. Helen Osman’s Response to Draft Report on her Complaint

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