

# Public Document Pack



## **Councillor Conduct Committee**

Tuesday, 1 July 2014 at 7.30 pm  
Room 3, Civic Centre, Silver Street, Enfield,  
EN1 3XA

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Council website: www.enfield.gov.uk

Councillors: Claire Stewart (Chair), Yasemin Brett, Elaine Hayward (Vice-Chair) and Joanne Laban

Independent Person: Christine Chamberlain

## **AGENDA – PART 1**

### **1. WELCOME AND APOLOGIES**

### **2. DECLARATION OF INTERESTS**

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

### **3. SUBSTITUTE MEMBERS**

Council agreed to the use of substitute members, for this committee on 29 January 2014.

Members are asked to note that Council will be appointing four substitute members for the Councillor Conduct Committee at the meeting to be held on 16 July 2014.

### **4. PROCESSES FOR DEALING WITH COMPLAINTS (Pages 1 - 20)**

To receive a briefing from the Monitoring Officer on the processes for dealing with complaints.

Copies of the complaints procedure, complaints hearing procedure, complaints flowchart and complaint forms are attached.

### **5. TERMS OF REFERENCE (Pages 21 - 22)**

To review the terms of reference for the committee.

### **6. WORK PROGRAMME 2014-15 (Pages 23 - 24)**

To consider and agree the items to be included in the committee's work programme for 2014/15.

A draft work programme is attached.

**7. INDEPENDENT PERSON RECRUITMENT (Pages 25 - 26)**

To receive a briefing on the recruitment to the Council's vacant "Independent Person" post.

To confirm the arrangements for the "Independent Person" interviews.

**8. MEMBER TRAINING ON THE COUNCILLOR CODE OF CONDUCT**

To note that a training session on the Councillor Code of Conduct was held as part of the Induction Programme for new members on 5 June 2014. Twenty members attended.

The Monitoring Officer will be presenting another session on 30 June 2014 as part of the Labour Group meeting and a similar session will be available to the Conservative Group.

**9. COMPLAINTS UPDATE**

To receive a verbal update from the Monitoring Officer on the outstanding complaints received to date. Item 14 on the part 2 agenda also refers.

**10. COMPLAINT AGAINST A COUNCILLOR**

To receive an update from the Monitoring Officer regarding a complaint against a councillor. (Item No: 15 on the Part 2 agenda also refers.)

**11. MINUTES OF MEETING HELD ON 30 APRIL 2014 (Pages 27 - 36)**

To receive and agree the minutes of the meeting held on 30 April 2014.

**12. DATES OF FUTURE MEETINGS**

To agree the dates and times for future meetings of the committee as set out below:

- Tuesday 16 September 2014
- Wednesday 3 December 2014
- Tuesday 24 March 2014

**13. 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).

# 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).

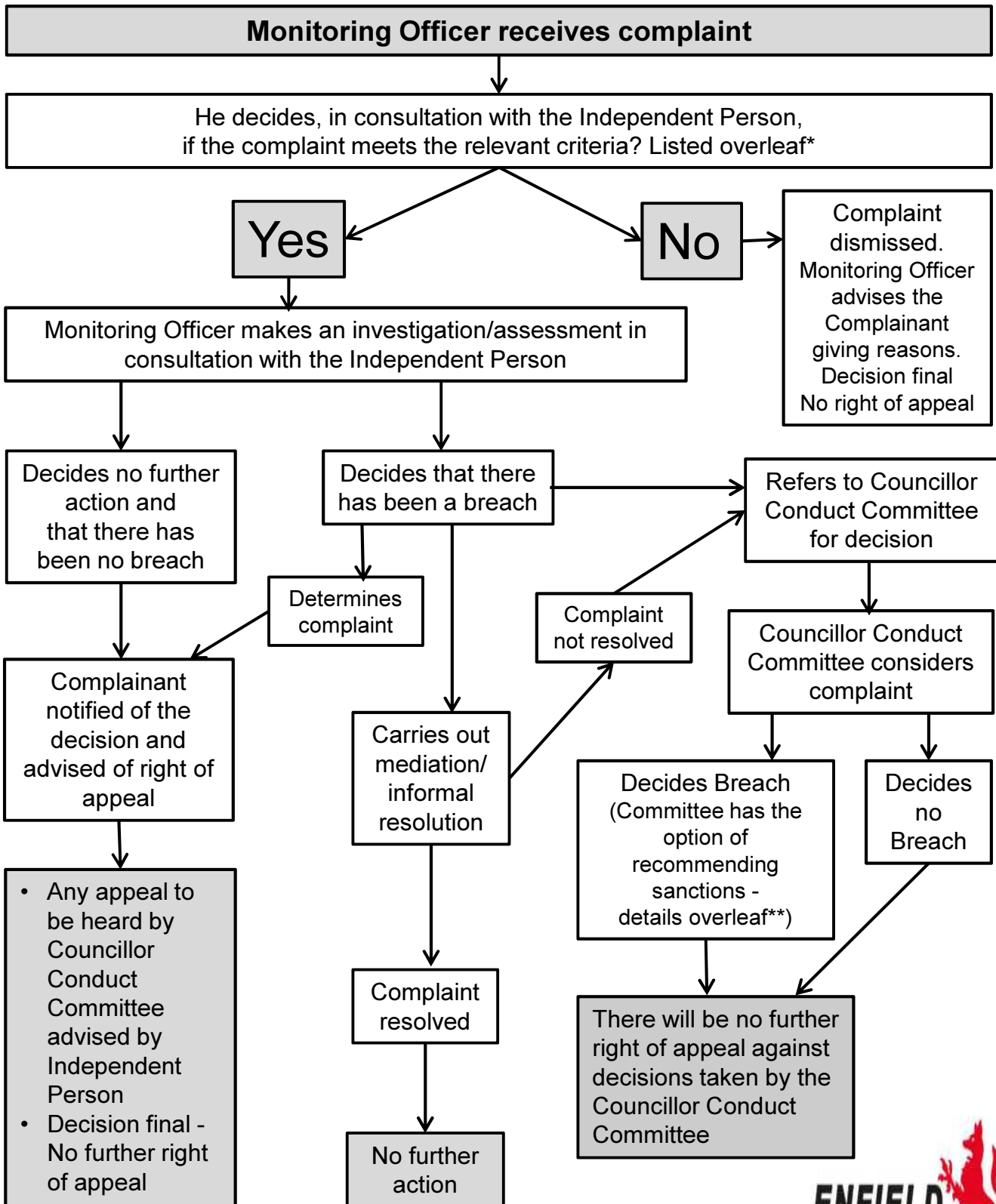
The decision of the Councillor Conduct Committee will be final and binding with no further right of appeal to the Council. If the complainant feels that the Council has failed to deal with the complaint properly and that this failure has caused injustice, they can make a complaint to the Local Government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

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# London Borough of Enfield Councillor Complaints Procedure

Appendix B



\*Complaints will not be accepted where:

- They are considered to be malicious, vexatious or frivolous.
- The subject matter has already been considered by the Council - except where new evidence has become available which could not previously have been produced.
- It would be more appropriate for the complaint to be dealt with by a court or under another complaints or arbitration procedure.
- One of the parties had registered their intention to take legal action on all or some of the matters complained about.
- Legal action was under way.
- Some or all of the matters complained about have been resolved through litigation.
- The complaint is being/has been dealt with by another independent complaints process.
- The complainants seek to overturn decisions made by the Council.

\*\*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.

## 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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# London Borough of Enfield

## Councillor Conduct Complaint Form



This form is to be completed in full if you wish to make a complaint that a Member or voting Co-opted Member of the London Borough of Enfield has failed to comply with the Code of Conduct adopted by the Council with effect from 1 July 2012.

### 1. Please provide us with your name and contact details

<b>Title</b>	
<b>First Name</b>	
<b>Last Name</b>	
<b>Address</b>	
<b>Daytime Tel</b>	
<b>Evening Tel</b>	
<b>Mobile Tel</b>	
<b>Email Address</b>	

### 2. Please tick the box which best describes you:

- Member of the public
- An elected or co-opted member of an authority
- Member of Parliament
- Local authority officer
- Other (please specify . . . . .)

### 3. Please provide us with the name of the Councillor(s) and/or voting Co-Opted Member(s) you believe have breached the Code of Conduct:

<b>Title</b>	<b>First Name</b>	<b>Last Name</b>

**4. Please explain in this section (or on separate sheets) what the Councillor has done that you believe breaches the Code of Conduct.**

If you are complaining about more than one Councillor you should explain clearly what each individual has done that you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account by the Monitoring Officer\* when he/she decides (having first sought the advice of the Council's 'Independent Person'), whether to take any action on your complaint. For example:

- Be specific, wherever possible about exactly what you are alleging the Member said or did. For instance, if you are complaining about something said you should state what words were used.
- Specify which part(s) of the Code of Conduct you consider have not been complied with.
- You should provide the dates of alleged incidents wherever possible. If you do not know exact dates, it is important to give a general timeframe.
- Confirm whether there were any witnesses to the alleged conduct and provide their names and contact details if possible.
- Provide relevant background for, or any documents that support, your allegation.

*[\* The Monitoring Officer at the London Borough of Enfield has a statutory responsibility to ensure that the Council acts in a lawful manner, and that it does not do anything which might cause maladministration, or injustice to any individual.]*

Please set out in this box the details of your complaint. If you use separate continuation sheets please state how many additional pages are attached . . .

If you are enclosing any documents to support your claim, please list them here.

Is there anybody who can help us with information about this matter?  
If so, please give their name(s) and contact details.

## **5. Confidentiality**

Your complaint will be handled by the Council's Monitoring Officer in accordance with the procedure for handling complaints against Councillors and Co-opted Member.

The Monitoring Officer will normally pass a copy of your complaint to the Councillor complained about so that he/she can comment. It is also in the interests of fairness and natural justice that a Councillor complained about should have the right to know who has made the complaint and what it is.

In very exceptional circumstances, the Monitoring Officer may agree to withhold your name and address. He/she would only do this if he/she has a good reason to believe that to give your name or address to the Councillor would be contrary to the public interest or would prejudice any investigation.

If your request for confidentiality is not granted, you will usually have the option of withdrawing your complaint.

If you believe that there is justification for withholding your name and address, please set out the reasons here.

However, it is important to understand that in exceptional circumstances where the matter complained about is very serious, the Monitoring Officer may decide to proceed with an investigation or other action and disclose your name even if you have expressly asked her not to.

**6. Additional Help**

Complaints must be submitted in writing. This includes submissions by email. However, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

Please let us know if this is the case (see contact details below or ask to speak to the Monitoring Officer by calling 020 8379 4094).

**Please sign and date this form**

Signature: .....

Print full name: .....

Date: .....

*Please send the completed form to:*

The Monitoring Officer - London Borough of Enfield  
PO Box 54, Civic Centre, Silver Street, Enfield,  
Middlesex EN1 3XF

*Email: [john.austin@enfield.gov.uk](mailto:john.austin@enfield.gov.uk)*

# London Borough of Enfield Councillor Conduct Appeal Form

This form is to be completed in full if you wish to appeal against a Monitoring Officer decision regarding a complaint against a councillor.

<b>Complaint</b>	
<b>Name of Complainant</b>	
<b>Councillor(s) Involved</b>	
<b>Finding of Monitoring Officer</b>	
<b>Complainant notified of Monitoring Officer decision</b>	<b>Date:</b>
<b>Reason(s) for Appeal</b> (Please list below and attach any supporting evidence) Please add more reasons if you need to.	
1.	
2.	
3	

<b>Date appeal submitted</b> (within 10 working days of receipt of decision)	
<b>Yes/No</b>	<b>Date</b>
<b>What are the relevant matters that you feel should be taken into account?</b>	
<b>Details of any new evidence to support your appeal</b>	
<b>Comments/Advice from Independent Person (where appropriate)</b>	

Please return to John Austin, Monitoring Officer, London Borough of Enfield, PO Box 54, Civic Centre, Silver Street, Enfield, Middlesex, EN1 3XF or email: [john.austin@enfield.gov.uk](mailto:john.austin@enfield.gov.uk)

**Councillor Conduct Committee**

(Updated: Council 17/07/13 &amp; 29/01/14)

Terms of Reference

**REMIT**

- (i) To deal with policy, complaints against councillors and issues concerning the members' Code of Conduct.
- (ii) To promote and maintain high standards of conduct by councillors and all co-opted members.
- (iii) To assist councillors and co-opted members to observe their Code of Conduct and all other Codes within the Constitution.
- (iv) To monitor the operation of the Councillors' Code of Conduct and report when appropriate to the full Council on the adoption or revision of the Code and all other codes within the Constitution.
- (v) To consider requests for dispensations by councillors, and co-opted members relating to interests set out in the Code of Conduct.
- (vi) To discharge such other functions either general or specific as the Council may from time to time allocate to the Committee.

**MEMBERSHIP**

4 Members, 2 from the Majority Party and 2 from the Minority Party to include both group whips.

Council will therefore be asked at the Annual Council meeting to agree to this being exempt from the proportionality rules.

Membership to be appointed at the Annual Council meeting, with the chairman and vice-chairman coming from each of the political groups.

Two substitute members by each Group to be appointed at the Annual Council meeting. Substitute members to be permitted in the following circumstances:

- (a) To take the place of an ordinary member from the respective Group on the Committee where that member will be absent for the whole of the meeting. Such an appointment would apply for the entire meeting, including where the meeting is reconvened after any adjournment; or
- (b) Where an ordinary member of the Committee is prevented from attending and participating in a meeting due to any disclosable interest they may have in an issue or complaint to be considered. In these cases the substitute appointment would only apply to the consideration of the relevant item on the agenda.

The Committee member who wishes to appoint a substitute member must notify the Monitoring Officer in writing, prior to the beginning of the relevant Committee meeting of the intended substitution. Once notification of a substitute member

has been received the ordinary member of the Committee will not (unless the notice of substitution is withdrawn prior to the start of the meeting) be entitled to attend the relevant meeting or part of the meeting to which the substitution applies as a member of the Committee.

The Independent Person(s) and the Monitoring Officer will be asked to attend the meetings to offer advice and support.

Meetings to be scheduled on a quarterly basis but only to meet if there was business to be transacted.



## Councillor Conduct Committee: Draft Work Programme 2014/15

ITEM	Lead/ Support Officer	1 July 2014	16 September 2014	3 December 2014	24 March 2015
Annual Report	John Austin				To agree Annual Report 2014/15
Work Programme 2014/15	John Austin	To Agree the Outline Work Programme for 2014/15	Work Programme Monitoring	Work Programme Monitoring	Work Programme Monitoring
Briefing for New Committee Members	John Austin	Briefing			
Review of Complaints Process	John Austin/ Asmat Hussain			Review	
Review of Terms of Reference	John Austin	Review			
Update on Complaints Received	John Austin/ Asmat Hussain	Update	Update	Update	Update
Post Election Code of Conduct Training	John Austin	Update			
Independent Person Recruitment	Penelope Williams	Update			
Training Programme – Identifying areas for future training	John Austin Asmat Hussain				

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## **Independent Persons**

### **Briefing for Councillor Conduct Committee – Tuesday 1 July 2014**

#### **1. Introduction**

The Council has provision for two "Independent Persons" whose role is to ensure that the Council promotes and maintains high standards of conduct. They support the Monitoring Officer, Councillor Conduct Committee and all councillors, providing independent advice and guidance on ethical issues.

Enfield currently has one "Independent Person", Christine Chamberlain. The other position has been vacant since last year.

#### **2. The role of the Independent Person**

The role includes:

- Assisting in the promoting of high standards of conduct by elected and co-opted members of the Council
- Being consulted before decisions are taken on councillor complaints and investigations
- Being involved in the resolutions of disputes where appropriate
- Attending meetings of the Councillor Conduct Committee to provide independent view
- Being available for consultation by any member who is subject to a complaint
- Participating in training events
- Acting as an advocate and ambassador in promoting ethical behaviour

The Independent Person will serve for a period of two years and they will be paid a yearly allowance of £500.

#### **3. Recruitment**

The position was advertised in March, with a closing date of 28 April 2014. We placed an article in Our Enfield, sent emails to community organisations and published information on the Council website.

We received 10 applications: from these, officers, in consultation with the Monitoring Officer and Christine Chamberlain, shortlisted five candidates. The next stage is for the Councillor Conduct Committee to interview the successful candidates. Interviews were initially delayed due to the Local Government Elections in May.

It is proposed that the Committee meet in mid July 2014, late afternoon/ early evening to hold the interviews.

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**COUNCILLOR CONDUCT COMMITTEE - 30.4.2014****MINUTES OF THE MEETING OF THE COUNCILLOR CONDUCT COMMITTEE  
HELD ON WEDNESDAY, 30 APRIL 2014****COUNCILLORS**

**PRESENT** Tom Waterhouse (Vice Chair), Tahsin Ibrahim, Michael Rye OBE and Derek Levy and Christine Chamberlain (Independent Person)

**ABSENT** Yasemin Brett

**OFFICERS** John Austin (Monitoring Officer), Asmat Hussain (Assistant Director Legal Services) Jill Bayley (Principal Lawyer) Penelope Williams (Committee Secretary)

**Also Attending:** One member of the press.

**996**

**WELCOME AND APOLOGIES**

In the absence of the Chair, the Vice Chair, Councillor Tom Waterhouse chaired the meeting.

The Monitoring Officer reported that Councillor Yasemin Brett had advised him that she was unable to attend the meeting due to a family funeral and that she had nominated a substitute, Councillor Levy, to attend in her place.

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**DECLARATIONS OF INTEREST AND ORDER OF THE AGENDA**

Councillor Waterhouse declared an interest in item 5 on the part 1 agenda and item 13 on the part 2 agenda as he had been involved in the Group investigation into the behaviour of the councillor, who had been subject to the complaint which was to be considered under these items. He left the meeting room when these items were discussed and took no part in the discussion.

**AGREED** that items 5 and 13 would be considered at the end of each part of the meeting on account of Councillor Waterhouse's declaration of interest.

The minutes reflect the order of the items as they were considered at the meeting.

Councillor Ibrahim was appointed chair by the committee in place of Councillor Waterhouse for items 5 and 13.

**998**

**PRE AND POST ELECTION ARRANGEMENTS**

**COUNCILLOR CONDUCT COMMITTEE - 30.4.2014**

John Austin, Monitoring Officer, presented a report which had been discussed at the Corporate Management Board and at the Member and Democratic Services Group setting out the arrangements for members' induction pre and post elections.

He highlighted the following from the report:

- A pre-election event which had been arranged for all prospective candidates had been well received.
- A session for all councillors on the roles and responsibilities of members including the importance of the Councillor Code of Conduct had been set up for 5 June 2014. The Labour Group had also asked John to attend a group meeting to talk about these issues. He indicated that he would also be happy to attend a Conservative Group meeting if asked.
- The session would also focus on the Member/Officer Protocol and include some case studies, exploring issues that could have been handled better.
- There would also be a general introductory session about the Council and the Borough of Enfield as well as a tour of the Borough on 7 June 2014.
- Special training for members appointed to the planning, licensing, audit and councillor conduct committees would be held.
- The Council was also in the process of agreeing an e-learning package, designed specifically for members, and setting up a members' portal which would include useful information about the council which they could access as needed.
- All members would be issued with new IT devices, primarily an Ipad and a smart phone. The use of these devices had been piloted among existing members and proved popular. Initial IT training would be provided, with more tailor made training available as required.
- These provisions had been agreed by the Member and Democratic Services Group.

**Question/Comments**

1. Councillor Levy raised the fact that a Licensing Sub Committee had been scheduled for 18 June and that the training had not been organised until the evening of that day. John Austin agreed to consider this and would ensure that members attending that meeting would be trained beforehand.

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**Post Meeting Note:** The Licensing Sub Committee meeting originally scheduled for 18 June 2014 had now been rearranged to allow for member training.

2. Provision for those with visual impairments would be considered.

**999**

**REVIEW OF TERMS OF REFERENCE**

The Committee received a copy of the Committee's Terms of Reference.

NOTED

1. The Terms of Reference had been added to the agenda to enable the retiring committee to consider any changes that they thought might be necessary.
2. Members suggested that the terms of reference should make clear that the two opposition members of the committee would need to be drawn from either the minority party or parties depending on the outcome of the future elections.
3. No further comments were received.

**AGREED** that the clarification in wording relating to membership of the committee in the Terms of Reference be referred on to Council for formal adoption.

**1000**

**UPDATE ON OTHER COMPLAINTS RECEIVED**

John Austin, Monitoring Officer, informed members that he was currently investigating four complaints against councillors. Further detailed information on the complaints was notified to the committee in the Part 2 section of the meeting. (Min 1010 refers).

**1001**

**INDEPENDENT PERSON RECRUITMENT**

NOTED

1. The position of Independent Person had been advertised in Our Enfield and on the Council website.
2. The closing date for applications was 28 April 2014.
3. Ten applications had been received.

**COUNCILLOR CONDUCT COMMITTEE - 30.4.2014**

4. Officers would shortlist against the criteria, in the person specification, in order to produce a list for interview and send those details to members for their consideration.

**1002  
ANNUAL REPORT 2013/14**

The Committee received a draft copy of the Annual Report for 2013/14.

**AGREED**

1. That the report represented a fair and accurate summary of the work of the Committee in 2013/14.
2. To recommend the report on to Council.

**1003  
WORK PROGRAMME 2013/4**

The Committee reviewed the work programme for 2013/14.

**AGREED** that it was useful to have a work programme and that the Committee would recommend that this practice should continue next year.

**1004  
MINUTES OF THE MEETING HELD ON 3 FEBRUARY 2014**

The minutes of the meeting held on 3 February 2014 were agreed as a correct record.

**1005  
DATES OF FUTURE MEETINGS**

**NOTED** that dates for future meetings will be agreed at full Council on 11 June 2014, after the local council elections.

**1006  
INVESTIGATION OF A COMPLAINT AGAINST A COUNCILLOR**

As Councillor Waterhouse had declared an interest in this item he withdrew from the meeting at this point and did not take part in the discussion.

In Councillor Waterhouse's absence Councillor Ibrahim was appointed Chair for this item.

Councillor Rye made a statement regarding the case:

"Members will be aware that the councillor, under investigation, has been subject to disciplinary action by both the Conservative Group and the Conservative Party.



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I attended the relevant group meetings and was part of the decision making in relation to the Conservative Group's disciplinary process which was determined by secret ballot based upon three possible options. I took no action in relation to the Conservative Party's disciplinary process.

Whilst the subject matter on tonight's agenda is clearly related, I regard the specific issues within the investigating officer's report to be sufficiently different to enable me to take part in the discussion with an open mind and to comment on the basis of the facts before me this evening. Whilst feeling able to participate in the discussion, I will be abstaining from the vote in the interests of fairness and transparency and to remove any possible feeling of bias or predetermination."

John Austin presented his report on the complaint to members, highlighting the following:

- Two complaints against the councillor were received in December 2012 and were referred to the Councillor Conduct Committee meeting in February 2013.
- As the complaint had been referred to the police, it was agreed that the case should be put on hold pending the final decision on any criminal prosecution by the Crown Prosecution Service.
- In February 2014, the Committee was advised that the Crown Prosecution Service had decided not to take any further action and members agreed that the complaint should be should be investigated.
- Because of his previous involvement, the Monitoring Officer asked Jill Bayley, one of the Council's principal lawyers, to carry out an investigation. Her report was due to be considered in part 2 of the meeting, with members asked to decide whether or not the Councillor had breached the Councillor Code of Conduct. (Min ??? Refers)

Ruth Mckee, from the Enfield Advertiser, said that she thought that the case should be considered in public. She felt that as the matter was already public and had been widely discussed, there was no fear of prejudicing the case and that it was therefore in the public interest that the hearing be held in public.

Asmat Hussain, Assistant Director Legal Services, advised that there were some aspects of the case which were not in the public domain, that the issues being discussed involved personal data belonging to individuals and therefore it was not appropriate that it should be held in public. The public interest test did not override the need for confidentiality, as the identities of the complainants could be disclosed.

The outcome of the complaint would be made public although due to election purdah restrictions, this would not be until after the Local Government Elections on 22 May 2014.

**COUNCILLOR CONDUCT COMMITTEE - 30.4.2014**

**1007  
CHAIR OF THE MEETING**

At this stage in the proceedings, Councillor Waterhouse returned to the meeting and took over the chair.

**1008  
EXCLUSION OF PRESS AND PUBLIC**

**AGREED** to pass a resolution under Section 100A (4) of the Local Government Act 1972 to exclude the press and public from the meeting for the items of business listed on part 2 of the agenda on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 (information relating to an individual) and Paragraph 2 (information likely to reveal the identity of an individual) of Part 1 of Schedule 12A to the Act (as amended by the Local Government (Access to Information) (Variation) Order 2006).

**1009  
COMPLAINT AGAINST A COUNCILLOR**

This report was withdrawn on the advice of the Monitoring Officer following consultation with the Independent Person due to purdah restrictions as the members involved were all candidates in the forthcoming local council elections.

**1010  
UPDATE ON OTHER COMPLAINTS RECEIVED**

John Austin, Monitoring Officer, updated the Committee on the four complaints which were currently under consideration.

1. One complaint had been received against all 63 councillors. This had been investigated and no breaches of the code of conduct found.
2. One complaint had been received against a councillor alleging that they had failed to respond to a residents query. This was under investigation.
3. One complaint had been received regarding a statement in an election leaflet. This was being investigated.
4. The final complaint related to the previous item which members were advised would be reported to the first meeting of the committee after the local elections on 22 May 2014 (Min 1000 refers).

**1011  
INVESTIGATION OF A COMPLAINT AGAINST A COUNCILLOR**

**COUNCILLOR CONDUCT COMMITTEE - 30.4.2014**

At this stage Councillor Waterhouse left the meeting and did not take part in the discussion or decision.

Councillor Ibrahim was appointed Chair in his place.

The Committee received the report of the Investigating Officer presenting the outcome of an investigation into a complaint against a councillor relating to an alleged breach of the Councillor Code of Conduct. This included representations from the complainants and the councillor complained against.

**NOTED**

1. The hearing was conducted in accordance with the hearings procedure adopted by the Committee.
2. The presentation of the Investigating Officer's report.
3. The findings within the independent investigation undertaken by Jill Bayley, Principal Lawyer, on behalf of the Monitoring Officer into the complaint. This was presented by Jill Bayley.
4. The questions put forward by members and the responses from Jill Bayley.
5. The comments of Christine Chamberlain, the Independent Person, on the findings arising from the Independent Investigation.

John Austin, Jill Bayley and Christine Chamberlain, left the meeting at this point and took no part in the committee's deliberations.

Asmat Hussain, Assistant Director Legal Services, advised members of relevant case law in this area.

Members considered all the available information, including the investigating officer's report, the independent person's comments, case law, representations from the complainant and the councillor.

**AGREED** based on the outcomes of the investigation and the comments made at the meeting:

1. That the Councillor had been acting in his capacity as a councillor when he placed the images and wrote the comments provided as images 6, 13, 15, 16, 17 on his facebook page.

The Committee felt that as a councillor he should have been aware that the issues under discussion were politically sensitive, and that people would have known that he was a councillor and would have perceived him to be acting within his role as a councillor. Members felt that it was not possible to differentiate between his views in a private capacity and his activities in his role as a councillor.

2. That the councillor was representing the Council when he made the comments provided as images 6, 13, 15, 16 and 17 on his facebook page. For the reasons set out in 1 above.

**COUNCILLOR CONDUCT COMMITTEE - 30.4.2014**

3. In respect of (1) and (2) above that the Councillor was in breach of paragraphs 6, 7, 8.8 and 12(1) and 12 (2) of the Council's Member Code of Conduct.

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

*Paragraph 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.'*

*Paragraph 8.8 under the heading '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.'*

*Paragraph 12 of the Code of Conduct states as follows: '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)...'*

4. The following reasons provided by the Committee in relation to the decision in (3) above:
- a. The Committee agreed with the Investigating Officer's conclusion that Councillor Joannides actions fell short of the standard required by the code in the paragraphs listed above by placing the images 13, 15, 16 and 17 on his facebook account, images where he is making offensive remarks (including likes) about particular groups of people.
  - b. He had failed to act in accordance with the public trust in him, failed to act in the interests of the London Borough of Enfield and failed to treat others with respect and courtesy, failed to treat people with respect regardless of their race and religion and failed to foster good relations between persons who share a relevant protected characteristic and persons who do not share it where those protected characteristics were race and religion or belief.
  - c. The use of the insulting words in images 16 and 17, breached Paragraph 12 (1), Paragraph 12 (2) and Paragraph 8.8.

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- d. Image 13 with the post beneath the picture was a breach of Paragraph 6, 8.8, 12 (1), 12 (2) on the basis that it contravenes the Council's equality duties to foster good relations between persons who share a relevant protected characteristic and persons who do not share it". The protected characteristic was "religion or belief"
  - e. Image 15, with the like and post were in clear breach of the code of conduct (Para 6, 7, 8.8, 12(1) and 12 (2)).
  - f. The Committee also felt that the Councillor was responsible for the offensive comments in image 6 and that these comments also breached Para 6, 7, 8.8, 12(1) and 12 (2) of the Code of Conduct.
5. To note that the Investigator considered that there was insufficient evidence to make any findings on images numbered 1,2,3,4,5,7,8,9,10 and 11.
  6. In terms of sanctions arising from the breaches of the code:
    - a. That the findings of the outcome of the hearing would be released to the local media. Details would be sent to the media after the local elections, due to purdah restrictions.
    - b. That a letter would be sent to the Leader of the Conservative Group, the group he was a member of at the time of the incident, recommending that Councillor Joannides be removed from the relevant meetings of the Authority of which he was a member.

Councillor Rye abstained from the decision.

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