

London Borough of Enfield

DRAFT PROTOCOL RELATING TO THE INDEPENDENT PERSON

1. Introduction

This protocol is to make clear the relationships between the Independent Person (IP) and the various parts of the local authority involved in the process of handling councillor conduct complaints and wider promotion of standards. Its aim is to ensure that responsibility is clear at each stage of the process and set out the expectations and rights of the IP.

2. Considering allegations

- 2.1 The Monitoring Officer (MO) will seek the views of the Independent Person (IP) before reaching a decision on whether any further action should be taken on a complaint.
- 2.2 When issuing the decision letter, the MO will record that the IP has been consulted and that their views have been taken into account. Where the view of the MO and IP differ, the MO will record the reasons for following a particular course. The letter will make clear that it is the MO and not the IP who is the decision-maker.

3. Matters under investigation

- 3.1 A member of the authority who is the subject of a complaint may seek the views of the IP. A member wishing to contact the IP should do so via the MO who will arrange for a meeting to take place. These arrangements will be communicated to the subject member by the MO.
- 3.2 Where the IP has given views to the subject member, those views shall be put in writing and made available to all relevant parties in the case.
- 3.3 The IP will need to agree in advance with the subject member rules of confidentiality but it will be up to the IP to decide whether matters should remain confidential and, even where there is confidential information disclosed to the IP, there should be a public statement that confidential matters were discussed.
- 3.4 The complainant may also seek the views of the IP. As with the subject member, contact should be arranged through the MO and any views expressed should be made public.
- 3.5 The MO may consult the IP at any stage during the process, particularly on matters which relate to the procedures for handling complaints.

- 3.6 Where a matter has been referred to the Councillor Conduct Committee for determination, the committee must seek the views of the IP before reaching its conclusions. The IP's views should be recorded in any decision notice and, where those views do not reflect the final outcome reasons must be given for any differences. However, it must be clear that it is the Councillor Conduct Committee and not the IP who is the decision-maker.
- 3.7 The IP shall not make any comments to the media on any matter without prior agreement of the MO or council communications team. Any requests for comments from media shall be referred in the first instance to the MO who may refer these to the Chair of the Councillor Conduct Committee as appropriate.
- 3.8 The IP may be requested by the MO or Councillor Conduct Committee to assist in mediation or conciliation in order to resolve complaints where that is considered the most appropriate course of action.
- 3.9 The IP may be requested by the MO or Councillor Conduct Committee to assist in any training on conduct issues as appropriate.
- 3.10 Where one of the IPs is unable to act because they have already been consulted on a complaint, because of a conflict of interest or because they are otherwise unavailable, their role will be carried out by the other IP. *(This is based upon the assumption that we will eventually have two IPs.)*

4. Relationship with the Councillor Conduct Committee

- 4.1 The IPs shall be invited to attend meetings of the Councillor Conduct Committee and receive agendas and minutes of all meetings of the Councillor Conduct Committee and shall be entitled to request for items to be added to the agenda with the agreement of the chair and to speak at the committee.
- 4.2 IPs are not members of the Councillor Conduct Committee and therefore are not part of the formal business of the meeting and cannot vote on any matters put to the meeting. They may be invited to observe confidential matters with the agreement of the chair.

5. Other matters

- 5.1 The IP has the right to raise any concerns about councillor conduct/standards issues or implementation of the process with the authority's chief executive and has the right to address a meeting of the full council about any concerns.

- 5.2 The council, through its Councillor Conduct Committee and MO, is responsible for ensuring that the council meets its duty to promote and maintain high standards. However, the IP has the right to be consulted on any proposed changes to the Code of Conduct or procedures for handling allegations.
- 5.3 The IP has the right of access to any confidential information required to carry out their role. Access to such information and its storage shall be agreed with the MO.
- 5.4 The IP has the right of access to council buildings in order to carry out their role. Access should be agreed in advance with the MO.
- 5.5 The MO will meet at least quarterly with the IP to review relevant matters.
- 5.6 The IP will agree to sign a code of conduct, including a register of interests to be held by the MO and will declare any relevant interests in relation to cases to the MO who will decide whether the interest conflicts them out of involvement in the matter.
- 5.7 The IP is to be considered an office-holder of the authority in accordance with the duty under s28(7) of the Localism Act 2011 and is therefore entitled to be covered by the council's indemnity insurance provided they act reasonably and within the terms of this Protocol.

This protocol has been based on a draft protocol produced by Hoey Ainscough Associates Ltd.