



## Standards Committee

**Tuesday 22 January 2013 at 7.00 pm**

Committee Room 1, Brent Town Hall, Forty Lane,  
Wembley, HA9 9HD

### Membership:

#### Members

Independents:  
Sheila Darr

Councillors:  
Beck (Chair)  
Gladbaum  
HB Patel  
Harrison  
Ketan Sheth

**For further information contact:** Gayle Fentiman, Democratic Services Officer  
020 8937 4617, [gayle.fentiman@brent.gov.uk](mailto:gayle.fentiman@brent.gov.uk)

For electronic copies of minutes, reports and agendas, and to be alerted when the minutes of this meeting have been published visit:

**[www.brent.gov.uk/committees](http://www.brent.gov.uk/committees)**

**The press and public are welcome to attend this meeting**

# Agenda

Introductions, if appropriate.

Apologies for absence and clarification of alternate members

**Item** **Page**

**1 Declarations of personal and prejudicial interests**

Members are invited to declare at this stage of the meeting, any relevant financial or other interest in the items on this agenda.

**2 Minutes of the previous meeting** 1 - 6

**3 Matters arising**

**4 Sub-Committee membership changes (if any)**

**5 Report on Code of Conduct: Procedures for dealing with allegations of breach of the Code of Conduct** 7 - 18

The Council adopted a new Code of Conduct under the Localism Act 2011 on 19 July 2012. It also appointed a Standards Committee to deal with breaches of the Code. This report sets out the procedures for dealing with complaints against members under the Council's Code of Conduct.

**Ward Affected:** All Wards

**Contact Officer:** Fiona Ledden,  
Director of Legal and Procurement  
Tel: 020 8937 1292  
fiona.ledden@brent.gov.uk

**6 Work programme**

To discuss the future work programme for the standards committee

**7 Date of next meeting**

The next meeting of the committee is scheduled to take place on 12/03/2013.

**8 Any other urgent business**

Notice of items to be raised under this heading must be given in writing to

the Democratic Services Manager or his representative before the meeting in accordance with Standing Order 64.



- Please remember to **SWITCH OFF** your mobile phone during the meeting.
- The meeting room is accessible by lift and seats will be provided for members of the public.
  - Toilets are available on the second floor.
  - Catering facilities can be found on the first floor near The Paul Daisley Hall.
  - A public telephone is located in the foyer on the ground floor, opposite the Porters' Lodge

This page is intentionally left blank



## LONDON BOROUGH OF BRENT

### MINUTES OF THE STANDARDS COMMITTEE Monday 25 June 2012 at 7.00 pm

PRESENT: Angela Ruotolo (Chair), Sola Afuape (Vice-Chair) and Councillors Beck and Colwill and Hossain (alternate for Councillor Gladbaum)

An apology for absence was received from: Councillor Gladbaum

1. **Declarations of personal and prejudicial interests**

None declared.

2. **Minutes of the previous meetings held on 6 December 2011 and 2 May 2012**

RESOLVED:-

that the minutes of the previous meetings held on 6 December 2011 and 2 May 2012 be approved as accurate records of the meetings.

3. **Matters arising (if any)**

None.

4. **Annual review of the Member Development Programme May 2011 - April 2012**

Rhiannon Leary (Mayor's Office and Member Development Manager, Customer and Community Engagement) introduced the report and confirmed that an 18 month review of the Member Development Programme's three year accreditation was being conducted by South East Employers. The report was due for publication later this week and it was anticipated that it would be favourable. The programme was on track to achieve all its targets and an update could be provided at a future meeting if Members so wished. Rhiannon Leary advised that there had been no occasions where councillors had failed to attend courses that they had been booked on and then cancelled at short notice, save one occasion when a councillor was unable to attend a free event but had given ample notice, and another where a councillor had fallen ill. Members noted the areas identified as common areas of development following personal development plan interviews of 36 councillors and feedback that had been provided by the member development steering group. Rhiannon Leary added that Civic Centre drop-in sessions would be available for councillors in July.

Sola Afuape asked for further information on feedback from councillors and the Chair enquired what steps were being taken to take forward personal development plans.

In reply, Rhiannon Leary advised that most feedback was received from internal events and requests made by councillors would be actioned as soon as possible. There were also plans to introduce an electronic feedback form once the move to the Civic Centre was complete and the committee noted that training events were rolled out appropriately in response to the personal development plan interviews.

RESOLVED:-

that the report on the Annual review of the Member Development Programme May 2011 – April 2012 be noted.

#### 5. **New Standards regime under Localism Act**

Fiona Ledden (Director of Legal and Procurement) introduced the report and explained that a draft new Code of Conduct had been in circulation for some time and had been discussed at the Constitutional Working Group (CWG). Clear guidance was still awaited as to how complaints would work under the new code which was due to come into effect from 1 July 2012. The main changes to the new code were in respect of interests and in particular pecuniary interests and how these would also apply to councillors' spouses. Furthermore, if a pecuniary interest had not been properly registered or disclosed, it would be a criminal offence to do so.

In respect of the future role of the Standards Committee, Fiona Ledden advised that it was not intended to refer every single matter to the committee and following consideration with regard to the composition of the committee, it was felt that this should be politically balanced. The regulations had also changed in respect of independent members and existing independent members could only continue to serve on the Standards Committee if they resigned from their post before 1 July and then subsequently re-apply. A rolling programme for recruitment of independent members would be required in future years. Fiona Ledden advised that in respect of recommendation 2.5 in the report concerning dispensations, it was highly unlikely that such action would be needed in practice. The committee noted that all councillors would be written to providing clear guidance on the new code.

During discussion, Councillor Colwill expressed his disapproval in the changes to legislation that would diminish the Standards Committee's powers to take action against councillors who had violated the code. He felt that the Standards Committee had functioned well and that there had been worthy debates on a number of issues. Councillor Beck sought further information on the views of the CWG in respect of political balance on the Standards Committee and clarification that the size of the committee could be decided by the individual local authority. He also commented that the current composition of one member from each political group prevented the committee from being controlled by a particular political group and expressed concern that introducing political balance would allow the opportunity for the largest political group to monopolise decisions.

In noting the proposed changes to the composition of the Standards Committee, Sola Afuape enquired what measures were being taken to safeguard the council's reputation with regard to upholding the code's standards.

The Chair stated that information on the code should be disseminated to the public to manage expectations in terms of upholding standards. She commented on the need to address the issues that had been raised and to make arrangements for an independent adviser for the committee. The Chair advised that the committee was being asked to provide broad agreement of the structure prior to the Full Council meeting on 9 July.

In reply to the issues raised, Fiona Ledden acknowledged that the Standards Committee's powers had been reduced as a result of the Localism Act 2011. In effect, the action available to the committee in respect of councillors breaking the code would be limited to persuading councillors to change their behaviour or place them on relevant training sessions. She advised that differences of opinion had been expressed during discussions at CWG in respect of the changing the composition of the Standards Committee to reflect political balance. However, as independent members on the committee were to lose their voting rights under the Localism Act 2011, this could open the committee to politicisation, so introducing political balance would help prevent this from occurring. Fiona Ledden advised that a membership of five councillors was being considered, with three comprising Labour Group members and one each from the Conservative and Liberal Democrat Groups. However, the numbers decided on the committee could be discussed further at CWG. Fiona Ledden added that most other London boroughs were also drawing up plans to introduce political balance to their respective standards committees.

Fiona Ledden advised that as there would be less matters being referred to the Standards Committee, it would be an opportunity for the committee to become more involved in other ways on standards and code of conduct issues, such as establishing working groups on particular matters of interest. She acknowledged the need for more publicity regarding the code, including setting out a clear process for complaints and emphasising the need to enter into dialogue before a matter was raised with the Standards Committee and this could be of some benefit as it gave more opportunity for councillors to ensure that they were conducting themselves appropriately.

The Chair confirmed that as she was expecting a child, she would not be putting herself forward to be an independent member of the committee.

RESOLVED:-

- (i) that the implications of the Localism Act 2011 and in particular that it places an obligation on the council to promote and maintaining high ethical standards by its members and co-opted members be noted;
- (ii) that Full Council be recommended to appoint two "independent persons", and authorise the Director of Legal and Procurement to carry out the recruitment process for those independent persons;

- (iii) that Full Council be recommended to adopt the draft Code of Conduct for Members set out in Appendix 1 to this report, including any changes agreed by this committee;
- (iv) that Full Council be recommend to give authority to the Director of Legal and Procurement to take decisions in relation to dispensations, as set out in the draft Code of Conduct;
- (v) that the Director of Legal and Procurement, following consultation with the Constitution Working Group, be authorised to draw up and agree detailed procedures to support the Code of Conduct and the new standards regime, including detailed powers and duties, and terms of reference for the proposed new Standards Committee;
- (vi) that the advice note from the Monitoring Officer to be sent to all members in relation to the definition of Pecuniary Interests attached as Appendix 2 be noted; and
- (vii) that it be noted that if the recommendation to create a new Standards Committee is accepted by Full Council, Standards Committee will review and refine the detailed procedures and operation of the new regime at its meeting during the 2012/13 municipal year.

## 6. **Application to remove political restriction**

Fiona Ledden introduced the report that sought approval to exempt political restriction in respect of political assistants. She referred Members to paragraph 3.1 in the report which set out the provisions for certain posts to be politically restricted under Part One of the Local Government and Housing Act 1989. The committee heard that following the 2010 Local Elections, posts in the Political Group Offices had been re-categorised as political assistant posts. However, whilst recruiting for a vacant position in the one of the Group office, the candidate chosen had indicated that they might want to run for candidacy as a councillor in the future and a similar situation existed in respect of an officer working in another Group office. Fiona Ledden commented that as a result, it was being recommended to exempt political assistant posts from political restriction as the very nature of their work involved undertaking activities for political purposes.

During discussion, Councillor Beck agreed that political assistant posts should not be subject to political restrictions as he felt that the criteria to which political restriction should apply had very little to do with the role of the political assistants. Councillor Colwill sought confirmation that political assistants could act politically and what specific steps would be taken in respect of exempting them. He also asked if exemption would be applied to any other posts.

Sola Afuape asked whether the exemption would set a precedent for any other posts. The Chair commented that the merits of each individual case were considered prior to deciding whether applying an exemption was appropriate.

In reply, Fiona Ledden clarified that political assistants could not use resources to promote a political group during their working time at the local authority, however they would be expected to be politically aware. However, during their personal



time, they should be free to promote a political cause if they so wished, such as canvassing or becoming a councillor. There would be no need to make changes to the job description of political assistants in respect of this. Fiona Ledden confirmed that the exemptions only applied specifically to political assistants because of the unique nature of these positions and no applications had been received to exempt any other posts.

RESOLVED:-

that in light of the application received from a member of staff, that it be agreed that political restriction in respect of the posts of political assistant be exempted from the provisions.

7. **Sub-Committee membership changes (if any)**

None.

8. **Any Other Urgent Business**

None.

The meeting closed at 7.50 pm

ANGELA RUOTOLO  
Chair

This page is intentionally left blank



## Standards Committee 22 January 2013

### Report from Director of Legal and Procurement

For Action

Wards Affected:  
ALL

### **Report on Code of Conduct: Procedures for dealing with allegations of breach of the Code of Conduct**

#### **1. Summary**

- 1.1 The Council adopted a new Code of Conduct under the Localism Act 2011 on 19<sup>th</sup> July 2012. It also appointed a Standards Committee to deal with breaches of the Code. This report sets out the procedures for dealing with complaints against members under the Council's Code of Conduct.

#### **2. Recommendations**

- 2.1 Members are recommended to
- (i) Agree the procedures set out in Appendix 1.

#### **3. Background:**

- 3.1 The Localism Act 2011 revoked the previous requirements regarding the Standards regime, the procedural arrangements for dealing with allegations of breaches of the Code of Conduct and sanctions for members when breaches were found to have occurred. The Localism Act 2011 imposes new, but less prescriptive, requirements regarding members' conduct. These new requirements include that each Council must adopt a Code of Conduct based on specific principles of behaviour and conduct, and members adopted a new Code in July 2012.
- 3.2 The legislation also requires that the Council must have in place (a) arrangements under which allegations can be investigated and (b) arrangements under which decisions on allegations can be made (Section 28(6)). Those arrangements must include "provision for the appointment by the authority of at least one independent person –
- (a) Whose views are to be sought and taken into account by the authority before it makes its decision on an allegation that it has decided to investigate and (b) whose views may be sought –

- (i) by the authority in relation to an allegation in circumstances not within paragraph (a),
- (ii) by a member, or co-opted member, of the authority if that person's behaviour is the subject of an allegation (Section 28(7)).

3.3 Other than stated in paragraph 3.2 above the procedures and processes for dealing with complaints against Member's conduct is a matter for the Council to decide. There is no requirement for such matters to be decided by a committee of members. However, at Full Council 19<sup>th</sup> July 2012 members agreed to appoint the Standards Committee which includes a non-voting co-opted member. Members also agreed the Terms of Reference for the Standards Committee which includes receiving allegations of breach of the Code referred to it by the Monitoring Officer, deciding whether to ask that matters referred to it be investigated or whether no further action be taken, and holding hearings into allegations of misconduct and deciding on sanctions, if any. Members also agreed that the Monitoring Officer be delegated the decision as to whether to refer a matter to Standards Committee, or take other action, including no action.

#### **4. Detail**

4.1 Full Council resolved that the Monitoring Officer should draw up detailed procedures to support the new standards regime following consultation with the Constitutional Working Group. The Constitutional Working Group has not met this autumn, but the procedures have been circulated to the Leaders of each of the three political groups, and the Chair of Standards Committee and in so far as comments have been made or questions raised, these have been addressed.

4.3 It was recognised that a short coming of the previous arrangements was the inability of the Monitoring Officer to exercise any discretion over which complaints would be referred to the Standards Committee. In some instances, not necessarily in Brent, this led to trivial, vexatious and other complaints being referred to Standards Committees and investigations being carried out where it was neither appropriate nor necessary to do so. Full independent investigations and hearings are costly and time consuming, and the desired outcome can in some cases be achieved by alternative means. The inability of a Council to deal with complaints in different ways according to the seriousness and nature of the allegations was one of the reasons for the change in the law.

4.5 The Localism Act 2011 recognises the importance of the input of an independent person in the complaints process. Whereas previously an independent person was required on the Committee, such input is now required when the Council is deciding on how to proceed post – investigation. The Act also provides that the Independent Person can be involved at other stages.

4.6 The procedure attached as Appendix 1 seeks to balance the need to deal with some complaints swiftly and other more serious matters to be given full investigation and a hearing. This is a proportionate, efficient and cost effective means of dealing with such matters. The procedures proposed enable the Monitoring Officer, in consultation with the Independent Person, to reject those complaints which ought not to proceed because they are trivial, vexatious, or repeated. It also enables the Monitoring Officer to take action where there has been a breach but the complaint can be adequately addressed by alternative means, other than by formal investigation and full hearing, such as inadvertent breaches and circumstances where a member apology is readily forthcoming. Where efforts by the Monitoring Officer and Independent Person are rejected the matter will be referred to the Standards Committee, so too will cases where there is an allegation of a serious breach which ought to be formally investigated.

- 4.7 It is proposed that Standards Committee will consider any report of an investigating officer following an investigation and decide whether the matter should proceed to hearing. The arrangements for hearings ensures a fair process is followed. The sanctions listed are those which are permissible within the current legislative and common law framework.
- 4.8 It is proposed that there will be an annual report to the committee of matters that have been discussed between the Monitoring Officer and Independent Person to ensure full transparency on matters relating to the integrity of Council members

Members are advised to adopt the procedures as set out in **Appendix 1**.

## **5.0 Financial Implications**

- 5.1 There are no direct financial implications to this report. However, the cost of independent investigations and full hearings has been taken into account in recommending the procedures and processes.

## **6. Staffing implications**

- 6.1 There are no staffing implications.

## **7.0 Diversity implications**

- 7.1 There are no diversity implications.

## **8.0 Legal Implications**

- 8.1 These are set out in the body of the report

### ***Background Papers***

Council Constitution and Code of Conduct

Should any person require any further information about the issues addressed in this report, please contact Kathy Robinson on 0208 937 1368

**Fiona Ledden**  
**Director of Legal and Procurement**

This page is intentionally left blank

## **PROCEDURE FOR DEALING WITH COMPLAINTS UNDER THE MEMBERS' CODE OF CONDUCT**

### **1. Background**

This procedure sets out how a complaint that an elected or co-opted member of this authority has failed to comply with the authority's Code of Conduct can be made and how the authority will deal with allegations of a failure to comply with the authority's Code of Conduct.

### **2. The Code of Conduct**

The Council has adopted a Code of Conduct for members and this is available on the Council's website.

### **3. Making a Complaint**

#### **3.1 A complaint must be made in writing and emailed or sent to:**

The Monitoring Officer  
London Borough of Brent  
Legal and Procurement  
Forty Lane  
Wembley  
Middlesex  
HA9 9HD

Or emailed to: [fiona.ledden@brent.gov.uk](mailto:fiona.ledden@brent.gov.uk)

#### **3.2 The Monitoring Officer has statutory responsibility for maintaining the register of members' interests and is responsible for applying the processes in respect of complaints of member misconduct.**

#### **3.3 The authority will not normally investigate anonymous complaints unless there is a clear public interest in doing so.**

#### **3.4 The Monitoring Officer will acknowledge receipt of the complaint within 5 working days of receiving it and will keep the complainant informed about the progress of the complaint.**

#### **3.5 The Monitoring Officer will inform the member against whom a complaint has been made that a complaint has been made and will give details of the complaint to them. The Monitoring Officer has the discretion, which will only be exercised in exceptional circumstances, not to inform the member of the detail of the complaint at this stage if the Monitoring Officer is of the view that there is a risk that an investigation could be frustrated or a case prejudiced by the member knowing the details. Once the matter is concluded the member will be informed of the outcome of the matter whether or not they were informed at this early stage.**

### **4. Will the complaint be investigated?**

#### **4.1 The Monitoring Officer will review every complaint received.**

#### **4.2 The complaint must be:**

- Against one or more named members of the authority; and
  - In relation to a named member who was in office within the authority at the time of the alleged conduct and the code of conduct was in force at the time; and
  - In relation to an alleged breach of the Code of Conduct.
- 4.3 If the complaint does not fall within 4.2 above the matter will not be considered and the complainant will be informed that there will be no further action.
- 4.4 Where the complaint passes the above test, and in order to establish a preliminary view of the circumstances of the complaint and whether there may be a course of action which could be taken to resolve the issues promptly without the need for formal action, the Monitoring Officer may consult or meet with any relevant persons, which may include the Leader of the Council or Group Leaders, the Chief Executive or any other officers, the complainant and the member against whom the complaint has been made.
- 4.5 The Monitoring Officer will consult with the Independent Person to determine the course of action to be taken. This decision will normally be taken within 14 days of receipt of the complaint. The complainant and the member against whom the complaint is made will be informed of the Monitoring Officer's decision and the reasons for that decision. Three outcomes are available:
- (i) No formal investigation and no further action paragraph (4.6) below
  - (ii) No formal investigation and local resolution paragraph (4.8) below
  - (iii) Referral to the Standards Committee for a decision to be taken on investigation – paragraph 5.
- 4.6 In assessing whether a complaint should be investigated the following factors will be taken into consideration:
- Public Interest – the decision whether to investigate will be a proportionate response to the issues raised and expected outcomes and will take into account the wider public interest and the costs of undertaking an investigation. Complaints will only be investigated where the allegations are reasonably considered to be serious matters.
  - Alternative course of action – a complaint will only be investigated where there is no other action which could be taken which would achieve an appropriate outcome in the circumstances of the case.
  - Previous action – if the complaint has already been subject to a previous investigation or some other action relating to the code of conduct or other related process, the matter will ordinarily not be referred for further investigation of the same matters.
  - Vexatious/repeated complaints – the Monitoring Officer will not refer for investigation a complaint that is the same or substantially the same as one previously made by the complainant.
  - Timing of the alleged conduct – if there are significant delays between the incident complained of and the complaint the matter will not ordinarily be considered further unless there are very good reasons for the delay.
  - Ulterior motive – no further action is likely to be taken if the complaint is considered to be only motivated by malice, political motivation or retaliation.
- 4.7 In cases which do not fall within 4.6 above the Monitoring Officer in consultation with the Independent Person may consider resolution of the complaint by one of the following means;



- The member accepting that his/her conduct was unacceptable and offering an apology or other remedial action by the authority.
- Referring the matter to group leaders or officers
- The member being required to attend training
- The member being required to meet with the Monitoring Officer and/or other chief officers
- Such other action as is considered appropriate by the Monitoring Officer and Independent Person

4.8 Matters which might appropriately be dealt with as described in 4.7 above may include:

- Misunderstanding of procedures or protocols
- Misleading, unclear or misunderstood advice from officers
- Lack of experience or training
- A general deterioration of relationships, including those between members and officers, as evidenced by a pattern of allegations of minor disrespect.

4.9 If the action recommended in paragraph 4.7 above is not taken, the Monitoring Officer shall refer the matter to Standards Committee to determine if formal investigation is the appropriate course of action.

## **5 How is the investigation conducted?**

5.1 Where a complaint does not fall within paragraph 4.6 or 4.8 the case shall be referred to the Standards Committee for a decision as to whether the complaint merits formal investigation. Where the Standards Committee agrees a formal investigation be undertaken it will instruct the Monitoring Officer to appoint an investigating officer. The timescale for investigation will normally take no more than 12 weeks to complete.

5.2 The investigating officer will contact the complainant and the member against whom a complaint has been made and undertake such investigation as is appropriate in all the circumstances within the parameters of the complaint that has been made. Where during the course of an investigation new matters arise, the Investigating Officer shall refer those matters back to the Monitoring Officer for a decision on how those matters should be dealt with under these procedures.

5.3 At the end of the investigation, the investigating officer will produce a draft report and will seek comments and views on the draft report from the complainant and the member against whom the complaint has been made.

5.4 Having received and taken account of any comments which have been made, the Investigating Officer will send a copy of the final report to the Monitoring Officer.

5.5 If at any time the investigation is frustrated, for example, if significant witnesses are not available for interview, the Standards Committee in consultation with the Independent Person can decide what action to take, including terminating the investigation. Such cases will be reported to the Standards Committee for a decision.

**6. What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**

- 6.1 The Standards Committee will review the Investigating Officer's report and if, in consultation with the Independent Person, it accepts the Investigating Officer's conclusion, the Standards Committee will inform the complainant and the member concerned that it is satisfied that no further action is required. A copy of the Investigating Officer's final report will be given to the complainant and the member concerned. Members of the Standards Committee will be advised that the report relates to an individual and will reveal their identity.
- 6.2 If the Standards Committee in consultation with the Independent Person is not satisfied that the investigation has been conducted properly, it may ask the investigating officer to reconsider his/her report.
- 6.3 If the Standards Committee in consultation with the Independent Person wishes, notwithstanding the views of the investigating officer, it may refer the matter for hearing.

**7. What happens if the investigating officer concludes that there is evidence of a failure to comply with the Code of Conduct?**

- 7.1 The Standards Committee will review the investigating officer's report and in consultation with the Independent Person, will either (a) direct local resolution or (b) refer the matter to Standards Committee for a hearing

**7.2 Local Resolution**

The Standards Committee, in consultation with the Independent Person may consider that the matter can reasonably be resolved without the need for a hearing. In such a case the Standard Committee may direct such fair resolution as it considers helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology and/or other remedial action by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee for information but will take no further action. If the local resolution recommended by Standards Committee is not complied with, the Monitoring Officer will refer the matter to the Standards Committee to determine whether there should be a hearing.

**7.3 Standards Committee hearing**

Meetings of the Standards Committee including those in 4.9, 5.1 and 6.1 above will be open to the press and public unless confidential or exempt information under Part VA Local Government Act 1972 is likely to be disclosed. The committee will go into private session if it resolves to do so.

If the Standards Committee decides that the matter will proceed to a hearing, paragraphs 8 to 11 will apply:

**8. Pre Hearing Process**

- 8.1 Prior to a hearing, an officer from the Council's Democratic Services team will write to the member subject to the complaint proposing a date for the hearing before the Standards Committee.
- 8.2 The Legal and Procurement Department would provide a copy of this procedure note to the member subject to the complaint and request a written response from the member within a set time in relation to whether the member

- Wants to be represented at the hearing by a solicitor, barrister or any other person and the identity of that person
- Disagrees with any of the findings of fact in investigation report and the reasons for it
- Considers he or she has breached the Code of Conduct and, if not, why
- Whether if there is found to be a breach there is anything he or she would like to be taken into account by the committee when it considers whether a sanction should be imposed and what that sanction might be
- Wants to give evidence to the Standards Committee either verbally or in writing
- Wants to call relevant witnesses to give evidence to the hearing and to provide details of the witnesses
- Wants any part of the hearing to be held in private and reasons for the request
- Wants any part of the investigation report or other relevant documents to be withheld from the public and reasons for the request
- Has any special access requirements e.g. interpreter, special print (or the Member's witness(es)) or representative requires such)
- Can attend the hearing

8.3 The members response will be referred to the Monitoring Officer to comment in order to ensure that all parties are clear about the remaining factual disputes and can deal with these issues at the hearing. The Monitoring Officer will also ascertain from the investigating officer whether the complainant will be giving evidence at the hearing and whether the investigating officer will be calling any witnesses to give evidence.

8.4 The Monitoring Officer will prepare a report for the hearing which will:

- Summarise the allegation
- Outline the main facts of the case which are agreed
- Outline the main facts which are not agreed
- Indicate whether the member and the investigating officer will be present at the hearing
- Indicate the witnesses, if any, who will be asked to give evidence
- Include the proposed procedure for the hearing
- Include the Investigating Officer's report
- Include the views of the Independent Person

## 9 The Hearing

9.1 The hearing is before the Standards Committee and the Independent Person will be in attendance to provide his/her views before a decision is made.

9.2 The procedure for local hearings is attached at **Appendix 1**.

9.3 The meeting of the Standards Committee will be open to the press and public unless confidential or exempt information under Part VA Local Government Act 1972 is likely to be disclosed. The Committee will go into private session if it resolves to do so.

9.4 The Standards Committee will decide on the balance of probabilities whether the member is in breach of the Code of Conduct. The Standards Committee must seek the views of the independent person before making a decision on the allegation.

9.5 The Standards Committee can determine the number of witnesses and the way in which witnesses can be questioned.

9.6 If the member fails to attend the hearing, the Standards Committee can decide whether to proceed in the member's absence and make a determination or whether to adjourn the hearing to a later date.

9.7. If the Standards Committee conclude that the member did fail to comply with the Code of Conduct, the Committee will then consider what action, if any, the Committee should take. In doing this, the Committee will give the member the opportunity to make representations to the Committee and will consult the Independent Person.

## **10. What action can the Standards Committee take where a member has failed to comply with the Code of Conduct?**

10.1 The Council has delegated to the Standards Committee such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct.

Accordingly the Standards Committee may:

- Censure or reprimand the member
- Publish in a local newspaper its findings in respect of the member's conduct
- Report its findings to Council for information
- Recommend to the member's Group Leader (or in the case of ungrouped members recommend to Council or to committees) that the member be removed from any or all committees of the council
- Recommend to the administration that the member be removed from the Cabinet or removed from particular portfolio responsibilities
- Recommend to Council that the member be replaced in any Council appointed roles
- Instruct the Monitoring Officer to arrange training for the member
- Recommend to Council removal from all outside appointments to which the member has been appointed or nominated by the authority
- Withdraw facilities provided to the member by the Council
- Exclude the member from the Council's offices or other premises with the exception of meeting rooms as necessary for attending council and committee meetings.

## **11. What happens at the end of hearing?**

11.1 At the end of the hearing the Chair of the Standards Committee will state the decision of the Committee and any actions which the Committee resolves to take.

11.2 The decision taken by the Standards Committee will be recorded in accordance with ordinary committee rules.

## **12. Appeals**

There is no right of appeal for the complainant or the member against a decision of the Monitoring Officer or the Standards Committee.

If the complainant believes that the authority has failed to deal with the complaint properly, they may wish to make a complaint to the Local Government Ombudsman.

## Appendix 1

### Procedure for Hearings before the Standards Committee

#### 1. Introduction

#### 2. Chair of the Standards Committee outlines the hearing procedure

The Chair can depart from the procedure outlined below where he/she considers it expedient to do so in order to secure the fair consideration of the matter.

#### Findings of Fact

3. The Committee should consider where there are any significant disagreements about the facts contained in the investigating officer's report.

If there is no disagreement about the facts the committee can move on to the next stage of the hearing (go to paragraph 9)

4. Where there is a disagreement the investigating officer will be invited to make representations to support the findings of fact and with the committee's permission, call witnesses to give evidence.

The member, against whom the complaint has been made, will be given the opportunity to challenge the evidence put forward by any witness called by the investigating officer by asking the witness questions.

5. The member will then be given the opportunity to make representations and with the committee's permission, call any witnesses to give evidence.

The investigating officer will be given the opportunity to challenge the evidence put forward by any witness called by the member to give evidence.

6. At any time, the committee and independent person may question any of the people involved or any witnesses.

7. The Committee will usually consider the representations and evidence in private.

The committee will be advised by the Monitoring Officer, in private if necessary, at any time during the hearing or while they are considering the outcome.

8. Once the committee has made its decision, the Chair will announce the committee's finding of fact to the meeting.

#### Did the member fail to comply with the Code of Conduct?

9. The committee should then consider whether based on the facts it has found, the member has failed to comply with the Code.

10. The member will be invited to make representations on the matter.

11. The investigating officer will be invited to make representations

12. The independent person will be invited to make representations
13. The committee may, at any time, question the member, investigating officer or independent person on any point raised in the representations.
14. The member will be invited to make any final relevant points
15. The committee will usually consider the representations in private, with the attendance of and advice from the Monitoring Officer
16. Once the committee has made its decision, the Chair will announce the committee's decision to the meeting as to whether the member has failed to comply with the Code.

**If there is a finding that the member has not failed to comply with the Code of Conduct**

17. Where the committee decides that the member has not failed to comply with the Code, the committee can consider whether it wishes to make any recommendations to the authority

**If there is a finding that the member has failed to comply with the Code of Conduct**

18. If the committee decided that the member has failed to comply with the Code, it will consider representations from the member, investigating officer and independent person as to:
  - Whether the committee should apply a sanction
  - What form any sanction should take
19. The committee may question the investigating officer, member and independent person and take legal advice, to make sure they have the information they need in order to make an informed decision.
20. The committee will consider in private with the attendance of and advice from the Monitoring Officer whether to impose a sanction and if, so what sanction it should be
21. The Chair will announce the decision to the meeting.
22. The committee will also consider whether it should make any recommendations to the authority with a view to promoting high standards of conduct

**Committee decision**

23. The decision taken by the Standards Committee will be recorded in accordance with ordinary committee rules.