



**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 19th 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 19th 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