



STANDARDS COMMITTEE

TUESDAY, 16 JUNE 2020 AT 10.00 AM

ROOM CC1 - COUNTY HALL, LEWES

++Please note that this meeting is taking place remotely++

MEMBERSHIP - Councillor Richard Stogdon (Chair)
Councillors Colin Belsey, Godfrey Daniel, Laurie Loe, Ruth O'Keeffe,
Barry Taylor and David Tutt

A G E N D A

- 1 Minutes of meeting held on 12 November 2019 (*Pages 3 - 4*)
- 2 Apologies for absence
- 3 Disclosures of interests
Disclosure by all Members present of personal interests in matters on the agenda, the nature of any interest and whether the Member regards the interest as prejudicial under the terms of the Code of Conduct
- 4 Urgent items
Notification of items which the Chair considers to be urgent and proposes to take at the appropriate part of the agenda. Any members who wish to raise urgent items are asked, wherever possible, to notify the Chair before the start of the meeting. In so doing, they must state the special circumstances which they consider justify the matter being considered urgent.
- 5 Amendments to the Local Standards Framework (*Pages 5 - 30*)
Report by Assistant Chief Executive
- 6 Annual Report (*Pages 31 - 36*)
Report by Assistant Chief Executive
- 7 Any other items previously notified under agenda item 4

PHILIP BAKER
Assistant Chief Executive
County Hall, St Anne's Crescent
LEWES BN7 1UE

8 June 2020

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NOTE: This meeting will be broadcast live on the County Council's website and the record archived for future viewing. The broadcast/record is accessible at
www.eastsussex.gov.uk/yourcouncil/webcasts/default.htm

STANDARDS COMMITTEE

MINUTES of a meeting of the Standards Committee held at Committee Room - County Hall, Lewes on 12 November 2019.

PRESENT Councillors Richard Stogdon (Chair), Godfrey Daniel, Ruth O'Keeffe, Barry Taylor and David Tutt

6 MINUTES OF MEETING HELD ON 23 APRIL 2019

6.1 It was RESOLVED to agree the minutes of the last meeting of the Committee held on 23 April 2019 as a correct record.

7 APOLOGIES FOR ABSENCE

7.1 An apology for absence was received on behalf of Councillor Belsey

8 AMENDMENT TO LOCAL STANDARDS FRAMEWORK

8.1 The Committee considered a report by the Assistant Chief Executive regarding proposed changes to the Local Standards Framework.

8.2 It was RESOLVED to:

1) agree that where an Investigating Officer has completed a report in relation to an allegation of misconduct by a member, and that report concludes that there is evidence of a failure to comply with the Code of Conduct, authority is delegated to the Monitoring Officer to refer the matter for local hearing before the Standards Committee or a Hearings Sub-Committee;

2) adopt the Hearings Procedure in relation to alleged breaches of the Code of Conduct by Members as set out in Appendix 1 to this report; and

3) delegate authority to the Monitoring Officer to make the necessary amendments to the Constitution to give effect to the decision.

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Report to:	Standards Committee
Date of meeting:	16 June 2020
By:	Assistant Chief Executive
Title:	Amendment to Local Standards Framework
Purpose:	To consider proposed amendments to the local assessment of complaints about Member conduct.

RECOMMENDATION: The Standards Committee is recommended to agree the revised Local Standards Framework (Arrangements for Dealing with Complaints about Councillor Conduct) as set out in Appendix A to this report.

1 Background Information

1.1 As was reported to the Committee in November 2019, a comprehensive review of the Local Standards Framework has been undertaken. The Framework was adopted in 2011 and it was therefore considered timely that a comprehensive review be undertaken.

1.2 The Framework has largely worked well to date, however it was considered that it was not necessarily easy to follow, and that certain other changes should be made. The proposed key changes to the Framework include:

- a) A flow chart has been produced in order to summarise the detailed process outlined in 'Arrangements for Dealing with Complaints about Councillor Conduct'. The summary provides the public and councillors with an overview of the process.
- b) Rather than all complaints being referred to the Assessment Sub-Committee it is proposed that the Monitoring Officer may, in consultation with the Chair of the Standards Committee, agree not to progress a complaint if there appears to be an insufficient basis to refer the matter to the Assessment Sub-Committee of the Council's Standards Committee. For example:
 - It is about someone who is no longer a Member of the Council.
 - The complaint refers to alleged behaviour/action when the councillor was not acting in their capacity as a councillor.
 - There has been a long delay before the complaint was made.
 - The complaint appears to be sufficiently minor, politically motivated or not sufficiently serious to warrant further action.
- c) An Investigations Procedure document has been produced. Where an investigation is necessary it is good practice to have an agreed process and it is proposed that the procedure attached at Appendix 3 is adopted. Detail regarding investigations is still contained in the Arrangements for Dealing with Complaints about Councillor Conduct document but it was considered useful to have a separate guide for anyone interested specifically in this part of the process.
- d) A Hearings Procedure has been produced. Where a hearing is necessary it is good practice to have an agreed process and it is recommended that the procedure attached at Appendix 4 is adopted. At its meeting in November 2019 the Committee agreed a Hearings Procedure in relation to the Hearing Sub-Committee meeting later that month. It is now proposed that the Procedure be adopted as part of the Local Standards Framework.

2. Conclusion

2.1 The proposed changes set out in the Appendix will help ensure a fair, transparent and comprehensive process for those involved as well as administrative efficient in terms of best use of the Council's resources.

PHILIP BAKER

Assistant Chief Executive

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Local Members: All

Background documents: None

EAST SUSSEX COUNTY COUNCIL

STANDARDS COMMITTEE

**ARRANGEMENTS FOR DEALING WITH
COMPLAINTS ABOUT COUNCILLOR CONDUCT**

ARRANGEMENTS FOR DEALING WITH COMPLAINTS ABOUT COUNCILLOR CONDUCT

These arrangements set out how you may make a complaint that a councillor (elected Member) or Co-Opted Member of this authority has failed to comply with the Council's Code of Conduct (which can be viewed on the Council's website [\[LINK\]](#)) and set out how the authority will deal with allegations of a failure to comply with the Code of Conduct.

The Council must have in place arrangements under which allegations that an elected Member or Co-opted Member of the authority has failed to comply with that authority's Code of Conduct can be investigated and decisions made on such allegations. Such arrangements must provide for the authority to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage.

Making a complaint

If you wish to make a complaint, please write to –
The Monitoring Officer
East Sussex County Council
County Hall
St Anne's Crescent
Lewes, East Sussex
BN7 1UE

Or email: standards@eastsussex.gov.uk

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of Members' interests and who is responsible for administering the system in respect of complaints of Member misconduct.

In order to ensure that we have all the information we need to be able to process your complaint, please complete and send us the complaint form [\[LINK\]](#).

Please provide us with your name, a contact address and an email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the Member against whom you make the complaint, without your prior consent.

A flowchart summary of the complaint process is set out at **Appendix 1**.

1 - RECEIVING COMPLAINTS AND INITIAL ASSESSMENT

1.1 Any written communications received by the County Council that appear in any way to contain allegations that a Member has failed, or may have failed, to comply with the Code of Conduct must, upon receipt, be referred to the County Council's Monitoring Officer. The complainant will receive an acknowledgment of their complaint and may be asked to provide clarification as to which parts of the Code it is alleged have been breached.

1.2 The Monitoring Officer may, in consultation with the Chair of the Standards Committee, agree not to progress a complaint if there appears to be an insufficient basis to refer the matter to the Assessment Sub-Committee of the Council's Standards Committee. For example:

- It is about someone who is no longer a Member of the Council.
- The complaint refers to alleged behaviour/action when the councillor was not acting in their capacity as a councillor.
- There has been a long delay before the complaint was made.
- The complaint appears to be sufficiently minor, politically motivated or not sufficiently serious to warrant further action.

1.3 This list is not intended to be exhaustive and the Monitoring Officer, in consultation with the Chair of the Standards Committee, may decide that a complaint does not merit referral to the Assessment Sub-Committee for any other reason which appears to be relevant. Where a decision is made not to progress a complaint, the complainant will be informed of the decision and be provided with the reason. The Monitoring Officer, in consultation with the Chair of the Standards Committee will consider whether the Subject Member should be informed that a complaint has been submitted and that it has been decided not to pursue the complaint further.

1.4 Where the Monitoring Officer, in consultation with the Chair of the Standards Committee, agrees to refer a complaint to the Assessment Sub-Committee the Monitoring Officer will:

(a) write to the complainant confirming that the complaint will be considered at a meeting of the Assessment Sub-Committee. The complainant will be asked to provide any further supporting information they wish the Assessment Sub-Committee to consider regarding their complaint.

(b) write to the Member who is the subject of the complaint (provided that to do so would not be contrary to the public interest and/or would not prejudice the ability to investigate the allegation) to inform them:

- that a complaint has been made against them;
- the name of the complainant (unless the complainant has requested anonymity, or to do so would be unlawful);
- the relevant paragraphs of the Code it is alleged they have breached;
- that the complaint will be considered by the Assessment Sub-

- Committee and the date of this meeting if known; and
- a written summary of the allegation (except where the Monitoring Officer, in consultation with the Chair of the Standards Committee, is of the opinion that such notification would be contrary to the public interest or would prejudice the ability to investigate the allegation).

(c) prepare a report regarding the complaint for consideration by the Assessment Sub-Committee.

Procedure for allegations referred to the Assessment Sub-Committee

1.5 The County Council's Assessment Sub-Committee will be constituted by 3 Members drawn from the Standards Committee, although it will not have fixed membership or a fixed Chair, and has a quorum of 2 councillors.

1.6 There is a need for flexibility in relation to the membership of the Sub-Committee in order to be responsive to the requirement to arrange a meeting date as quickly as possible and to provide an opportunity for all members of the Standards Committee to sit on a Sub-Committee. When considering the membership of the Sub-Committee consideration would be given to factors including councillor availability and membership of previous Sub-Committees. The Sub-Committee will, wherever possible, be comprised of councillors from more than one political group but the Sub-Committee is not required to be politically balanced. The Sub-Committee will, if reasonably possible, meet within 20 working days of a complaint being received.

1.7 Decisions of the Assessment Sub-Committee will be taken by majority vote, with the Chair having the casting vote.

1.8 The report considered by the Assessment Sub-Committee including appendices will be marked as exempt and will not be published publicly.

1.9 Meetings of the Assessment Sub-Committee will be held in private and only the following are permitted to attend a meeting of the Sub-Committee:

- the members of the Assessment Sub-Committee, and
- relevant officers of the County Council.

1.10 In making its assessment of which of the actions set out below to take in respect of an allegation, the Assessment Sub-Committee must have regard to any professional advice from relevant officers of the County Council and the Assessment Criteria agreed by the County Council's Standards Committee (attached as **Appendix 2**).

1.11 In addition, the views of an Independent Person appointed by the authority must be sought in relation to an allegation prior to a decision being taken by the Assessment Sub Committee.

1.12 After having assessed any written allegations before it, the Assessment Sub-Committee must do one of the following:

- a) decide that no action should be taken in respect of the allegation;
- b) refer the allegation to the Monitoring Officer for action other than investigation including, but not limited to, requesting an apology, training or mediation;
- c) refer the allegation to the Monitoring Officer for investigation.

1.13 Within 5 working days (where reasonably practicable) of making a decision, the Assessment Sub-Committee should produce a written notice of its decision and the reasons for the decision (the Decision Notice). The Decision Notice must be prepared having regard to any professional advice from relevant officers of the County Council. The Decision Notice will be sent to the Subject Member and the Assessment Sub-Committee will consider whether the complainant should receive a copy of the Decision Notice and whether the Notice should be published. If it is decided that the complainant should not receive the Decision Notice they will receive a summary of the Sub-Committee's decision.

1.14 Where the Subject Member has already been provided a written summary of the allegation, the Decision Notice should include:

- a summary of the allegation
- the Sub-Committee's conclusion and the reasons for its decision;

1.15 Where the Subject Member has not already been provided a written summary of the allegation the contents of the Decision Notice will depend upon (i) the extent to which the Subject Member has been informed of the allegation or any of its details and (ii) any decision of the Monitoring Officer (in consultation with the Chair of the Assessment Sub-Committee) as to whether it would, at the time of issuing the Decision Notice, be contrary to the public interest, or would prejudice the ability to investigate the allegation, to provide any such details.

2 - ACTION OTHER THAN INVESTIGATION

2.1 Where the decision of the Assessment Sub-Committee is to refer the allegation to the Monitoring Officer for action other than investigation the Monitoring Officer must arrange the specified action in accordance with the instruction given to them by the Assessment Sub-Committee.

2.2 The Monitoring Officer may refer the matter back to the Assessment Sub-Committee in the light of a change in circumstance such as:

- a) if, as a result of new evidence or information, the Monitoring Officer is of the opinion that the matter is materially more serious or less serious than may have seemed apparent when the Assessment Sub-Committee made its decision;
- b) if the Subject Member has died, is seriously ill, or has resigned from the County Council and the Monitoring Officer is of the opinion that, in the circumstances, it is no longer appropriate to continue with the steps proposed by the Sub-Committee; or

- c) the subject member fails to cooperate with the Monitoring Officer.

3 – INVESTIGATION OF A COMPLAINT

3.1 Where the Assessment Sub-Committee refers an allegation to the Monitoring Officer for investigation the Monitoring Officer will appoint an Investigating Officer who may be an officer of the authority, an officer of another authority or an external investigator. A summary regarding the conduct of an investigation is set out below. An Investigations Procedure is attached at **Appendix 3** and provides greater detail regarding the process followed during an investigation.

3.2 While an investigation is ongoing the Monitoring Officer may refer the matter back to the Assessment Sub-Committee in the light of a change in circumstance such as:

- a) if, as a result of new evidence or information, the Monitoring Officer is of the opinion that the matter is materially more serious or less serious than may have seemed apparent when the Assessment Sub-Committee made its decision; or
- b) if the Subject Member has died, is seriously ill, or has resigned from the County

Council and the Monitoring Officer is of the opinion that, in the circumstances, it is no longer appropriate to continue with an investigation.

3.3 At the end of their investigation the Investigating Officer will produce a report and send the final copy to the Monitoring Officer. The report will set out the details of the allegation, the relevant sections of the Code, the response of the Subject Member, the evidence taken during the course of the investigation, a statement of his/her findings, and the Investigating Officer's conclusion as to whether or not the Member has breached the Code.

3.4 The report of the Investigating Officer and supporting information, including witness statements, will be treated as confidential and will not be published publicly.

3.5 Where a report concludes that there is no evidence of a failure to comply with the Code of Conduct, the Monitoring Officer will refer the report to the Assessment Sub-Committee unless, following consultation with the Chair of the Standards Committee, the Monitoring Officer refers the matter to the full Committee. The presumption is that the matter would be considered by the Assessment Sub-Committee.

3.6 Where the Investigating Officer concludes that there has been a failure to comply with the Code of Conduct the County Council has delegated authority to the Monitoring Officer to refer the matter for local hearing before a Hearings Sub-Committee or the Standards Committee. The presumption is that the matter would be considered by a Hearings Sub-Committee.

Referral of the Investigating Officer's report to the Assessment Sub-Committee/Standards Committee

3.7 Where the conclusion of the Investigating Officer is that there has not been a breach of the Code of Conduct the matter will be considered by an Assessment Sub-Committee/Standards Committee. The Investigating Officer's report and the other papers to be sent to and considered by the Sub-Committee/Committee will contain exempt information and will not be published publicly.

3.8 In making its decision as to which of the actions set out below to take, the Sub-Committee/ Committee must have regard to the Investigating Officer's report; any professional advice from relevant officers of the County Council, and any relevant criteria and factors that the County Council's Standards Committee determines. The Sub-Committee would also take into account any views expressed by the Independent Person.

3.9 After having considered the Investigating Officer's report, the Sub-Committee must by majority decision make one of the following findings:

- a) that it accepts a finding of no failure (i.e. that the Subject Member has not breached the Code);
- b) that the matter should be considered at a hearing of the Hearings Sub-Committee or Standards Committee. The presumption is that the matter would be considered by a Hearings Sub-Committee.

3,10 Within 5 working days (or as soon as reasonably practicable) after making a finding of no failure, the Sub-Committee must issue a "Finding of No Failure" Decision Notice and send this to the Subject Member. The Assessment Sub-Committee/Committee will consider, whether the Decision Notice should be sent to the complainant and whether it should be published. The Subject Member may be consulted in relation to the publication of the Notice. If it is decided that the complainant should not receive the Decision Notice they will receive a summary of the Sub-Committee's decision.

4 - HEARINGS

4.1 There is a presumption that hearings will be heard by a Hearings Sub-Committee unless, following consultation with the Chair of the Standards Committee, the Monitoring Officer refers the matter to the full Committee. A summary regarding the conduct of a hearing is set out below. A Hearings Procedure is attached at **Appendix 4** and provides greater detail regarding the process followed during a hearing.

4.2 The Hearings Sub-Committee will be constituted by 3 councillors drawn from the Standards Committee, although it will not have a fixed membership or a fixed Chair. The quorum of the Sub-Committee is 2 councillors.

4.3 There is a need for flexibility in relation to the membership of the Sub-Committee in order to be responsive to the requirement to arrange a meeting date as

quickly as possible and to provide an opportunity for all members of the Standards Committee to sit on a Sub-Committee. When considering the membership of the Sub-Committee consideration would be given to factors including councillor availability and membership of previous Sub-Committees. The Sub-Committee will, wherever possible, be comprised of councillors from more than one political group but the Sub-Committee is not required to be politically balanced.

4.4 Decisions of the Hearings Sub-Committee will be taken by majority vote, with the Chair having the casting vote.

4.5 The hearing must take place within 3 months (or, if this is not possible, as soon as is reasonably practicable thereafter) of the date on which the Investigating Officer's report is completed BUT must not take place until at least 14 days after the date on which the Monitoring Officer sent the investigation report to the Subject Member, unless the Subject Member agrees to the hearing being held earlier.

4.6 The report considered by the Hearings Sub-Committee/Standards Committee, including appendices, will be marked as exempt and will not be published publicly.

4.7 Meetings of the Hearings Sub-Committee will be held in private and only the following are permitted to attend a meeting of the Sub-Committee:

- the members of the Hearings Sub-Committee,
- the Subject Member and their representative
- any witnesses
- the Independent Person
- relevant officers of the County Council
- the Investigating Officer

4.8 The hearing must be conducted to enable the Subject Member to have the opportunity to present evidence and make representations at the hearing orally or in writing either personally, by counsel, a solicitor or, with the Committee/Sub-Committee's consent, by any other representative.

Findings of the Committee/Sub-Committee conducting the hearing

4.9 In making a finding and imposing a sanction, the Committee/Sub-Committee must seek, and take into account, the views of at least one Independent Person appointed by the authority.

4.10 The Committee/Sub-Committee must reach a decision as to whether the Subject Member has breached the Code of Conduct. Following a hearing, the Committee/Sub-Committee is entitled to make one of the following findings:

- a) that the Subject Member has not failed to comply with the Code;
- b) that the Subject Member has failed to comply with the Code but that no action needs to be taken; or
- c) that the Subject Member has failed to comply with the Code and that a sanction should be imposed. Examples of sanctions that could be

considered are set out in the Hearings Procedure (**Appendix 4**).

4.11 Any sanction imposed by the Committee/Sub-Committee will take effect immediately, unless the Committee/Sub-Committee specifies a later date on which the sanction(s) should take effect.

4.12 As soon as is reasonably practicable after the hearing, the Monitoring Officer shall prepare a formal Decision Notice in consultation with the Chair of the Committee/Sub-Committee. The Decision Notice will be sent to the Subject Member and the Committee/Sub-Committee will consider whether the Decision Notice or a summary of the decision reached should be sent to the complainant and whether it should be published.

5 – WITHDRAWING COMPLAINTS

5.1 There may be occasions when the complainant asks to withdraw their complaint prior to the Assessment Sub-Committee having made a decision on it. In these circumstances, the Assessment Sub-Committee will need to decide whether to grant the request. The following considerations may apply:

- Does the public interest in taking some action on the complaint outweigh the complainant's desire to withdraw it?
- Is the complaint such that action can be taken on it, for example an investigation, without the complainant's participation?
- Is there an identifiable underlying reason for the request to withdraw the complaint? For example, is there information to suggest that the complainant may have been pressured by the Subject Member, or an associate of theirs, to withdraw the complaint?

6 – MULTIPLE OR VEXATIOUS COMPLAINTS

6.1 The Council may receive a number of complaints from different complainants about the same matter. In such cases they should be dealt with in a manner that is a practical use of time and resources. A number of complaints about the same matter may be considered by the Assessment Sub-Committee at the same meeting. If so, the Monitoring Officer should be asked to present one report and recommendation that draws together all the relevant information and highlights any substantively different or contradictory information. However, the Sub-Committee must still reach a decision on each individual complaint and follow the notification procedure for each complaint.

6.2 Unfortunately, a small number of people abuse the complaints process. The authority's policies on vexatious or persistent complainants, or to take action to limit an individual's contact with the authority could be used in such circumstances.

6.3 However, the Standards Committee must consider every new complaint that they receive in relation to the Code of Conduct. If the Standards Committee has already dealt with the same complaint by the same person and the Monitoring Officer does not believe that there is any new evidence, then a complaint does not need to be considered.

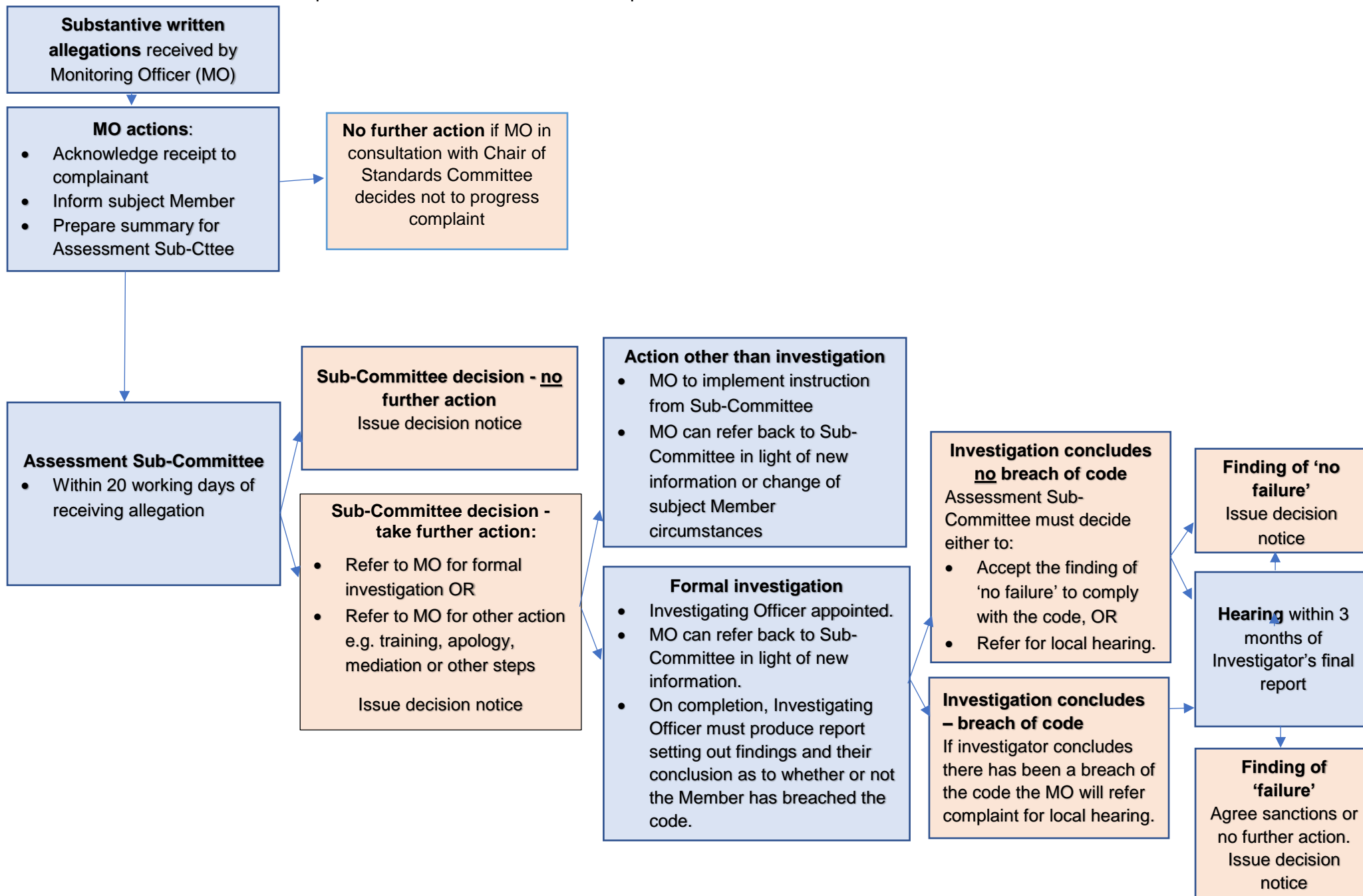
7 – MONITORING OF COMPLAINTS

7.1 A log of complaints and actions taken in response to these will be maintained by the authority. The Standards Committee will monitor the number of complaints and the outcomes in relation to each complaint in its annual report.

Complaints about councillor conduct – summary of process

APPENDIX 1

This flowchart summarises the detailed process outlined in 'Arrangements For Dealing With Complaints about Councillor Conduct' – please see the full document for more detail about the procedure to be followed at each step.



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**East Sussex County Council
Standards Committee – Assessment Criteria**

These criteria are intended to reflect local circumstances and priorities and are simple, clear and open. They are to ensure fairness for the complainant and the subject member.

1. Circumstances where the Initial Assessment Sub-Committee may decide to take no further action

Where the complaint:

- (1) does not have enough information to satisfy the sub-committee that the complaint should be referred for investigation or other action;
- (2) is about someone who is no longer a member of the Council;
- (3) has not been received within 3 months of the alleged misconduct unless there are exceptional circumstances;
- (4) or one substantially similar, has already been the subject of an investigation or other action relating to the Code of Conduct or has been the subject of an investigation by other regulatory authorities;
- (5) is believed to be either:
 - (a) relatively minor
 - (b) tit-for-tat
 - (c) politically motivated
 - (d) malicious
 - (e) not sufficiently serious to warrant further action;
- (6) where the subject member has apologised and/or admitted making an error and the matter would not warrant a more serious sanction;
- (7) where it is apparent that the subject Member is very inexperienced as a Member;
- (8) where it appears that even if the allegations were fully investigated and a breach of the Code of Conduct upheld, training or conciliation would be the appropriate remedy.
- (9) Where the complaint is anonymous (save where it is in the Sub-Committee's or Monitoring Officer's opinion in the public interest to maintain confidentiality).

Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, deciding to investigate a complaint or to take further action will cost both public money and officers' and members' time. This is an important consideration where the matter is relatively minor. The Assessment Sub Committee will take into account the public benefit in investigating complaints which are less serious, politically motivated, malicious or vexatious. It will not refer a complaint for investigation where it considers that the public interest in investigating the complaint is outweighed by the cost and resources that would be likely to be involved.

2. Circumstances where the Assessment Sub Committee may decide to refer the complaint to the Monitoring Officer for local investigation

Where the complaint is sufficiently serious to justify the cost of an investigation and it is in the public interest to investigate.

3. Circumstances where the Assessment Sub Committee may decide to refer the allegation to the Monitoring Officer for other positive action

(1) Where the complaint:

(i) could be dealt with more effectively by:

- (a) requesting an apology
- (b) mediation
- (c) training
- (d) reviewing procedures and protocols

(ii) is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the authority which could be dealt with by:

- (a) mediation
- (b) training
- (c) reviewing procedures and protocols

(2) Where it is not in the interests of good governance to undertake or complete an investigation into a complaint.

(3) Where the complaint is not sufficiently serious to justify the cost of an investigation.

Notes (a) The Assessment Sub-Committee must consult the Monitoring Officer before reaching a decision to take other action. It is to be noted that the purpose of this approach is not to determine whether there has been a breach of the Code.

(b) If members decide to refer the complaint to the Monitoring Officer for another form of positive action the following must be considered:

- *What is being proposed.*
- *Why it is being proposed.*
- *Why the Member should co-operate*
- *What the Sub-Committee hopes to achieve*

(c) A complaint referred for positive action will not state whether the member breached the Code but that the decision made was an alternative to investigation and that no conclusion was reached on whether the subject member failed to comply with the Code. There will be no opportunity to undertake an investigation into the complaint and it will not be referred back to the Standards Committee even if this action is perceived to have failed.

Investigations Procedure

Introduction

This document sets out the procedure which will be followed once a decision has been taken that an allegation of misconduct by a Member should be investigated.

It should be read in conjunction with the document “Local Assessment of Complaints about Member Conduct”.

The appointment of the Investigating Officer

Upon deciding to refer an allegation for investigation, the Monitoring Officer will appoint an Investigating Officer and instruct him/her to conduct an investigation of the allegation and report on it. The Monitoring Officer may appoint a replacement if the Investigating Officer is unable to complete the investigation. The Investigating Officer may be an Officer of the authority or another authority or an external investigating officer. They should not be connected with the Standards Committee.

The role of the Investigating Officer

The role of the Investigating Officer is to ensure, as far as possible, that all the information which is relevant to the allegation is identified and presented in their report.

Subject to the agreement of the Monitoring Officer, the Investigating Officer may appoint a person(s) to assist him/her in the conduct of his/her functions and may obtain such professional advice as may be necessary for the conduct of the investigation.

Notification requirements

Once they have appointed an Investigating Officer, the Monitoring Officer will inform the Subject Member (i.e. the Member against whom the allegation has been made) who has been appointed to conduct the investigation.

The Monitoring Officer will notify the complainant that an investigation will take place and that they may be contacted in relation to that investigation.

Conduct of the investigation

The Investigating Officer shall have a broad discretion as to how they conduct the investigation.

They may require the Subject Member and the complainant to provide them with information and /or documents which are relevant to the investigation. They may require them to provide details of other people who may be able to assist with the investigation.

The Investigating Officer may consult the Monitoring Officer at any stage of the investigation.

The Investigating Officer may request any person to attend an interview with them and/ or provide them with documents and / or information.

Any person who is interviewed may arrange to have a friend or other person with them (provided they are not connected to any matter under investigation).

The Investigating Officer will take a note of any interviews that they conduct.

The Monitoring Officer may agree that the authority will pay such expenses, fees or allowances to any persons providing documents, information, advice or explanation, as they consider appropriate.

Referral to the Monitoring Officer

The Investigating Officer may refer the matter back to the Monitoring Officer if it appears to them appropriate to do so. For example, if the Member is seriously ill, the Member has resigned from the County Council or the decision to investigate should be reconsidered in the light of new evidence. In such circumstances, the Monitoring Officer may decide to refer the matter back to the Assessment Sub-Committee.

Deferral of investigation

The Monitoring Officer has discretion to defer the investigation if it appears appropriate to do so. For example, if there is a criminal investigation taking place.

Confidentiality

The Investigating Officer shall request that anyone contacted in relation to the investigation maintain confidentiality in order to maintain the integrity of the process.

Draft Report

When the Investigating Officer is satisfied that he/she has sufficient information, or has obtained as much information as is reasonably practicable to obtain, he/she shall prepare a confidential draft report setting out the details of the allegation, the relevant sections of the code, a summary of the allegation, the response of the Subject Member, the information, documents and evidence taken during the course of the investigation, a statement of his/her draft findings, and the Investigating Officer's conclusion as to whether the member has breached the code.

The draft report should be sent to the Monitoring Officer and the Subject Member for their comments. The Investigating Officer may wish to conduct further investigations once he/she has received those comments, before producing their final report.

Final Report

The final report should include the same content referred to above in the draft report section and a final conclusion as to whether there has been a breach of the code.

It may be helpful to include a chronology, summary of disputed facts and /or to append witness statements or other documents.

The Investigating Officer's report and supporting papers will be considered as confidential in that they may contain exempt information and will not be published publicly.

Action on receipt of Report

If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he /she may ask the Investigating Officer to reconsider his / her report.

If the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct, the Monitoring Officer will refer the report to a Sub-Committee of the Standards Committee or the Standards Committee. The presumption is that the matter would be considered by a Sub-Committee.

Where the report concludes that there has been a failure to comply with the Code of Conduct the County Council has delegated authority to the Monitoring Officer to refer the matter for local hearing before a Hearings Sub-Committee or the Standards Committee. The presumption is that the matter would be considered by a Hearings Sub-Committee.

The Hearings process is the subject of a separate procedure.

More information on the local resolution of complaints can be found in the Local Assessment of Complaints document.

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Hearings Procedure

APPENDIX 4

The following process will be followed when a decision has been taken that a hearing, as to whether a Member has breached the code of conduct, is required.

1. Pre-hearing process

1.1 The Monitoring Officer will, where possible, arrange for the Standards Committee/Hearing Sub-Committee to meet to hear the complaint within 3 months (or as soon as practical thereafter) of receiving the Investigating Officer's report. The Monitoring Officer should aim to arrange a hearing which can take place in one day or consecutive days without the need to have gaps between sittings or lengthy days.

1.2 The Standards Committee and the Hearings Sub-Committee are subject to the normal requirements on confidential and exempt information as any other Committee under s100 A to K and Schedule 12A of the Local Government Act 1972. The Monitoring Officer will consider whether these provisions apply in advance of the hearing.

1.3 The Monitoring Officer will require the Subject Member to give his/her response to the Investigating Officer's report in order to identify what is likely to be agreed and what is likely to be in contention at the hearing. This may, at the discretion of the Monitoring Officer, take the form of a pre-hearing questionnaire.

1.4 If the Subject Member wishes to rely on evidence, including witnesses, at the hearing, they should provide the evidence and names of any witnesses, to the Monitoring Officer as soon as possible. The Investigating Officer may have taken a witness statement from them or set out their comments in their report but if the Subject Member wishes to add to what the Investigating Officer has written they should provide a witness statement to the Monitoring Officer as soon as possible.

1.5 The Committee/Sub-Committee will not allow new arguments or evidence to be presented at the hearing.

1.6 The Monitoring Officer will decide what evidence will need to be heard, and what written evidence can be read at the hearing. The Monitoring Officer should take account of the views of the witnesses and the Subject Member in reaching such decisions.

1.7 The Monitoring Officer can consult the Chair of the Committee if he/she feels their guidance would assist and ask the Chair to issue directions in relation to the pre-hearing process.

1.8 The Monitoring Officer may wish to offer to cover the expenses of witnesses associated with their attendance at the hearing.

1.9 The Monitoring Officer will consider whether it is appropriate to hear two complaints together, for example if they relate to the same Member, or relate to the same incident or occasion.

1.10 The Subject Member should be provided with the Investigating Officer's report and any evidence which will be heard at the hearing.

1.11 The Monitoring Officer should provide the members of the Committee/Sub-Committee with all the evidence in advance of the hearing so that they can read it to identify any potential conflicts of interest.

1.12 The Monitoring Officer will provide the Committee/Sub-Committee with a report which summarises the allegation. This may include a list of agreed facts and disputed issues and outline the proposed procedure for the hearing.

1.13 The Monitoring Officer will act as a point of contact for the Subject Member, the complainant, the Independent Person and any witnesses who will give evidence.

2. The Hearing

2.1 An Independent Person will be invited to attend the hearing and will be given the opportunity comment during the Hearing if the Committee/Sub-Committee considers it appropriate and will be asked for their views prior to a final decision being made.

2.2 If the Subject Member does not attend the hearing, the Committee/Sub-Committee may adjourn the hearing or may continue to reach a decision on the basis of the Investigating Officer's report and any evidence they hear, if they decide to hear evidence.

2.3 Whilst the hearing is a meeting of the authority, it is not a court of law. It does not hear evidence under oath. The rules of natural justice should nevertheless be followed and the Committee/Sub-Committee will have due regard to the seriousness of the proceedings for those involved, the Council and the public.

2.4 The Committee/Sub-Committee will decide disputed issues and whether the Subject Member has breached the code on the balance of probabilities.

3. Representation

3.1 The Subject Member may choose to be represented by any person they wish. They will have to bear any cost of being represented. The Committee/Sub-Committee may refuse to allow a representative to remain at the hearing if they are disruptive. The Committee/Sub-Committee will have the discretion to hear opening or closing arguments from the Subject Member and

the Investigating Officer if they feel it would assist them in reaching a decision.

4. Evidence

4.1 The Committee/Sub-Committee will control the procedure and evidence presented at a hearing, including the number of witnesses and the way they are questioned. All matters relating to the evidence and procedure are within their discretion.

4.2 Generally (and subject to paragraph 4.1 above) the Subject Member will be entitled to present their case as they see fit.

4.3 The Committee/Sub-Committee will usually have regard to submissions from the Subject Member if they are considering whether to hear particular evidence.

4.4 Witnesses of facts that are disputed would normally be expected to attend to be questioned. Character witnesses will normally provide written evidence which can be read at the hearing.

4.5 Witnesses should be treated with courtesy throughout the pre-hearing stage and at the hearing.

4.6 Witnesses may be questioned by the Committee/Sub-Committee, the Monitoring Officer and the Subject Member. This discretion should generally be unfettered by the Committee/Sub-Committee unless there is good reason to do so.

4.7 The onus is on the Subject Member to ensure the attendance of witnesses who they would like to give evidence to assist them. The Committee/Sub-Committee can limit the number of witnesses or the issues which can be covered by them.

4.8 Neither the Committee/Sub-Committee nor the Subject Member will have any power to compel witnesses to give evidence.

5. At the Hearing (the procedure to be followed at the hearing will be at the discretion of the Chair.

5.1 At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the Member has failed to comply with the Code of Conduct. The Investigating Officer may be asked about their report or any matters relating to their involvement.

5.2 The Subject Member must have the opportunity at the hearing to present evidence and make representations orally or in writing either

personally, by counsel, a solicitor or, with the Sub-Committee's consent, by any other representative

6. Role of Monitoring Officer

6.1 References to the Monitoring Officer should be read to include any representative of the Monitoring Officer.

6.2 The Monitoring Officer has a key role in ensuring the smooth running of the pre-hearing and hearing process. They will remain neutral throughout and will provide independent advice to the Committee/Sub-Committee

7. Role of the complainant

7.1 The role of the complainant will usually be limited to being a witness and they are not a party to the proceedings. However, the Committee/Sub-Committee may wish to consult them at any stage in the hearing if they feel their comments would assist them.

8. Decision

8.1 The Committee/Sub-Committee must consult the Independent Person in reaching their decision.

8.2 The Committee/Sub-Committee may wish to retire to consider their decision. The Monitoring Officer may assist them in constructing the reasons for their decision. The Monitoring Officer will not express any view on the evidence heard or the decision to be reached.

8.3 The Committee/Sub-Committee will reach a decision as to whether the Subject Member has breached the code of conduct. If they decide that the Subject Member has not breached the code of conduct they will take no further action. If they decide that the Subject Member has breached the code of conduct they should go on to decide what sanction, if any, is appropriate.

9. Sanctions

9.1 The Committee/Sub-Committee must consult the Independent Person before imposing any sanction and give the Subject Member the opportunity to make representations.

9.2 The Committee/Sub-Committee should consider all the mitigating and aggravating circumstances that appear to them to be relevant. For example, they may wish to consider:

- What were the actual and potential consequences of the breach?
- How serious was the breach?
- What is the attitude of the Subject Member now? Have they apologised?
- Has the Subject Member previously been dealt with for a breach of the code?

9.3 The following are example of mitigating and aggravating factors but these lists should not be regarded as exhaustive.

10. Mitigating Factors

- An honest but mistaken belief that the action was not a breach of the code
- A previous record of good service
- Evidence that they were suffering from ill health at the time of the breach

11. Aggravating Factors

- Dishonesty
- Continuing to deny the facts or blaming other people
- Evidence of a failure to follow advice or warnings

The priority of the Committee/Sub-Committee should be to ensure that there are no further breaches of the code and that public confidence is maintained.

12. Sanctions

12.1 The sanctions available to the Committee/Sub-Committee include:

- Publish its findings in respect of the Member's conduct,
- Write a formal letter to the councillor found to have breached the code,
- Report its findings to Council for information,
- Seek formal censure of the Subject Member,
- Recommend to the Member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council,
- Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities,
- Recommend that the Member is removed from outside body appointments to which they have been appointed or nominated by the Council or the Executive,
- Instruct the Monitoring Officer to arrange training, mediation or other appropriate remedy, for the Member including an apology in a form specified by the Committee/Sub-Committee.

13. Notice of decision

13.1 As soon as is reasonably practicable after the hearing, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Committee/Sub-Committee. The decision notice will be sent to the Subject Member and the Sub-Committee will consider whether the decision notice, or a summary of the decision reached, should be sent to the complainant and whether it should be available for public inspection

Report to: **Standards Committee**

Date: **16 June 2020**

Title of report: **Annual Report of the Standards Committee**

By: **Assistant Chief Executive**

Purpose of report: **To provide an update on Member Conduct issues, the work of the Standards Committee and the Monitoring Officer.**

RECOMMENDATIONS

The Standards Committee is recommended to

- 1) note the report; and**
 - 2) agree the report for submission to the County Council for consideration.**
-

1. Background information

1.1 The Standards Committee is required to submit an annual report to the County Council on its work during the previous year. The Committee is therefore asked to consider the draft report for submission to the County Council.

1.2 Between 1 April 2019 and 31 March 2020 no new complaints were received against Members of the County Council.

1.3 During 2019/20 the Hearings Sub-Committee met to consider the Investigating Officer's report regarding a complaint that was received during 2018/19 which had been considered by an Assessment Sub-Committee and had been referred to the Monitoring Officer for investigation. The Hearings Sub-Committee, having considered the report, heard representations and questioned the Investigator and Subject Councillor, agreed to accept the finding of failure (i.e. that the subject Member had breached the Code of Conduct) and that the Decision Notice be sent to the Subject Member and the complainant.

1.4 It is considered that the standards of conduct among Members and co-opted members of the Council remain high and maintaining good standards is taken seriously. The table below shows the number of complaints considered by the Assessment Sub-Committee over the past 11 years:

Year	No. of complaints considered
2019/20	0
2018/19	3
2017/18	0
2016/17	1
2015/16	1
2014/15	3
2013/14	1
2012/13	1
2011/12	1
2010/11	2
2009/10	4

2. Applications for Dispensation

2.1 In limited circumstances, Members can apply in writing for dispensations to take part in business that they would otherwise have been unable to participate in through having prejudicial interests. During 2019/20 there were no applications for dispensations.

2.2 All dispensations are entered on the register of Members' interests and remain there for the appropriate period.

3. Register of Members' Interests

3.1 The Monitoring Officer is required to establish and maintain a register of interests of Members of the Council. All Members have completed and returned their registers and are reminded every six months of the need to notify the Monitoring Officer of any changes. The registers are available for public inspection and are available on the Council's website.

3.2 During 2019/20 councillors were reminded that there is provision for information considered to be sensitive not to be published on their register of interest form. Sensitive information is that which, if disclosed, could lead to the councillor, or a person connected to the councillor, being subject to violence or intimidation. If a councillor considers that the information relating to any personal interest is sensitive, and the Monitoring Officer agrees, the register available for inspection will not include the details of that interest other than stating that the councillor has an interest and that the details are withheld. Councillors were reminded that if they consider an interest to be sensitive they should still declare the matter and request that it be treated as sensitive information. The fact that a councillor considers the information to be sensitive is not a reason for failing to declare the interest.

3.3 A register of Gifts and Hospitality is also maintained by the Monitoring Officer. Members have to register gifts and hospitality received with an estimated value of £50 or more. Councillors are reminded every 6 months of the need to declare gifts and hospitality of such a value.

3.4 There is an ongoing requirement to keep the information on the register of interest form up to date. Councillors must, within 28 days of becoming aware of any new registerable personal interest or change to any registered interest, give written notification to the Monitoring Officer.

4. Training

4.1 Following the election on 4 May 2017 and the by-election on 10 January 2019, training was given to Members on the Code of Conduct including register of interests, personal interests, disclosable pecuniary interests and gifts and hospitality at the induction day. All councillors have signed a declaration undertaking to comply with the County Council's Code of Conduct for Members.

5. Amendments to Local Standards Framework

5.1 In November 2019, the Committee considered and agreed amendments to the Local Standards Framework regarding complaints about Member Conduct including the adoption of a Hearings Procedure and other changes considered necessary to streamline the process for considering reports from an Investigating Officer in which the officer concludes that there is evidence of a breach of the Code of Conduct. A more comprehensive review of the Local Standards Framework process has been undertaken in 2020 and is reported elsewhere on the agenda.

6. Conclusion

6.1 The Committee is recommended to note the report and to recommend to the County Council the Annual Report of the Standards Committee for consideration.

PHILIP BAKER

Assistant Chief Executive

Contact Officer – Andy Cottell, Democratic Services Manager (01273 481955)

Local Members: All

Background Documents: None

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Complaints considered by the Standards Committee 1 April 2019 to 31 March 2020

Reference	Date Received	Type and Date of Committee	Summary of Complaint	Outcome	Resolved
SC.001.19	25 February 2019	Assessment Sub Committee 1 April 2019 and Hearings Sub-Committee 16 December 2019	Breach of General Principles of Code of Conduct (Paragraphs 1 and 5)	Referred to Monitoring Officer for investigation. Hearings Sub-Committee agreed that councillor had failed to comply with paragraph 5 of the Code of Conduct	Yes

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