

# ARRANGEMENTS FOR DEALING WITH COMPLAINTS

These "Arrangements" set out how you may make a complaint that an elected or co-opted member of this Council or of a parish council within the district has failed to comply with the council's Code of Conduct, and sets out how the Council will deal with allegations of a failure to comply with the Council's Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place "arrangements" under which allegations that a member or co-opted member of the Council or of a parish council within its district, or of a Committee or Sub-Committee of the Council, has failed to comply with that Council's Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Council at any other stage, or by a member or a member or co-opted member of a parish council against whom an allegation has been made.

## 1 The Code of Conduct ('the Code')

The Council has adopted a Code of Conduct for members, which is attached as Appendix One to these arrangements and available for inspection on the council's website and on request from reception at the Council Offices, Belle Vue Square Broughton Road, Skipton.

*Each parish council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council's Code of Conduct, you should inspect any website operated by the parish council or request the parish clerk to allow you to inspect the parish council's Code of Conduct.*

## 2 Making a complaint

If you wish to make a complaint, please write or email to –

The Monitoring Officer  
Craven District Council  
1 Belle Vue Square  
SKIPTON  
BD23 1FJ  
[amoppett@cravencd.gov.uk](mailto:amoppett@cravencd.gov.uk)

The Monitoring Officer is a senior officer of the council 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 which we need to be able to process your complaint, please complete and send us the model complaint form, which can be downloaded from the council's website, next to the Code of Conduct, and is available on request from Reception at 1 Belle Vue Square, Skipton.

Please do provide your name and a contact or 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. The Council does not normally investigate anonymous complaints, unless there is a clear public interest in doing so (see paragraph 3 below).

Complaints about the conduct of a parish councillor towards a clerk should be made by the chair or the parish council as a whole, rather than the clerk, in all but exceptional circumstances.

The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.

### **3 Will your complaint be investigated?**

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation, having regard to the Assessment Criteria adopted by the Council (attached as Appendix Two to these arrangements). This decision will normally be taken within 14 days of receipt of your complaint. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision.

Where the Monitoring Officer requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the member against whom your complaint is directed.

Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation.

In some cases, at his/her discretion, the Monitoring Officer may refer the complaint to the Standards Committee to decide whether or not it should be investigated or other action taken.

If a conflict of interest or other exceptional circumstances arise the Monitoring Officer or Independent Person may consult an independent third party.

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member offering an apology, or other remedial action by the Council. Where the member or the Council make a reasonable offer of informal resolution, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

Where the Monitoring Officer recommends informal resolution but the member is unwilling to accept that his/her conduct was unacceptable or rejects the informal resolution proposed, the Monitoring Officer will take account of this when deciding whether the complaint merits informal investigation.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

If you (or the subject of the complaint) are dissatisfied with the suggested action, you may appeal to the Chair of the Standards Committee, who may uphold the decision or suggest an alternative course of action.

### **Confidentiality**

The Monitoring Officer will decide whether a request by a complainant that their identity be withheld should be agreed. This decision will be reviewed by the Monitoring Officer at the initial assessment stage.

As a matter of fairness and natural justice, the subject of the complaint should usually be told who has complained about them and receive details of the complaint. However, in exceptional circumstances, the Monitoring Officer may withhold the complainant's identity if on request from the complainant, or otherwise, he/she is satisfied that the complainant has reasonable grounds for believing that they or any witness relevant to the complaint may for example, be at risk of physical harm, or his or her employment may be jeopardised if their identity is disclosed, or where there are medical risks (supported by medical evidence) associated with the complainant's identity being disclosed.

If the Monitoring Officer decides to refuse a request by a complainant for confidentiality, he or she will offer the complainant the option to withdraw the complaint, rather than proceed with his or her identity being disclosed. The Monitoring Officer will balance whether the public interest in taking action on a complaint will outweigh the complainant's wish to have his or her identity withheld from the subject of the complaint.

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

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another senior officer of the council, an officer of another council or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

## **5 Withdrawal of a Complaint**

In the event that a complainant withdraws a complaint at any time prior to a decision having been made by a Hearings Panel, the Monitoring Officer may, following consultation with the Independent Person and the Chair of Standards Committee, decide whether no further steps be taken in respect of that complaint. This determination will take into account whether it is in the public interest to proceed regardless of the complainant's wishes.

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

The Monitoring Officer will review the Investigating Officer's report and, if he or she is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned and to the Parish Council, where your complaint relates to a Parish Councillor, notifying you that he or she is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he or she may ask the Investigating Officer to reconsider his/her report.

In some cases, at his or her discretion, the Monitoring Officer may refer the Investigating Officer's report to the Standards Committee, if he or she disagrees with the Investigating Officer's conclusion(s).

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

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person, seek local resolution.

**7.1 Local Resolution**

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also 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 council. If the member complies with the suggested resolution, the Monitoring Officer will issue a decision notice. The decision notice will include a brief statement of facts, the provisions of the Code engaged by the complaint, the view of the Independent Person, the reason for the decision and the action agreed.

A copy of the decision notice will be sent to you, to the member and the Parish Council in the case of a complaint about a parish councillor. A copy of the decision notice will be published on the Council website and reported to the next convenient meeting of Standards Committee.

However, if you tell the Monitoring Officer that any suggested resolution would not be adequate or the member refuses to accept the resolution, the Monitoring Officer will refer the matter for a local hearing before the Hearings Panel.

**7.2 Local Hearing**

If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The Council has agreed a procedure for local hearings, which is attached as Appendix Three to these arrangements.

Essentially, the Monitoring Officer will conduct a "pre-hearing process", requiring the 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, and the Chair of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted. 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. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearings Panel. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

If the Hearings Panel, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Hearings Panel concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the member of this finding and the Hearings Panel will then consider what action, if any, the Hearings Panel should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the member an opportunity to make representations to the Panel and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

## **8 What action can the Hearings Panel take where a member has failed to comply with the Code of Conduct?**

- 8.1 Where a Hearings Panel find that a Member has failed to comply with the Code of Conduct, the Council had delegated to the Hearings Panel 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 sanctions available to a Hearings Panel include, but are not restricted to one or a combination of the following:
- 8.1.1 Publish its findings in respect of the member's conduct;
  - 8.1.2 Report its findings to Council (or to the Parish Council) for information;
  - 8.1.3 Recommend to Council that the member be censured;
  - 8.1.4 Recommend to the member's group leader (or in the case of ungrouped members, recommend to Council) that he or she be removed from any or all committees or sub-committees of the Council;
  - 8.1.5 Instruct the Monitoring Officer to (or recommend that the Parish Council) arrange training/coaching for the member;
  - 8.1.6 Recommend to Council (or recommend to the Parish Council) that the member be removed from all outside bodies and/or appointments to which they have been appointed or nominated by the Council (or the Parish Council);
  - 8.1.7 Withdraw (or recommend to the Parish Council that it withdraws) resources and/or facilities provided to the member by the Council such as computer, website and/or email and internet access etc.

- 8.1.8 Place such restrictions on member's access to staff which may be reasonable in the circumstances provided that such restrictions do not prevent the member from carrying out their duties as a Councillor;
- 8.1.9 Recommend the member apologise to the relevant person(s) affected. This could also include a recommendation that this is done in conjunction with the Monitoring Officer to ensure that it meets the Hearings Panel's expectations;
- 8.2 Consideration will also need to be given to the time period of the action and how it will be monitored.
- 8.3 The Monitoring Officer will report the outcome of the Hearings Panel to the next meeting of Standards Committee.

**9 What happens at the end of the hearing?**

At the end of the hearing, the Chair will state the decision of the Hearings Panel as to whether the member failed to comply with the Code of Conduct and as to any actions which the Hearings Panel resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel. The decision notice will include a brief statement of facts, the provisions of the Code engaged by the complaint, the view of the Independent Person, the reasons for the decision and any sanctions applied. A copy of the decision notice will be sent to you, to the member and to the Parish Council in the case of a complaint about a parish councillor. A copy of the decision notice will be published on the Council website and reported to the next meeting of the Council.

**10 Who is the Hearings Panel?**

The Hearings Panel is a Sub-Committee of the Council's Standards Committee. The Standards Committee has decided that it will comprise a maximum of five members of the Committee, and comprising members drawn from at least 2 different political parties. Subject to those requirements, it is appointed on the nomination of party group leaders in proportion to the strengths of each party group on the Council.

The Independent Person is invited to attend all meetings of the Hearings Panel and his views are sought and taken into consideration before the Hearings Panel takes any decision on whether the member's conduct constitutes a failure to comply with the Code of conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

**11 Who is the Independent Person?**

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is the appointed by a positive vote from a majority of all the members of Council.

A person cannot be "independent" if he/she –

- 11.1 Is, or has been within the past 5 years, a member, co-opted member or officer of the council;
- 11.2 *[Is or has been within the past 5 years, a member, co-opted member or officer of a parish council within the council's area], or*
- 11.3 Is a relative or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, "relative" means –

- 11.3.1 Spouse or civil partner;
- 11.3.2 Living with the other person as husband and wife or as if they were civil partners;
- 11.3.3 Grandparent of the other person;
- 11.3.4 A lineal descendent of a grandparent of the other person;
- 11.3.5 A parent, sibling or child of a person within paragraphs 11.3.1 or 11.3.2;
- 11.3.6 A spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5; or
- 11.3.7 Living with a person within paragraphs 11.3.3, 11.3.4 or 11.3.5 as husband and wife or as if they were civil partners.

## **12 Revision of these arrangements**

The Council may by resolution agree to amend these arrangements, and has delegated to the Chair of the Hearings Panel the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

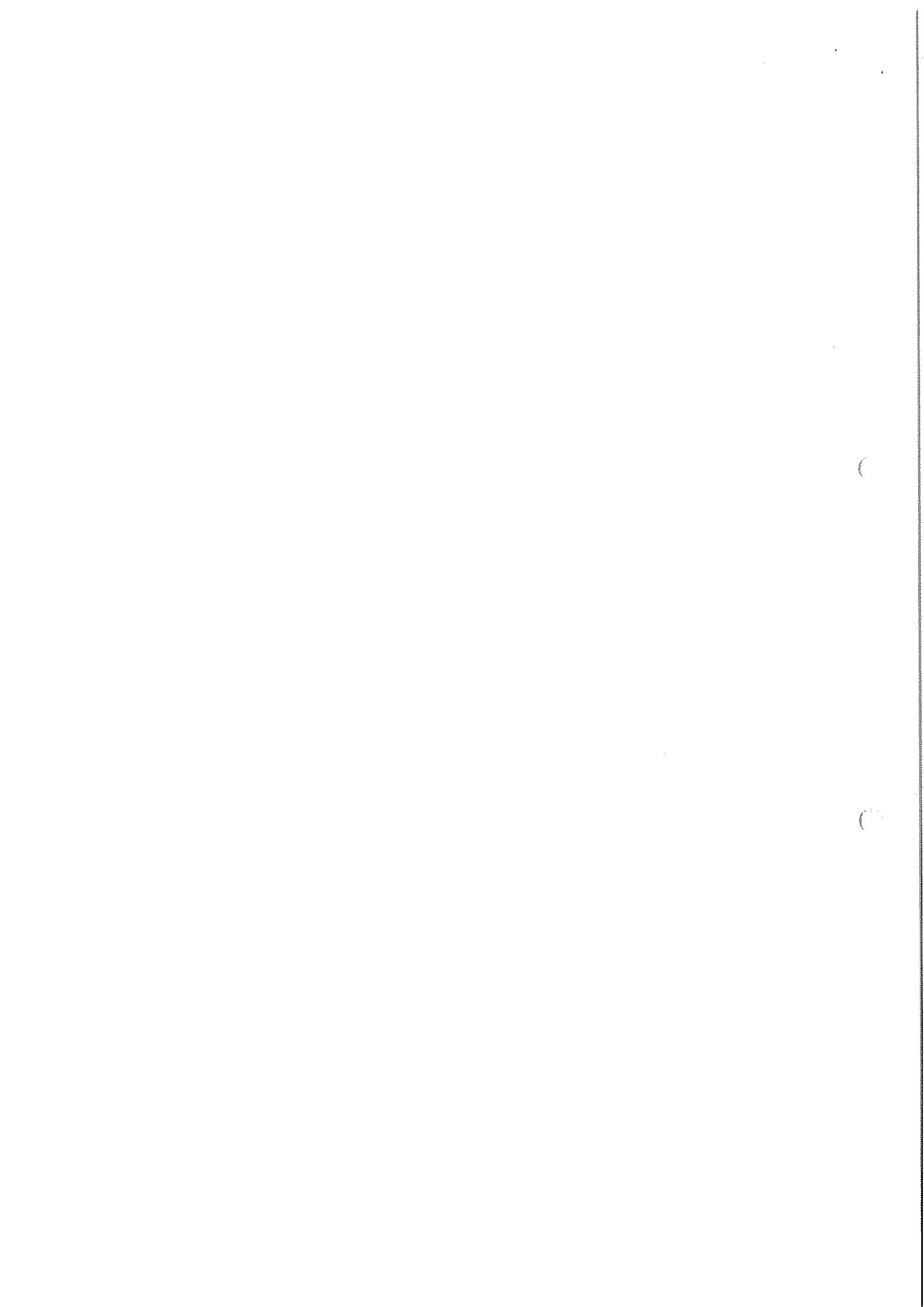
## **13 Appeals**

There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Hearings Panel.

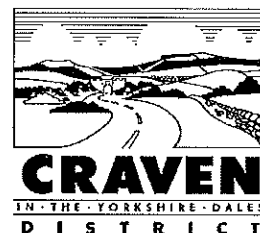
If you feel that the Council has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

- Appendix One      The council's Code of Conduct
- Appendix Two      Assessment Criteria
- Appendix Three    Procedure for Hearings

Adopted by Standards Committee, 6<sup>th</sup> November 2019 (STN.365)







## CRAVEN DISTRICT COUNCIL

### CODE OF CONDUCT

#### Introduction

Pursuant to Section 27 of the Localism Act 2011, Craven District Council as relevant authority ("the Council") has adopted this Code of Conduct to promote and maintain high standards of behaviour by its members and co-opted members whenever they conduct the business of the Council, including the business of the office to which they were elected or appointed, or when they claim to act or give the impression of acting as a representative of the Council.

This Code of Conduct is based on the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership. **These principles are described in detail in Appendix C to this code.**

#### Definitions

For the purposes of this Code, a 'co-opted member' is a person who is not a member of the Council but who is either a member of any committee or sub-committee of the Council, or a member of, and represents the Council on any joint committee or joint sub-committee of the Council, and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.

For the purposes of this Code, a 'meeting' is a meeting of the Council, any of its committees, sub-committees, joint committees or joint sub-committees.

For the purposes of this Code, and unless otherwise expressed, a reference to a member of the Council includes a co-opted member of the Council.

#### Member obligations

When a member of the Council acts, claims to act or gives the impression of acting as a representative of the Council, he/she has the following obligations:

1. He/she shall behave in such a way that a reasonable person would regard as respectful.
2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.

3. He/she shall not seek to improperly confer an advantage or disadvantage on any person.
4. He/she shall use the resources of the Council in accordance with its requirements.
5. He/she shall not disclose information which is confidential or where disclosure is prohibited by law.
6. He/ she shall not compromise or attempt to compromise the impartiality of anyone who works or exercises powers for the Council.

#### *Registration of interests*

7. Within 28 days of this Code being adopted by the Council, or the member's election or the co-opted member's appointment (where that is later), he/she shall register with the Monitoring Officer the interests which fall within the categories set out in Appendices A and B.
8. Upon the re-election of a member or the re-appointment of a co-opted member, he/she shall within 28 days re-register with the Monitoring Officer any interests in Appendices A and B.
9. A member shall register with the Monitoring Officer any change to interests or new interests in Appendices A and B within 28 days of becoming aware of it.
10. A member need only declare the existence but not the details of any interest which the Monitoring Officer agrees is a 'sensitive interest'. A sensitive interest is one which, if disclosed on a public register, could lead the member or a person connected with the member to be subject to violence or intimidation.

#### *Declaration of interests at meetings*

11. Where a matter arises at a meeting which relates to an interest in Appendix A the member must leave the room and shall not participate in a discussion or vote on the matter. He/she only has to declare what his/her interest is if it is not already entered in the member's register of interests or if he/she has not notified the Monitoring Officer of it.
12. Where a matter arises at a meeting which relates to an interest in Appendix A which is a sensitive interest, the member must leave the room and shall not participate in a discussion or vote on the matter. If it is a sensitive interest which has not already been disclosed to the Monitoring Officer, the member shall disclose he/she has an interest but not the nature of it.

13. Where a matter arises at a meeting which relates to an interest in Appendix B, the member must move to the public gallery and shall not vote on the matter. He/she may speak on the matter only if members of the public are also allowed to speak at the meeting.
14. A member *shall disclose the nature of his/her* interest in Appendix B *even* if it is already entered in his/her register of interests or he/she has not notified the Monitoring Officer of it or if he/she speaks on the matter. If he/she holds an interest in Appendix B which is a sensitive interest not already disclosed to the Monitoring Officer, he/she shall declare the interest but not the nature of the interest.
15. Where a matter arises at a meeting which relates to a financial interest of the member, a friend, relative or close associate (other than an interest in Appendix A), the member shall disclose the nature of the interest. The member must move to the public gallery and shall not vote on the matter. He/she may speak on the matter only if members of the public are also allowed to speak at the meeting. If it is a 'sensitive interest' the member shall declare the interest but not the nature of the interest.

### Dispensations

16. On a written request made to the Council's Proper Officer (the Monitoring Officer), the Council may grant a member a dispensation to participate in a discussion and vote on a matter at a meeting even if the member has an Appendix A or Appendix B interest ('an interest' for the purpose of paragraphs 16-18).

A dispensation may be granted on one or more of the following grounds<sup>1 2</sup>:

- a) That so many members of the Council have an interest in a matter that it would impede the transaction of the business (i.e. it would otherwise be inquorate);
- b) That, without the dispensation, the representation of different political groups on the Council would be so upset as to alter the outcome of any vote on the matter;
- c) That the Council considers that the dispensation is in the interests of persons living in the Council's area;
- e) That the Council considers it otherwise appropriate to grant a dispensation.

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<sup>1</sup> Section 33, Localism Act 2011

<sup>2</sup> Ground (d) refers to 'the Cabinet/Executive' and therefore does not currently apply to the Council.

17. In deciding whether to grant a dispensation, the appropriate political proportionality of the meeting, the interests of persons living in the Council's area and the interests of justice generally will be considered.

18. Requests for dispensation on grounds (a) and (b) may be determined by the Monitoring Officer in consultation with the Independent Person<sup>3</sup>

Requests for a dispensation on grounds (c) and (e) will be determined by a sub-committee of the Standards Committee, in consultation with the Independent Person.

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<sup>3</sup> appointed under section 28, Localism Act 2011

## APPENDIX A : Disclosable Pecuniary Interests.

Interests defined by regulations made under Section 30(3) of the Localism Act 2011 and described in the table below.

<b>Subject</b>	<b>Description</b>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the Council) made to the member during the 12 month period ending on the latest date referred to in paragraph 6 above for expenses incurred by him/her in carrying out his/her duties as a member, or towards his/her election expenses.
	This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the member or between his/her spouse or civil partner or the person with whom the member is living as if they were spouses/civil partners (or a body in which such a person is a partner in a firm, a director of an incorporated body or holds the beneficial interest in securities*) and the Council -
	(a) Under which goods or services are to be provided or works are to be executed; and
	(b) Which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the Council.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to the member's knowledge) -
	(a) The landlord is the Council; and
	(b) The tenant is a body in which the member or his/her spouse or civil partner/the person with whom the member is living as if they were spouses/civil partners has a beneficial interest.
Securities	Any beneficial interest in securities of a body where -
	(a) That body (to the member's knowledge) has a place of business or land in the area of the Council; and
	(b) Either -
	(i) The total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or
	(ii) If the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

*These descriptions of interest are subject to the following definitions*

*"relevant person" means*

- *Your spouse or civil partner"*
- *A person with whom you are living as husband or wife*
- *A person with whom you are living as if they were your civil partner;;*

*"body" in which you or the relevant person has a beneficial interest means a firm in which you or the relevant person is a partner or a body corporate of which you or the relevant person is a director, or in the securities of which you or the relevant person has a beneficial interest;*

*“ director “ includes a member of the committee of management of an industrial and provident society*

*“land” excludes an easement , servitude, interest or right in or over land which does not carry with it a right for the relevant person ( alone or jointly with another) to occupy the land or receive income;*

\*'Securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

## APPENDIX B

An interest under paragraph 1 *and* 2 *below* which relates to or is likely to affect:

### 1. Interests

(i) Any body of which the member is in a position of general control or management and to which he/she is appointed or nominated by the Council;

(ii) Any body –

(a) Exercising functions of a public nature;

(b) Directed to charitable purposes; or

(c) One of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

of which the member of the Council is a member or in a position of general control or management;

(iii) Any gifts or hospitality worth more than an estimated value of £25 which the member has received by virtue of his or her office.

**and**

### 2. Perception of Conflict

*A reasonable member of the public with knowledge of all the relevant facts would think that your interest was so significant that it would be likely to prejudice your judgment.*

### FOOTNOTE 1

*The test for perception is one of conflict of interest; which in other words means the interest must be perceived as likely to harm or impair your ability to judge the public interest..*

### FOOTNOTE 2

This Code of Conduct is based on the template Code of Conduct for parish Councils produced by the National Association of Local Councils (NALC) in 2012 who has given permission for its use by the District Council.

Reproduced with the kind permission of the National Association of Local Councils (NALC) in 2012.

## APPENDIX C

<b>Principle</b>	<b>Description</b>
<b>Preamble</b>	The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.
<b>Selflessness</b>	Holders of public office should act solely in terms of the public interest.
<b>Integrity</b>	Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
<b>Objectivity</b>	Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
<b>Accountability</b>	Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
<b>Openness</b>	Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
<b>Honesty</b>	Holders of public office should be truthful.
<b>Leadership</b>	Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever



## ASSESSMENT CRITERIA

The following criteria will be applied when considering any complaint that a member of Craven District Council or any member of a Town or Parish Council in the District has failed to observe the Members Code of Conduct.

### **A. Initial filtering of complaints**

Complaints can only be accepted if they relate to a members' conduct whilst they are acting, or give the impression that they are acting, in their official capacity. Complaints which clearly relate to a member acting in their private capacity can be rejected by the Monitoring Officer.

The Monitoring Officer will inform the complainant, the member and in the case of a complaint about a parish Councillor, the clerk to the parish council.

### **B. Circumstances where there is a discretion as to whether no action should be taken in respect of the complaint**

1. Where the complaint is about someone who is no longer a member of the District Council or a Town/ Parish Council.
2. Where the complaint is about someone who is a member of another authority the monitoring officer will consider whether to refer the complaint to the monitoring officer of that authority.
3. Where the information provided is not sufficient to enable the Monitoring Officer to make a decision as to whether the complaint should be referred for investigation.
4. Where the allegation is anonymous, unless it includes documentary or photographic evidence indicating an exceptionally serious or significant matter to justify further investigation. -
5. Where the complaint has already been the subject of an investigation or other action relating to the Code of Conduct. Similarly, where the complaint has been the subject of an investigation by another investigatory or regulatory authority. Where this applies and the matter complained of has already been the subject of an investigation then unless there is new information / evidence to consider the Monitoring Officer will consider whether there is anything more to be gained by further action being taken.
6. Where the complaint is about something that happened so long ago that there would be little benefit in taking action now or where the evidence in support of the allegation is so weak or old that it should not be relied upon.
7. Where the complainant discloses a potential breach of the Code by the

complaint is not serious enough to merit an investigation in circumstances where the resources needed to investigate are wholly disproportional to the allegation and there is no overriding public interest in carrying out an investigation. 'Public interest' is regarded as *"something which is of serious concern and benefit to the public"*.

8. Where the main reason for the complaint appears to be simply malicious politically motivated, 'tit for tat' or lacks public benefit.
9. Where the complaint suggests that there is a wider problem throughout the authority and it is appropriate to extend the action to other members who are not the subject of the complaint (D below may be appropriate)
10. Where it is apparent that the subject of the allegation has admitted making an error and the matter would not warrant a more serious sanction

**Circumstances where the Monitoring Officer may decide to refer the allegation or investigation**

Where the allegation discloses a potential breach of the Code of Conduct that the Monitoring Officer considers it sufficiently serious to justify the cost of an investigation.

**Circumstances where the complaint appears to be vexatious and/or repeated**

The Council is not required to deal with complaints which appear to be vexatious and/or repeated complaints. The approach adopted by the Monitoring Officer to the assessment of complaints will be consistent with what is set out in the Council's Complaints Procedure.

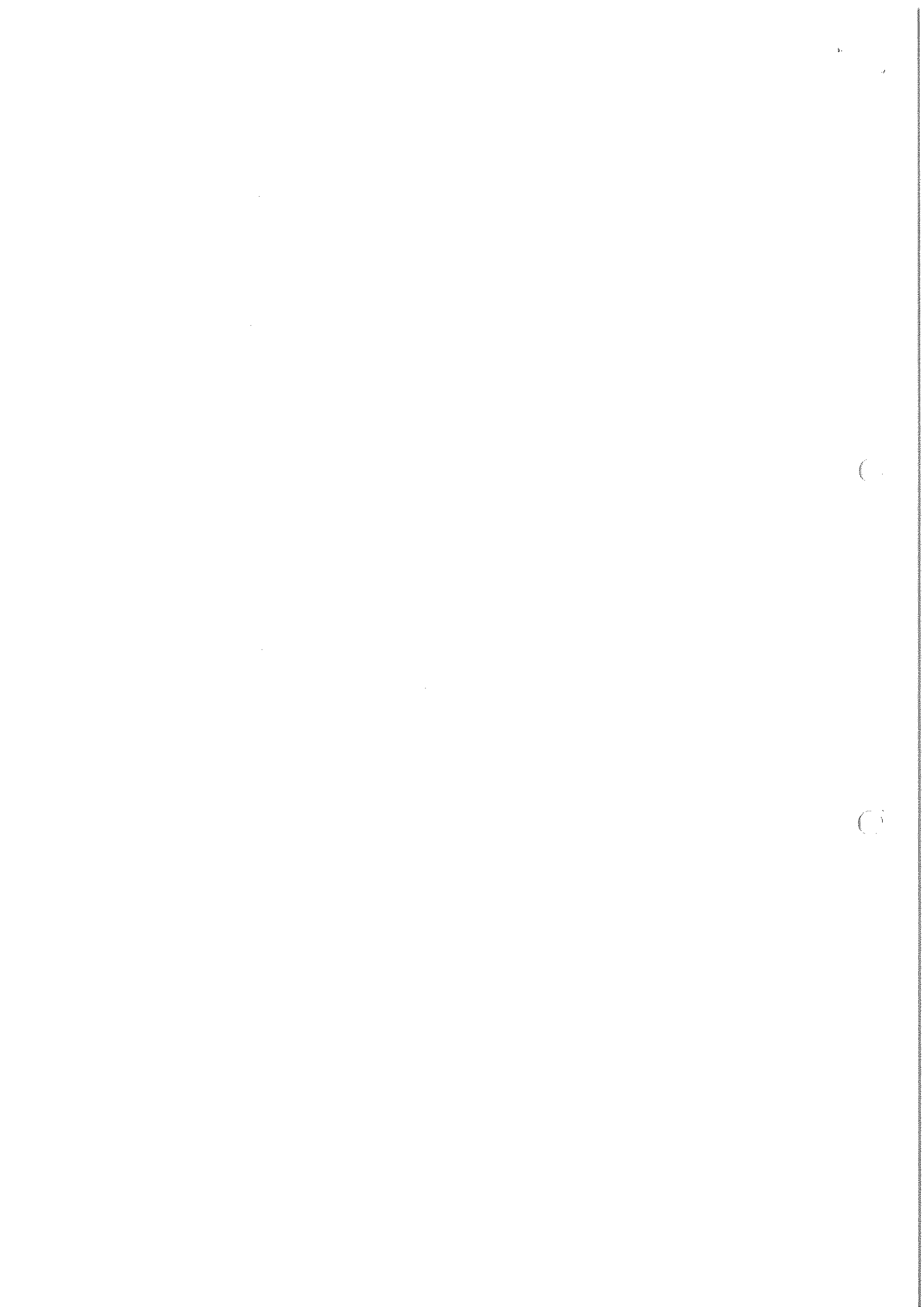
The Monitoring Officer may consult an Independent Person before notifying the complainant of her decision and may if she considers it appropriate to do so, refer the complaint to a sub-committee of the Standards Committee for determination.

**Circumstances where the Monitoring Officer may consider referring a complaint to the Monitoring Officer of another authority for determination**

1. The status of the member or the number of members about whom the complaint is made would make it difficult for the Monitoring Officer to deal with the complaint. For example, does the complaint concern the leadership of the Council, or in some case, the opposition, depending on the nature and circumstances of the complaint.
2. Complaints from the Chief Executive and/or the Monitoring Officer.
3. Complaints that give rise to a potential conflict of interest for the Monitoring Officer or other officers and suitable alternative arrangements

cannot be implemented to address that conflict.

4. Does the complaint give rise to significant or unresolved legal issues in respect of which external and/or judicial interpretation may be required?
5. Are there any exceptional circumstances which would prevent a local investigation taking place competently, fairly and in a reasonable period of time?
6. Is there substantial governance dysfunction in the authority or its Standards Committee? For example, might the public perceive that the authority has an interest in the outcome of a case?



## HEARINGS PROCEDURE

### Interpretation

1 'Member' means the member of the authority who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. It also includes the member's nominated representative.

2 'Investigator' means the Ethical Standards Officer (ESO) who referred the report to the authority, and includes his or her nominated representative. In the case of matters that have been referred for local investigation, references to the investigator mean the Monitoring Officer or other investigating officer, and his or her nominated representative.

3 'Committee' also refers to 'a standards sub-committee'.

4 'Legal advisor' means the officer responsible for providing legal advice to the Standards Committee. This may be the Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.

### Representation

5 The member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the committee, another person.

### Legal advice

6 The committee may take legal advice from its legal advisor at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the committee should be shared with the member and the investigator if they are present.

### Setting the scene

7 After all the members and everyone involved have been formally introduced, the Chair should explain how the committee is going to run the hearing.

### Preliminary procedural issues

8 The committee should then resolve any issues or disagreements about how the hearing should continue, which have not been resolved during the pre-hearing process.

### Making findings of fact

9 After dealing with any preliminary issues, the committee should then move on to consider whether or not there are any significant disagreements about the facts contained in the investigator's report.

10 If there is no disagreement about the facts, the committee can move on to the next stage of the hearing.

11 If there is a disagreement, the investigator, if present, should be invited to make any necessary representations to support the relevant findings of fact in the report. With the committee's permission, the investigator may call any necessary supporting witnesses to give evidence. The committee may give the member an opportunity to challenge any evidence put forward by any witness called by the investigator.

12 The member should then have the opportunity to make representations to support his or her version of the facts and, with the committee's permission, to call any necessary witnesses to give evidence.

13 At any time, the committee may question any of the people involved or any of the witnesses, and may allow the investigator to challenge any evidence put forward by witnesses called by the member.

14 If the member disagrees with most of the facts, it may make sense for the investigator to start by making representations on all the relevant facts, instead of discussing each fact individually.

15 If the member disagrees with any relevant fact in the investigator's report, without having given prior notice of the disagreement, he or she must give good reasons for not mentioning it before the hearing. If the investigator is not present, the committee will consider whether or not it would be in the public interest to continue in his or her absence. After considering the member's explanation for not raising the issue at an earlier stage, the committee may then:

- a continue with the hearing, relying on the information in the investigator's report;
- b allow the member to make representations about the issue, and invite the investigator to respond and call any witnesses, as necessary; or
- c postpone the hearing to arrange for appropriate witnesses to be present, or for the investigator to be present if he or she is not already.

16 The committee will usually move to another room to consider the representations and evidence in private.

17 On their return, the Chair will announce the committee's findings of fact.

#### **Did the member fail to follow the Code?**

18 The committee then needs to consider whether or not, based on the facts it has found, the member has failed to follow the Code of Conduct.

19 The member should be invited to give relevant reasons why the committee should not decide that he or she has failed to follow the Code.

20 The committee should then consider any verbal or written representations from the investigator.

21 The committee may, at any time, question anyone involved on any point they raise in their representations.

22 The member should be invited to make any final relevant points.

23 The committee will then move to another room to consider the representations.

24 On their return, the Chair will announce the committee's decision as to whether or not the member has failed to follow the Code of Conduct.

#### **If the member has not failed to follow the Code of Conduct**

25 If the committee decides that the member has not failed to follow the Code of Conduct, the committee can move on to consider whether it should make any recommendations to the authority.

#### **If the member has failed to follow the Code**

26 If the committee decides that the member has failed to follow the Code of Conduct, it will consider any verbal or written representations from the investigator and the member as to:

- a whether or not the committee should set a penalty; and
- b what form any penalty should take.

27 The committee may question the investigator and member, and take legal advice, to make sure they have the information they need in order to make an informed decision.

28 The committee will then move to another room to consider whether or not to impose a penalty on the member and, if so, what the penalty should be.

29 On their return, the Chair will announce the committee's decision.

**Recommendations to the authority**

30 After considering any verbal or written representations from the investigator, the committee will consider whether or not it should make any recommendations to the authority, with a view to promoting high standards of conduct among members.

**The written decision**

31 The committee will announce its decision on the day and provide a short written decision on that day. It will also need to issue a full written decision shortly after the end of the hearing. It is good practice to prepare the full written decision in draft on the day of the hearing, before people's memories fade.

	APPENDIX C
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