

NORTH HERTFORDSHIRE DISTRICT COUNCIL



10 March 2023

Our Ref Standards Committee 22 March 2023
Contact. Committee Services
Direct Dial. (01462) 474655
Email. committee.services@north-herts.gov.uk

To: The Chair and Members of the Standards Committee of North Hertfordshire District Council

District Councillors	Councillor Ruth Brown (Vice-Chair), Councillor Raj Bhakar, Councillor Clare Billing, Councillor Simon Bloxham, Councillor Val Bryant, Councillor James Denselow, Councillor David Levett, Councillor Ralph Muncer, Councillor Sean Prendergast, Councillor Claire Strong and Councillor Mandi Tandi
Substitutes: Councillors	Councillor Alistair Willoughby, Councillor George Davies, Councillor Gerald Morris, Councillor Ian Albert, Councillor Richard Thake and Councillor Carol Stanier
Parish Councillors	Parish Councillor Rebecca Elliott, and Parish Councillor Martin Griffin (Co-opted non-voting Members)
Independent Persons	Nicholas Moss OBE (Independent Person) Peter Chapman and John Richardson (Reserve - Independent Person) – advisory roles

NOTICE IS HEREBY GIVEN OF A

MEETING OF THE STANDARDS COMMITTEE

to be held in the

**COUNCIL CHAMBERS, DISTRICT COUNCIL OFFICES,
GERNON ROAD, LETCHWORTH GARDEN CITY, SG6 3JF**

On

WEDNESDAY, 22ND MARCH, 2023 AT 7.30 PM

Yours sincerely,

Jeanette Thompson
Service Director – Legal and Community

****MEMBERS PLEASE ENSURE THAT YOU DOWNLOAD ALL
AGENDAS AND REPORTS VIA THE MOD.GOV APPLICATION
ON YOUR TABLET BEFORE ATTENDING THE MEETING****

Agenda Part I

Item		Page
1. APOLOGIES FOR ABSENCE	Members are required to notify any substitutions by midday on the day of the meeting. Late substitutions will not be accepted and Members attending as a substitute without having given the due notice will not be able to take part in the meeting.	
2. MINUTES - 22 JUNE 2022	To take as read and approve as a true record the minutes of the meeting of the Committee held on the 22 June 2022.	(Pages 5 - 8)
3. NOTIFICATION OF OTHER BUSINESS	Members should notify the Chair of other business which they wish to be discussed at the end of either Part I or Part II business set out in the agenda. They must state the circumstances which they consider justify the business being considered as a matter of urgency. The Chair will decide whether any item(s) raised will be considered.	
4. CHAIR'S ANNOUNCEMENTS	Members are reminded that any declarations of interest in respect of any business set out in the agenda, should be declared as either a Disclosable Pecuniary Interest or Declarable Interest and are required to notify the Chair of the nature of any interest declared at the commencement of the relevant item on the agenda. Members declaring a Disclosable Pecuniary Interest must withdraw from the meeting for the duration of the item. Members declaring a Declarable Interest, wishing to exercise a 'Councillor Speaking Right', must declare this at the same time as the interest, move to the public area before speaking to the item and then must leave the room before the debate and vote.	
5. PUBLIC PARTICIPATION	To receive petitions, comments and questions from the public.	
6. STANDARDS MATTERS REPORTS REPORT OF THE MONITORING OFFICER	To update the Committee on standards issues.	(Pages 9 - 14)

7. REVIEW OF THE COMPLAINTS HANDLING PROCEDURE (Pages
REPORT OF THE SERVICE DIRECTOR – LEGAL & COMMUNITY/ 15 - 72)
MONITORING OFFICER

The report covers a further review of the Complaints Handling Procedure, as requested in June 2022. These are minor changes to the Procedure to cover issues that have arisen since October 2021, when it was last updated.

The report also briefly covers the updated Protocol with the Police regarding referrals to them for potential offences under the Localism Act 2011 (in respect of Disclosable Pecuniary Interests).

Public Document Pack Agenda Item 2

NORTH HERTFORDSHIRE DISTRICT COUNCIL

STANDARDS COMMITTEE

MEETING HELD IN THE COUNCIL CHAMBER, DISTRICT COUNCIL OFFICES,
LETCWORTH GARDEN CITY
ON WEDNESDAY, 22ND JUNE, 2022 AT 7.30 PM

MINUTES

Present: *Councillors: Councillor Judi Billing MBE (Chair), Councillor Ruth Brown (Vice-Chair), Claire Strong, David Levett, Raj Bhakar, Ralph Muncer and Val Bryant*

Town/Parish/Community Councillors: Parish Councillor Martin Griffin

Nicholas Moss OBE (Independent Person), non-voting advisory roles

In Attendance: *Isabelle Alajooz (Deputy Monitoring Officer), James Lovegrove (Committee, Member and Scrutiny Officer)*

22 APOLOGIES FOR ABSENCE

Audio recording – 1 minute 59 seconds

Apologies for absence were received from Councillors Simon Bloxham, James Denselow, Mandi Tandi and Sean Prendergast.

Apologies for absence were also received from Parish Councillor Rebecca Elliot.

Having given due notice, Councillor George Davies substituted for Councillor Simon Bloxham.

Councillor Clare Billing was absent.

23 MINUTES - 19 OCTOBER 2021

Audio Recording – 2 minutes 50 seconds

Councillor Judi Billing, as Chair, proposed and Councillor Claire Strong seconded and, following a vote, it was:

RESOLVED: That the Minutes of the Meeting of the Committee held on 19 October 2021 be approved as a true record of the proceedings and be signed by the Chair.

24 NOTIFICATION OF OTHER BUSINESS

Audio recording – 4 minutes 12 seconds

There was no other business notified.

25 CHAIR'S ANNOUNCEMENTS

Audio recording – 4 minutes 17 seconds

(1) The Chair welcomed new Members of the Standards Committee.

- (2) The Chair made a statement regarding the passing of the former Executive Member for Housing and Environmental Health Councillor Gary Grindal, following his funeral which had taken place earlier in the day.

26 PUBLIC PARTICIPATION

Audio recording – 5 minutes 41 seconds

There was no public participation at this meeting.

27 STANDARDS MATTERS REPORT

Audio recording – 5 minutes 47 seconds

The Deputy Monitoring Officer presented the report entitled Standards Matters and advised Members of the following:

There had been 52 complaints received in 2021, 24 of which were from an individual.

- So far in 2022 there had been 24 complaints and 19 of these were from the same individual.
- Point 8.5 of the report highlighted, through a compare and contrast table, the difference between the Complaints Handling Procedure as approved at the Committee meeting on 19 October 2021 and the subsequent guidance issued by the Local Government Association. It was proposed that the procedure be kept as is for now, and reviewed for effectiveness after 1 year.
- Code of Conduct training had been provided to District Councillors and 12 of the required 17 Members attended one of the sessions.
- Parish Councils had also received separate Code of Conduct training for their Members.
- The recording of these sessions will be available for Members who were not available to attend in person.

The following Members asked questions and took part in the discussion:

- Councillor David Levett
- Councillor Ruth Brown
- Councillor Ralph Muncer
- Councillor Judi Billing
- Councillor Carol Stanier

In response to questions, the Deputy Monitoring Officer advised:

- Regarding Code of Conduct complaints, there was a procedure for dealing with vexatious complaints, but if a complaint is made it has to be triaged in order to identify if there is a genuine complaint. Work has to be carried out to assess whether further action is required.
- There is a separate procedure for dealing with non-Code of Conduct complaints.
- In certain circumstances complaints can be refused, but these still have to be triaged to see if the complaint is legitimate.
- She will speak with the Monitoring Officer to see if dates of complaints received can be added to future reports.
- A list of non-attendees at the Code of Conduct training will be shared with the Group Leaders and there will be a deadline set for when this must be completed.
- It is a requirement of the Code for the training to have been completed, so failure to complete this within the timeframe would be a technical breach of the Code.

- Training was offered remotely to the Parish Councils and their Members and the attendance at the two sessions was good. It has now been made available offline for any Members who were unable to attend the live sessions.
- North Herts Council cannot make the training compulsory for the Parish Councils in the district, but there is constant liaison between both parties regarding this.

In response to questions Mr Nicholas Moss OBE, the Independent Person on the Committee, advised:

- He was confident complaints were dealt with in an appropriate way and that anyone is able to lodge a complaint.
- Regarding the individual mentioned, the procedure has been followed for each complaint lodged and the complaints received are now verging on excess.
- One or two of the complaints had some limited validation and therefore it was important that the triage took place. It was vital to balance the need to investigate against the cost and time taken in dealing with unnecessary complaints.
- There were two separate aspects of non-attendance at training. The first is at the District Council, which can discuss the issue within the Standards Committee and develop a remedy. The second is the Parish Councils, which are separate entities, and most of these know what to do and are committed to working well.

Councillor Judi Billing, as Chair, proposed and Councillor Ruth Brown seconded and following a vote, it was:

RESOLVED:

- (1) That the Committee noted the content of the report.
- (2) That the Committee considered the points made at 8.3-8.6 and will review the Complaints Handling Procedure at its meeting on 23 March 2023.
- (3) That the Committee considered/noted the Government's response to the Committee on Standards in Public Life on Local Government Ethical Standards (Appendix A).

REASON FOR DECISION: To ensure good governance within the Council.

The meeting closed at 7.58 pm

Chair

This page is intentionally left blank

STANDARDS COMMITTEE 22 March 2023
--

PART 1 – PUBLIC DOCUMENT	AGENDA ITEM No.
---------------------------------	------------------------

TITLE OF REPORT: STANDARDS MATTERS REPORT

REPORT OF: SERVICE DIRECTOR: LEGAL & COMMUNITY / MONITORING OFFICER

COUNCIL PRIORITY: A brighter future together

1. EXECUTIVE SUMMARY

- 1.1 The report updates Members of the Committee on standards issues locally and nationally. It contains a summary of the complaints received since the last report was presented with as well as any other relevant issues that have arisen between Committee meetings on national standards issues and training.

2. RECOMMENDATIONS

- 2.1. That the Committee notes the content of the report and makes any suggestions on future actions.

3. REASONS FOR RECOMMENDATIONS

- 3.1 To ensure good governance within the Council.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 None.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1 Group Leaders and the Standards Committee Chair is kept informed of Monitoring Officer and standards matters issues monthly, during briefing sessions. The Monitoring Officer also holds quarterly meetings with the Independent Person, Reserve Independent Persons ('IPs') and the Chair and Vice Chair of Committee. Any relevant standards matters comments from the IPs meetings are part of the regular briefings with Group Leaders.

6. FORWARD PLAN

- 6.1 This report does not contain a recommendation on an Executive key decision and has therefore not been referred to in the Forward Plan.

7. BACKGROUND

- 7.1 Within its terms of reference the Standards Committee has a function "*to promote and maintain high standards of conduct by Members and Co-Opted Members of the authority*". The Committee will therefore receive update reports from the Monitoring Officer on matters that relate to, or assist with, areas of Member conduct.

8. RELEVANT CONSIDERATIONS

Local

North Hertfordshire complaints/ issues update

- 8.1 The Committee was last updated in June 2022 regarding the numbers of complaints/ summary and outcomes. By the end of 2022, the Council had received 30 complaints, of which two were informally made and resolved internally through action and apology. Of those 30 complaints, 20 were from the same complainant. So far for 2023 we have received 2 complaints, which is a vast improvement on previous years.
- 8.2 As per normal practice a summary of the complaints and decisions against Councillors is provided. This reporting below is compliant with the Committee on Standards in Public Life ('CSPL') good practice recommendations. Note, these are considered to be confidential unless they have reached a public stage of the Procedure and been concluded. The complaints are as follows:

Complaint about: Parish/ Town or District Councillor	Summary of complaint	Action <i>NB Independent Person involved in all stages of these complaints.</i>
3/2021 complaint against a Great Ashby Community Councillor.	Various allegations.	Suspended 9 October 2021 under the 14-month rule ¹ , following the subject member ceasing to be a Councillor. No re-election or co-option during that period and the complaint therefore lapsed with effect from 8 December 2022.
Concluded complaints from 2022 – were reported in June 2022		Standards Committee Standards matters report 22 June 2022
9/2022 complaint against District Councillor Elizabeth Dennis-Harburg, by Cllr Morgan Derbyshire.	Alleged to have releasing confidential information from a private internal Council meeting and emails to the press in January 2022.	Externally investigated. Monitoring Officer, in consultation with the Independent Person, accepted an apology in accordance with the Complaints Handling Procedure. Decision notice details can be found via this link: Decision notice 5.12.22
25/2022 complaint against District Councillor by another District Councillor.	Alleged Councillor use of Council resource to promote self.	Withdrawn by complainant.

¹ (ie under the Procedure, if a Councillor was re-elected or co-opted during that period the suspension would have been lifted, and complaint considered)

26/2022 complaint against a District Councillor by a member of staff.	Informally raised regarding comments at an internal meeting.	Monitoring Officer raised with the Councillor and an apology sent to the relevant staff.
27/2022 complaint against District Councillor by a member of the public.	Using the Council logo and branding on his social media page for videos.	No further action. Concluded genuine error and guidance provided to Member.
28/2022 District Councillor	Failure to complete register of interest within 28 days.	Monitoring Officer raised. No further action warranted, based on completion and explanation given.
29/2022 complaint against District Councillor by a member of the public.	Informal regarding licensing matter and alleged lobbying. Was asked to speak to the Councillor.	Monitoring Officer having consulted the IP, spoke to the Councillor, and provided advice.
30/2022 complaint against Parish Councillors by a member of the public.	Ongoing.	Ongoing. Clarification sought from the complainant.
1/2023 complaint against a Town Councillor by Councillor	Alleged failure to declare an interest.	No further action.
2/2023 complaint against a District Councillor by Councillor	Complaint in relation to a Planning Control Committee meeting and alleged interests.	No further action as no interests identified.

Councillor training & IP training

- 8.3 Councillor training was provided in May 2022 in four sessions to District Councillors (one remote, one in person) and offered to local councillors remotely. The former was compulsory for new Councillors, however, not for the latter. One of the District Council sessions was recorded and made available to those that could not attend the live sessions. All relevant District Councillor attended the session other than one. That Councillor was a returning Councillor and had attended the training in 2021 – therefore no further action was taken on that issue.
- 8.4 The Local Government Associations training material was used and adapted as previously reported through to the Committee in June. Further training will be offered as part of the induction to Councillors in or around May/ June of 2023.
- 8.5 The IPs attended the annual IPs training provided by Paul Hoey in June 2022. This was a good opportunity to be updated on national issues and share good practice.

National standards matters

- 8.5 As Councillors will see from the CSPL Blog in December, the Chair's view that there is a need to pay proactive attention to standards, and to update and strengthen the structures centrally and locally:

- 8.6 As part of the 2022 Monitoring Officer conferences, the National Association of Local Councils ('NALC') have been promoting their 'Civility & Respect' agenda and the Civility and Respect Project team established by NALC, One Voice Wales, the Society of Local Council Clerks (SLCC) and county associations. They have revised the Local Government Association (LGA) Code of Conduct supporting guidance "to better reflect the sector's needs". The Civil and Respect Project team said the supporting guidance was "a beneficial document but not tailored to the nuances of local (parish and town) councils".
<https://www.nalc.gov.uk/our-work/civility-and-respect-project#code-of-conduct-supporting-guidance>

9. LEGAL IMPLICATIONS

- 9.1 The terms of reference of the Standards Committee include, at paragraph 7.5.1 of their terms of reference "to promote and maintain high standards of conduct by Members and Co- Opted Members of the authority".

10. FINANCIAL IMPLICATIONS

- 10.1 There are no capital or revenue implications arising from the content of this report.

11. RISK IMPLICATIONS

- 11.1 Appropriate policy frameworks help to ensure good governance of the Council and therefore reduce risk of poor practice or unsafe decision making.

12. EQUALITIES IMPLICATIONS

- 12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. There are no direct equalities implications from this report.
- 12.2 Good governance and high ethical standards of conduct ensure that local government decisions are taken in the public interest. The review of the best practice recommendations and appropriate changes will ensure that NHDC will continue demonstrate due regard to the objectives of the Public Sector Equality duty.

13. SOCIAL VALUE IMPLICATIONS

- 13.1 The Social Value Act and "go local" policy do not apply to this report as this is not a procurement or contract.

14. ENVIRONMENTAL IMPLICATIONS

- 14.1 There are no financial implications to this report.

15. HUMAN RESOURCE IMPLICATIONS

- 15.1 None other than again highlighting the ongoing resource implications for the complaints received.

16. APPENDICES

15.1 None.

17. CONTACT OFFICERS

16.1 Jeanette Thompson Service Director: Legal and Community (& Monitoring Officer):
Jeanette.thompson@north-herts.gov.uk ext. 4370

18. BACKGROUND PAPERS

17.1 None other than those referred to/ linked above.

This page is intentionally left blank

STANDARDS COMMITTEE 22 March 2023
--

PART 1 – PUBLIC DOCUMENT	AGENDA ITEM No.
---------------------------------	------------------------

TITLE OF REPORT: **REVIEW OF COUNCILLOR COMPLAINTS HANDLING PROCEDURE**

REPORT OF: **SERVICE DIRECTOR: LEGAL & COMMUNITY / MONITORING OFFICER**

COUNCIL PRIORITY: Sustainability

1. EXECUTIVE SUMMARY

- 1.1 The report covers a further review of the Complaints Handling Procedure, as requested in June 2022. These are minor changes to the Procedure to cover issues that have arisen since October 2021, when it was last updated. The proposed amendments are summarised and set out under 8.4 of this report (and shown as tracked changes in Appendix B).
- 1.2 The report also briefly covers the updated Protocol with the Police regarding referrals to them for potential offences under the Localism Act 2011 (in respect of Disclosable Pecuniary Interests). The Protocol is at Appendix C.

2. RECOMMENDATIONS

- 2.1. That the Standards Committee considers and adopts the updated Councillor Complaints Handling Procedure at Appendix A¹;
- Or in the event that further amendments are required, following discussion at the meeting:***
- 2.2. That the Standards Committee delegates to the Service Director: Legal & Community the authority to make any consequential amendments to the Procedure, in consultation with the Chair of Standards Committee, Independent Person and Reserve Independent Persons.
- 2.3. That the Committee notes the updated Protocol recently signed with the Hertfordshire Constabulary regarding referrals/ complaints relating to Disclosable Pecuniary Interests (Appendix C).

3. REASONS FOR RECOMMENDATIONS

- 3.1 To ensure an updated Procedure is in place and to maintain effective arrangements within the Council.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The current Procedure could be retained; however, this would not be the most effective option.

¹ Tracked change version shown as App B

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1 Consultation has taken place with the Chair, Chair, Independent Person, and Reserve Independent Persons and on redrafts before this came to the Committee.

6. FORWARD PLAN

- 6.1 This report does not contain a recommendation on an Executive key decision and has not been referred to in the Forward Plan.

7. BACKGROUND

- 7.1. As Members are aware, the Committee approved an updated Procedure on 19 October 2021 [\[CLICK HERE\]](#). The Procedure was then compared with the LGA Guidance on the Code of Conduct Complaints Handling in June 2022 [\[CLICK HERE\]](#), and the Committee resolved to allow the Procedure to 'bed in' and review the Procedure at its meeting on 22 March 2023.

- 7.1. Since that time there have been a number of complaints (40), and in the light of these and a recent LGO decision on Teignbridge District Council's complaint handling arrangements², North Herts Procedure has been reviewed.

8. RELEVANT CONSIDERATIONS

- 8.1. On 22 June the Committee resolved:

(2) That the Committee considered the points made at 8.3-8.6 and will review the Complaints Handling Procedure at its meeting on 23 March 2023.

<https://srvmodgov01.north-herts.gov.uk/documents/s19389/Standards%20Matters%20report%20final.pdf>

- 8.2. The Procedure has been reviewed after being in place for just over a year/ having considered further complaints under the process. There is no recommendation to adopt the LGA complaints procedure, which for the reasons outlined in June 2022, is as much a guidance to the procedure for professionals, as an actual one for the public. The recommendation at 2.1 follows the principle that this Council retains its own Complaints Handling Procedure with the amendments identified in tracking in Appendix B and summarised at 8.4 below.

- 8.3. Otherwise, the Committee should note that in January, the LGO published its conclusions regarding a flawed procedure that Teignbridge District Council was said to have followed. The LGO raised a number of issues regarding the case, many specific to the case concerned; however, the following is relevant generally and where relevant have been considered in terms of North Herts processes and the Procedure:

- **Proceeding with a formal complaint without a formal written complaint** (*note North Herts requires this – albeit there is a suggested amendment to section 3.1).*
- **Having a record of complaints being made in writing** (*North Herts has a confidential complaints spreadsheet record of all complaints and outcomes).*

² <https://www.lgo.org.uk/information-centre/news/2023/jan/council-investigation-into-member-s-conduct-flawed-says-ombudsman>

- **Having a clear written record of consultation with an Independent Person to include their response** (*North Herts has a supporting assessment decision document; however, the document has been reviewed and updated as a precedent*).
- **recording when the written complaint has been shared with the councillor complained of, or a clear written record as to the reasons why not** (*North Herts template notification letters set out that details of the complaint should be included*).
- **ensuring that where an investigation expands to consider further allegations arising during the investigation, it keeps a clear written record of and a record that this has been explained to the Councillor complained about** (*that will be considered as part of any future complaint where appropriate, although wording included at 6.5*); and
- **that in all appropriate cases it considers the rights of the councillor complained about to free expression under Article 10 of the Human Rights Act, as part of any investigation report and subsequent committee decision making** (*North Herts takes into consideration relevant LGA guidance on the code of conduct and case law*).

8.4. In the light of the cases received, and the LGO decision the following (main) amendments have been proposed (all otherwise identified in Appendix B as tracking):

- **Adding “in writing..” – to 3.1.**
- **Providing examples as to when the Monitoring Officer may not believe it appropriate to consider a complaint ‘in house’ – new at 3.2.3.**
- **Repeat complaints of the same or similar nature** – whilst this is potentially covered in the flowchart that this will result in no further action, it is made clearer that that if these are received, no further engagement with a complainant will be necessary, and the complainant potentially dealt with under the Councils unreasonable customer arrangements - new section 3.6.
- **If further allegations/ an expanded complaint is received that this will be made clear to the Councillor subject to the complaint** – wording in section 6.5.
- **Supportive evidence, post Investigation in relation to hearings** - making it clearer that if a Councillor cannot attend a hearing, that evidence would be expected to be presented to support that (section 8.4).
- **Alternative remedy available throughout** – making it clearer that this would potentially be available throughout the process (section 8.3).
- **Minor typographical changes/ rewording** - have been made throughout, to refer to Councillors and reference to North Herts Council, rather than NHC, which was a change to the corporate approach to avoid confusion with North Herts College.

8.5. The version Appended at A to this report is the ‘**clean**’ version – and tracking is not shown. Appendix B shows the potential changes that have been made as tracked changes. The current version is not attached, however can be accessed through this link [North Herts Councillor Complaints Handling Procedure 10.21](#)

Protocol with Herts Police

- 8.6. As the Committee is hopefully aware, there has been a Protocol with Herts Constabulary since on or around 2016. The Protocol outlines the referral process for complaints relating to alleged Disclosable Pecuniary Interest offences as set out under section 34 Localism Act 2011. This was recently updated by the Police and is appended at C for information.

9. LEGAL IMPLICATIONS

- 9.1 The Standards Committee has a function under section 7.5.11 to review and approve the Council's arrangements for dealing with complaints about Member conduct (subject to: minor amendments delegated to the Monitoring Officer in consultation with the Independent Person). The Service Director also has the following delegation under section 14.6.8(a) (v), namely: "To authorise changes to the Governance Policies/ Protocols/ Codes or Guidance (as the case may be) that fall within the remit of the Monitoring Officer and/ or Legal Services (and are not already covered by 14.6.9 to reflect decisions of the Council / Committees and the Cabinet, or minor ones relating to changes of fact and law, or if required for practical purposes, in order to ensure the proper administration of the Council, subject to regular notification to all Members of such changes."
- 9.2 Under s28(6) of the Localism Act 2011, a relevant authority must have arrangements in place under which allegations against Councillors can be considered.

10. FINANCIAL IMPLICATIONS

- 10.1 There are no capital or revenue implications arising from the content of this report at this stage. Complaints are dealt with by the Monitoring Officer and Deputies by and large with some referrals externally should the Procedure indicate that this is appropriate or because of resource implication within the Directorate in dealing with this in-house.

11. RISK IMPLICATIONS

- 11.1 Appropriate policy frameworks help to ensure good governance of the Council and therefore reduce risk of poor practice or unsafe decision making.

12. EQUALITIES IMPLICATIONS

- 12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. There are no direct equalities implications from this report.
- 12.2 Good governance and high ethical standards of conduct ensure that local government decisions are taken in the public interest.

13. SOCIAL VALUE IMPLICATIONS

- 13.1 The Social Value Act and "go local" policy do not apply to this report, as this is not a procurement or contract.

14. ENVIRONMENTAL IMPLICATIONS

- 14.1 There are no environmental implications to this report.

15. HUMAN RESOURCE IMPLICATIONS

- 15.1 The work outlined within the report is within the caseload of the Monitoring Officer and the legal team. Implications are otherwise touched on under financial implications above.

16. APPENDICES

- 16.1 Appendix A Complaints Handling Procedure (as amended) 'clean' version;
Appendix B Complaints Handling Procedure (as amended) with potential changes tracked.
Appendix C Protocol with the Hertfordshire Constabulary

17. CONTACT OFFICERS

- 17.1 Jeanette Thompson Service Director: Legal and Community (& Monitoring Officer):
Jeanette.thompson@north-herts.gov.uk ext. 4370

18. BACKGROUND PAPERS

- 18.1 None other than those referred to/ linked to in the report or associated documents.

This page is intentionally left blank

Complaints Handling Procedure for matters relating to the Councillors' Code of Conduct

1. Introduction

- 1.1 These Procedures are “arrangements” and set out how a formal complaint against a Councillor can be made and will be handled. This covers complaints that an elected or co-opted Councillor of North Herts Council (*or of a Parish/ Town or Community Council within the North Hertfordshire area*) has failed to comply with that authority's Councillors' Code of Conduct. This does not cover complaints against North Herts Council or local Councils as a whole, nor employees of such Councils. Note that in respect of the latter, North Herts Council has no legal remit to consider such complaints.
- 1.2 Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a Councillor or co-opted Councillor of North Herts Council (*or of a Parish/ Town or Community Council within the authority's area*), who are acting or appear to be acting as a Councillor, has failed to comply with the applicable Councillor's Code of Conduct, so that they can be, considered, investigated if appropriate and decisions made on such allegations. Any complaint will be assessed against the criteria set out in the flow chart under **Stage 1** and **Stage 2** (Appendix 1), and where this is a complaint against a local Councillor (Parish, Town or Community Councillor) *you are strongly encouraged to try to resolve this locally in the first instance.*

2. The Code of Conduct

- 2.1 North Herts Council has adopted a Code of Conduct for Councillors, which can be found in Section 17 of the Council's Constitution [[CLICK HERE](#)]. .
- 2.2 Each Parish / Town or Community Council is also required to adopt a Code of Conduct. These should be available on the Parish / Town or Community Council's website and/or by request to the relevant council's Parish Clerk.

3. Making a complaint

- 3.1 If you wish to make a complaint, the '[Complaining about a Councillor](#)' page provides details as to how you can do so and what information you should provide. ***Please note that the complaint must relate to a Councillor's role, they should still be a Councillor and this is not the correct process to use if you are unhappy with a Council decision (which would, at District level, be the [Comments, Compliments and Complaints Policy](#). At Town, Parish and Community Council would be their local policy).***

The information you should provide in writing in the complaint is:

- 3.1.1 which Councillor you are complaining about and the name of the Council of which they are a member;
- 3.1.2 their alleged misconduct and dates; and
- 3.1.3 how you consider their alleged misconduct breaches the relevant authority's Councillor Code of Conduct.

*PLEASE NOTE that, while you may disapprove of the way you believe a Councillor has acted, there are a number of issues that would preclude further action, as set out in **Stages 1-2** as it will not be in the public interests to pursue some complaints that the Council cannot legally or should not deal with – see APPENDIX 1.*

Complaints can be made by eform:

[Making a complaint about a Councillor](#)

Or in writing to:

The Monitoring Officer, North Hertfordshire District Council, District Council Offices, Gernon Road, Letchworth Garden City SG6 3JF

- 3.2 The Monitoring Officer is a senior North Herts Council officer responsible for overseeing the administration of the Council's complaints handling arrangements against District and local Councillors. Under this Procedure, however, reference to the Monitoring Officer during the assessment or investigation is deemed to include a Deputy Monitoring Officer, including an external one who may undertake any of the steps set out in this process. Complaints may be referred to an external Deputy Monitoring Officer to consider if further action is warranted. Circumstances in which a referral to an external Deputy Monitoring Officer or Investigator might arise include when:
 - 3.2.1 The complaint comes from a senior officer of the Council, such as the Managing Director, Chief Finance Officer or the Monitoring Officer and it would be inappropriate for the Monitoring Officer or an internal Deputy to investigate.
 - 3.2.2 The complaint is about a high-profile Councillor such as the Leader, or an Executive Member of North Herts Council and it would be inappropriate for the Monitoring Officer or an internal Deputy to investigate.
 - 3.2.3 There are other complaints that the Monitoring Officer considers would not be appropriate for them to investigate (such as when there is a cross complaint against a senior officer, or the Monitoring Officer and Deputies are all witnesses to the alleged behaviour).

- 3.3 Once a complaint with the information detailed under 3.1 has been received by North Herts Council, the matter will be considered to be a formal complaint.
- 3.4 A complainant will need to provide their name and a contact address, preferably also with an email address and telephone number, so that North Herts Council can acknowledge receipt of the complaint and keep a complainant informed of its progress. It is possible to keep a complainant's name and locality confidential, if this is requested, although it is likely to hamper and, ultimately, prevent any effective assessment or investigation. It is also in the interests of transparency and fairness, that a Councillor accused of misconduct, generally has a right to know who has made the allegations. A complainant can ask for their name and contact to remain confidential on the complaint form, with an explanation for the request. The Monitoring Officer may agree to such a request where they considers that provision of contact details is likely to result in intimidation or violence. If the Monitoring Officer agrees to the request they will not provide the complainant's name and contact details to the Councillor without the complainant's prior consent. Exceptions to this will be if this is referred to the Police, or if other regulatory bodies (for example the auditors or external fraud investigators). In these circumstances a request for confidentiality would be a matter for those bodies to consider.
- 3.5 North Herts Council does not normally consider/ investigate anonymous complaints, unless there is a clear public interest in doing so. In any event, North Herts Council's ability to do would be severely limited, as it is impossible in such situations to request further information from a complainant or provide confirmation of any decision.
- 3.6 Where a repeat or similar complaint has been made (which has not been upheld), no further action will be undertaken, and consideration given to the Council's unreasonable customer arrangements where such complaints continue to be made.
- 3.7 The Complaints Handling Procedure Flowchart at Appendix 1 includes the aspects of the complaint and assessment criteria that the Monitoring Officer takes into account before deciding whether to consider the complaint (**Stage 1-2**) and assess the complaint (**Stage 3**).

4. Who is the Independent Person?

- 4.1 The Independent Person is a statutory office holder appointed by North Herts Council. A description of their role is set out in Appendix 4.
- 4.2 The Procedural arrangements must include at least one appointed Independent Person. North Herts Council has an Independent Person whose views will be sought on all formal allegations (as part of the assessment of the complaint – before any investigation), as well as seeking their views (as it legally must) at any other stage during an investigation or determination of a formal complaint. North Herts Council also currently has two Reserve Independent Persons who can be contacted by a

Councillor who is subject to a formal complaint for procedural advice only, or who may be involved at other stages if the Independent Person is unable to participate. This will be set out in any formal letter to the complainant and Councillor confirming that a complaint has been received.

- 4.3 References to the Independent Person in this document include the Independent Person and the Reserve Independent Persons, unless otherwise stated.

5. How will my formal complaint be handled?

- 5.1 The complaint will normally be acknowledged within 5 working days through the contact information provided by the complainant.

- 5.2 The Monitoring Officer will review every complaint received and will consult the Independent Person. The following Stages will be applied. If it is a Parish, Town, or Community Councillor complaint, then as per Appendix 1, confirmation will be sought from the complainant that they have tried to resolve this issue at local level. As a first step, the complainant will be referred to a local resolution unless this is impractical or unreasonable for either party to do so. This does not prevent a formal complaint being progressed at a later date if the first step is unsuccessful, but it encourages a quicker localised resolution (as this formal process can take in excess of 6 months from receipt of a formal complaint to conclude).

- 5.3 Where a Parish, Town, or Community Councillor complaint cannot be resolved locally or where it relates to a North Herts Council Councillor, the tests under Appendix 1 (**Stage 1-2**) will be considered and at **Stage 3** an assessment decision taken, which can be one of the following:

5.3.1 no further action;

5.3.2 informal action (including mediation or training or suggested apology);

5.3.3 further investigation;

5.3.4 referral to the Standards Sub-Committee.

The Monitoring Officer does not have to take the steps in 5.3.1 to 5.3.4 in the order in which they are listed.

- 5.4 This assessment decision will normally be taken within 28 working days of receipt of the formal complaint and considered in accordance with the Assessment Criteria in Appendix 1.
- 5.5 Where the Monitoring Officer requires additional information in order to come to a decision, they will request this information.

- 5.6 Where the complaint has moved to **Stage 2**, a copy of the complaint and any relevant documentation will be forwarded to the Councillor for consideration and comment. The Councillor will be given 14 days to respond unless there are reasons to extend this deadline, for example for holidays, sick leave, a criminal or a whistleblowing investigation. The Councillor is expected to co-operate with Monitoring Officer and not to attempt to interfere with impede/obstruct any part of the process, or intimidate any person involved in this process. Failure to co-operate can be a breach of the Code, in addition to the original complaint.
- 5.7 If the complaint relates to a Parish/ Town or Community Councillor, see 5.2 above; and is then considered under **Stages 1-2**, the Monitoring Officer may also seek the views of the relevant Clerk, in confidence, before coming to an assessment decision under **Stage 3**. Such views would again be expected within 14 days (unless there are reasons to extend the deadline on grounds such as those at 5.6 above).
- 5.8 Once the Councillor's response (and any Clerk's response) has been received and/or the deadline has expired for such comments and none has been forthcoming, the Monitoring Officer will consult the Independent Person. This consultation may result in the request for further information from any relevant party, and further consultation will take place. Following this the Monitoring Officer will make one of the assessment decisions set out under 5.3. above (**Stage 3**).
- 5.9 When the Monitoring Officer has taken a decision, they will inform the complainant and the Councillor (and in cases involving a Parish/ Town or Community Councillor) the Clerk (or Chairman as may be appropriate) of the decision and the reasons for that decision. These will remain confidential.
- 5.10 Complainants should note that this will be the assessment decision as to whether there appears to be a case to answer and whether to investigate, or consider alternative action. Where there is to be an investigation, a complainant's co-operation will be required, including, if necessary, at any hearing, which is likely to be held in public. The complainant would be expected to attend such a hearing and provide their evidence/ and or answer questions relating to the complaint.
- 5.11 Where the Monitoring Officer seeks to resolve the complaint informally, without the need for a formal investigation (as per 5.3.2) they will consult the Independent Person on such action. Informal resolution may involve the Councillor acknowledging that their conduct was unacceptable and offering an apology, or other remedial action. Where the Councillor makes a reasonable offer of informal resolution, but the complainant is not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint merits any further action. Equally, if a Councillor refuses to engage with such an informal approach (for example by not apologising, or attending training), the Monitoring Officer may reconsider the decision and decide whether to refer the complaint for investigation, or directly to the Standards Sub-Committee for the original complaint and (and failure to co-operate) to be determined.

- 5.12 If the complaint identifies potential criminal conduct or breach of other regulation, the Monitoring Officer is likely to refer it to the Police or other regulatory agency/ies. If the complaint relates to an alleged Disclosable Pecuniary Interest offence¹, it will be dealt with under an agreed Protocol with Hertfordshire Constabulary. The Police (and finally the Director of Public Prosecutions) will be the relevant body that determines whether further action should be taken on such a complaint. The Council cannot influence any decisions taken by the Police or other regulatory body, would have no role in their decision, and would not wish to prejudice such bodies' consideration or enquiries other than to co-operate with them. **Please note** that where a complainant wishes to withdraw the complaint the Monitoring Officer is unlikely to take further action on the matter, with the exception of a referral to Police/ regulatory body/ies - where a withdrawal of a complaint would be for them to consider. If the complainant wishes to withdraw the complaint during the investigation, then this will be considered by the Monitoring Officer in consultation with the Independent Person as to whether the investigation will continue. The decision to terminate an investigation will, for example, depend on the nature of the allegations and the parties involved.
- 5.13 Similarly, if the Councillor subject to a complaint ceases to be a Councillor during this assessment or a later stage of the Complaints Handling Procedure, the Monitoring Officer in consultation with the Independent Person may decide to terminate *or suspend* any further steps for up to 14 months from the date on which they cease to be a Councillor. This is because the Complaints Handling Procedure only applies to elected and co-opted Councillors. Further action *may be taken* on the complaint during that 14-month period if the Councillor is re-elected / or is co-opted back to the Council during that period. This decision will be taken by the Monitoring Officer in consultation with the Independent Person. If the Councillor is not re-elected/co-opted during that period, further action on the complaint will automatically cease.
- 5.14 If a Councillor has been subject to a finding of the Standards Sub-Committee and sanctions have been imposed under 9.1. or by Council and the Councillor has failed, without reasonable excuse, to comply with a sanction, then the Monitoring Officer will refer this directly back to the Standards Sub-Committee ('direct referral') for determination.
- 5.15 There is no further right of internal review or appeal by a complainant following a decision on the preliminary assessment not to investigate (unless new evidence is then submitted within a reasonable time following such a decision. This would, in any event, be subject again to the Assessment Criteria in Appendix 1).

¹ Under s34 Localism Act 2011

- 5.16 Brief and anonymised versions of the complaints and any outcomes are reported through to the Standards Committee and Full Council.

6. How is an investigation conducted?

- 6.1. The Council has adopted a procedure for the investigation of conduct complaints, which is attached as Appendix 2 to these arrangements.
- 6.2. If the Monitoring Officer decides that a complaint merits investigation, they may appoint an Investigating Officer, who may be a Deputy Monitoring Officer, another senior North Herts Council officer, an officer of another authority or an external investigator. This Officer's purpose is to conduct an objective investigation on the merits of the complaint and whether there appears to be a case to answer that will be presented to the Standards Sub-Committee. The Officer is not there to represent the complainant or the Councillor and there is no difference in the status of the report prepared by an Investigating Officer and that of the Monitoring Officer.
- 6.3 Any investigation should be completed within 4 months, and parties must co-operate to ensure that this deadline can be met (unless there are extenuating circumstances to justify extending this). Any failure by the Councillor complained of to co-operate or attempt to interfere with or impede OR obstruct any part of the process, or any person involved in the process, may, as previously indicated, be considered a separate potential breach of the Code of Conduct, notwithstanding the original complaint. Equally should a complainant attempt to interfere with or impede/obstruct any part of the process, or intimidate any person involved in the process, the Monitoring Officer reserves the right to terminate the investigation. Any such decision will be taken in consultation with the Independent Person.
- 6.4 The Investigating Officer or Monitoring Officer will decide whether they need to interview a complainant to understand the nature of the complaint, any events surrounding it and consider what documents need to be seen, and any other party who needs to be interviewed. Such interviews may be by telephone, virtual platform (e.g. Teams or Zoom) or in person and are likely to be recorded and that record used/produced as part of the witness evidence, together with any other relevant evidence that has been produced. If any witness(es) to the alleged breaches of the Code have been identified, the Monitoring Officer/ Investigating Officer will decide whether to interview those witnesses. Again, these interview arrangements may be by telephone, virtual platform or in person and will be recorded/ used as part of witness evidence. This is to prevent disagreements as to what has or has not been said at interview. Any witnesses must be identified by the complainant at this stage of the Procedure, as late witnesses will generally not be accepted after the investigation has been concluded.
- 6.5 The Investigating Officer or Monitoring Officer will provide the Councillor with a further copy of the complaint. If a further linked complaint or expanded complaint has been received between the initial assessment decision and investigation, to include further

allegations, this will be provided to the Councillor and made clear whether this will be investigated. The Councillor will be asked to provide their explanation of events, and to identify what documents they need to see and the name(s) of anyone witnesses the believe should be interviewed. The Councillor and any of their witnesses relevant to the alleged breaches, are likely to be interviewed on the same basis as under 6.4. Any witnesses must be identified at this stage of the Procedure as late witnesses will generally not be accepted after the investigation has been concluded. The Councillor is expected to co-operate with any investigation. As noted at 5.6, failure to co-operate can be a breach of the code, in addition to the original complaint.

- 6.6 At the end of their investigation, the Investigating Officer or Monitoring Officer will produce a draft report (“the Investigation Report”) and will send copies of that draft report, in confidence, to the complainant, to the Councillor concerned and to the Monitoring Officer where they were not the investigating officer, so that there is an opportunity to identify any inaccuracies and any matter in that draft report of dispute or which the parties believe require more consideration. Similarly, the Independent Person will also see a copy of the report for comment. Relevant parties will be given 21 days to respond. The complainant / Councillor will be expected to raise any issues with the draft report at this stage.
- 6.7 Where an Investigating Officer has been appointed and if the Monitoring Officer and Independent Person are not satisfied from the draft report that the investigation has covered the issues sufficiently the Monitoring Officer may ask the Investigating Officer to reconsider their draft.
- 6.8 Equally, parties are encouraged to acknowledge or accept any findings at the draft report stage, so that the issues can be narrowed to those that remain in dispute. It is possible that parties will disagree with the findings / reasons on whether there is a case to answer in the report. Comments and issues will be considered by the Monitoring Officer/ Investigating Officer; errors will be corrected; however, this does not mean the report findings will be changed. A summary of these comments from the complainant/ Councillor are likely to be included in the final report.
- 6.9 Having received and considered any comments made on the draft Investigation Report, it will then be finalised. Where an Investigating Officer has been appointed, the Investigating Officer will send their final report (again in confidence) to the complainant, the Councillor and to the Monitoring Officer and the Independent Person. Note that this report will remain confidential until the Monitoring Officer determines otherwise or in any hearing, the Standards Sub-Committee determines that this matter shall be heard in public².

² In accordance with Data Protection Act/ GDPR principles and exemptions and any requirements under the Local Government Act 1972 Schedule 12A.

- 6.10 The Monitoring Officer, in consultation with the Independent Person, will review any final report and may decide that there remains no case to answer or further action is required, as set out below.

7. What happens if the Investigating Officer, or Monitoring Officer, concludes that there is no evidence of a failure to comply with the Code of Conduct?

- 7.1 Where an Investigating Officer has been appointed by the Monitoring Officer to conduct an investigation, the Monitoring Officer will review the Investigating Officer's final report in consultation with the Independent Person.

- 7.2 If the Monitoring Officer is satisfied that the Investigating Officer's report is sufficient and there is no apparent case to answer of a potential failure to comply with the Code, the Monitoring Officer will write to the parties (*and to the Clerk, if the complaint relates to a Parish/Town or Community Councillor, or Chairman as may be appropriate*), to notify them that they are satisfied that no further action is required. The report shall remain confidential and, other than to those parties who have received a report, it shall not be disclosed further by the Council or by them. An anonymised summary of the complaint and outcome will, however, be reported through to Standards Committee and Full Council during the year.

8. What happens if the Investigating Officer or Monitoring Officer concludes in the report that there is evidence of a failure to comply with the Code of Conduct?

- 8.1. As noted at 6.10, where an Investigating Officer has been appointed by the Monitoring Officer to conduct an investigation, the Monitoring Officer will review the Investigating Officer's final report in consultation with the Independent Person.

- 8.2. If the Monitoring Officer is satisfied that the Investigating Officer's report is sufficient and there is an apparent case to answer of a potential failure to comply with the Code, the Monitoring Officer will write to the parties (*and to the Clerk, if the complaint relates to a Parish/Town or Community Councillor, or Chairman as may be appropriate*), to notify them that the matter will proceed to a hearing before the Standards Sub-Committee or, in consultation with the Independent Person, that the scope for an Alternative remedy will be considered.

Alternative remedy

- 8.3. In addition to the provisions of 5.11. of this Procedure, at any point in **Stage 3**, the Monitoring Officer may also consider that the matter can reasonably be resolved without the need for a hearing. In such a case, they will consult the Independent Person and the complainant and seek to agree a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Councillor acknowledging that their conduct was unacceptable and offering an apology, and/or other remedial action (such as training or mediation). If the Councillor complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards

Committee (*and the Parish Council*) for information, but will take no further action. If the Councillor fails to abide by the terms of the alternative remedy the Monitoring Office may re-open the issue and refer the case to the Standards Sub-Committee for a hearing to determine whether there has been a breach of the Code of Conduct.

Hearings

- 8.4. The Councillor will be expected to attend, unless there is a reasonable excuse for not doing so – as notified to the Monitoring Officer in advance of any hearing. Any request by the Councillor not to attend, must include the reasons for it, together with any evidence to support such a request to the Monitoring Officer, and as soon as practicably possible in advance of the hearing.
- 8.5. Normal Committee rules apply as to whether the Sub-Committee meets in public or private with the presumption that any hearings will be in public in North Herts Council offices.
- 8.6. In all but straightforward cases there will be a preliminary administrative hearing of the Standards Sub-Committee, to case-manage the preparation and arrangements for the hearing called a **Case Management Hearing** – (“**CMH**”), followed by a **Final Determination Hearing** (“**FDH**”). The Membership of the sub-Committee for those hearings may or may not be the same.

CMH

- 8.7. The CMH should be arranged between 35 - 42 calendar days after the report has been sent to the parties.
- 8.8. The CMH will deal with administrative issues, such as fixing a date for the final hearing/ length of the hearing/ final evidence or representations that may be presented at the FDH.
- 8.9. As part of the investigation, the Councillor will have been asked and should have informed the Investigating Officer of any witnesses that the Councillor wishes to rely on / and evidence obtained as part of the Investigation. However, if this has not taken place the Councillor will be expected within 14 days prior to the CMH to notify the monitoring officer:
 - 8.8.1 the areas of the Investigating Officer's report that the Councillor disputes (and the factual reasons for doing so), including evidence from current witnesses that are relevant to the matter of dispute; and
 - 8.8.2 whether they will be represented at the final hearing (and details of that representative).
- 8.9 If the Councillor fails to confirm the above information by a date specified prior to the CMH or fails to attend the hearing without reasonable explanation, then this may be

considered a further potential breach of the Code of Conduct (for failure to co-operate). In the event that the Councillor fails (with or without excuse) to attend, the CMH may take place in the absence of Councillor. Where the Councillor attends they may be represented or accompanied during the hearing by a solicitor, counsel or, with the permission of the Sub-Committee, another person.

- 8.10 The Councillors of the Sub-Committee, Independent Person, Investigating Officer, Monitoring Officer, or Legal Adviser may ask questions of the Councillor and of the complainant.
- 8.11 The Sub-Committee may take legal advice from its Legal Adviser, or seek the opinion of the Independent Person at any time during the CMH and may retire to deliberate in private before it comes to a decision. The Legal Adviser will retire with the Members of the Committee and the substance of any legal advice provided when the Sub-Committee retires, will be shared with the Member and the Investigating Officer if they are present when the Members return to the hearing. The Independent Person will not retire with the Sub-Committee. If the Sub-Committee requires the opinion of the Independent Person on CMH matters, this should be requested prior to retiring to consider the decision/ or in any event before the decision is taken. **Note:** as the CMH is an administrative hearing and not the determination of the complaint, such opinion *may* rather than *has to be* sought prior to the decision being made.
- 8.12 Other than in exceptional circumstances, the date of the FDH must be fixed at the CMH, within 35-42 calendar days of the CMH.
- 8.13 Decisions taken by the CMH Sub-Committee are subject to the Council's constitution.

FDH

- 8.14 The Council has agreed a procedure for the FDH for the complaint, which is attached as Appendix 3.
- 8.15 At the FDH, the Investigating Officer or the Monitoring Officer (or nominated representative) will present their report, call such witnesses as they consider necessary and make representations to substantiate their conclusion that there is a case to answer that the Councillor has failed to comply with the Code of Conduct. The Standards Sub-Committee may set out a timetable for the hearing.
- 8.16 At the FDH, the Councillor will not be able to challenge evidence from a witness that has been contained/ reflected in the Investigation Report, unless the Councillor has indicated by the specified date prior to the CMH that a particular witness' evidence is disputed and why. Subject to that indication, the Monitoring Officer/ Investigating Officer will be expected to request the attendance of that witness at the hearing. If the Councillor has not indicated by a specified date that a witness' evidence is disputed, the Monitoring Officer is unlikely to request that witness' attendance at the FDH.

- 8.17 The complainant should be prepared to attend and give evidence to the Sub-Committee. The Councillor will then have an opportunity to ask any relevant questions of the Investigating Officer or witnesses produced at the hearing through the Chairman, give their evidence, call witnesses and to make representations to the Sub-Committee as to why they consider that they have not failed to comply with the Code of Conduct. The Members of the Sub-Committee, Independent Person, Investigating Officer, Monitoring Officer, or Legal Adviser may ask questions of any of the witnesses present (including the Councillor and complainant). The Chairman of the Sub-Committee has the ability to halt any questions that they believe are irrelevant, repetitive, or haranguing in nature.
- 8.18 The Sub-Committee may take legal advice from its Legal Adviser at any time during the FDH and may retire to deliberate in private before it comes to its decision. The Legal Adviser will retire with the Members of the Sub-Committee and the substance of any legal advice given to the Members in private session will be confirmed when the meeting reconvenes in public session. The Independent Person will not retire with the Sub-Committee. The Sub-Committee should request the views of the Independent Person prior to retiring to consider the decision/ or in any event before the decision is taken, on whether there has been a breach of the Code of Conduct. Please note that in accordance with section 28(7) of the Localism Act 2011 the views of the Independent Person are to be sought, and taken into account, by the Sub-Committee before it makes its decision on an allegation that it has decided to investigate.
- 8.19 The Sub-Committee, with the benefit of any views from the Independent Person, may conclude that the Councillor *did not* fail to comply with the Code of Conduct, and dismiss the complaint. In these circumstances, the case is at an end and the Sub-Committee closes the hearing.
- 8.20 If the Sub-Committee concludes that the Councillor *did* fail to comply with the Code of Conduct, the Chair will inform the Councillor of this finding and of the reasons for it. The Sub-Committee will then consider what action, if any, it should take as a result of the Councillor's failure to comply with the Code of Conduct. In doing this, the Sub-Committee will give the Councillor an opportunity to make representations to it and will seek the view of the Independent Person on any sanction, but will then decide what action, if any, to take in respect of the matter. The Sub-Committee may retire in private session to deliberate on what, if any, sanctions will be applied. The Legal Adviser will retire with the Members of the Sub-Committee and the substance of any legal advice given to the Members in private session will be confirmed when the meeting reconvenes in public session. The Independent Person will not retire with the Sub-Committee
- 9. What action can the Standards Sub-Committee take where a Councillor has failed to comply with the Code of Conduct?**

- 9.1 The Council has delegated to the Sub-Committee such of its powers to take action in respect of individual Councillors as may be necessary to promote and maintain high standards of conduct. The Sub Committee will impose sanctions (or a combination of sanctions) commensurate with the nature and gravity of the breach of the Code of Conduct and confirm their reasons for doing so. Accordingly the sanctions available to the Sub-Committee are to:-
- 9.1.1 Publish its findings in respect of the Councillor's conduct (e.g. in a local newspaper, in print or on-line or both). Any decision will be published on the Council's website in any event;
 - 9.1.2 Report its findings to Council (*or the Parish/ Town/ Community Council*) for information;
 - 9.1.3 Report its findings and recommend to Council (*or the Parish/ Town/ Community Council*) that the Councillor be issued with a formal censure or be reprimanded;
 - 9.1.4 Recommend to the Councillor's Group Leader or Deputy (or in the case of ungrouped Councillors, recommend to Council or to Committees) that the Councillor be removed from any or all Committees or Sub-Committees of the Council;
 - 9.1.5 Recommend to the Leader of the Council that the Councillor be removed from the Cabinet, or removed from particular Executive Member responsibilities;
 - 9.1.6 Instruct the Monitoring Officer to arrange (or recommend that the Parish /Town / Community Council should arrange) training for the Councillor;
 - 9.1.7 Recommend to Council (*or the Parish/ Town/ Community Council*) that the Councillor be removed from all outside appointments to which they have been appointed or nominated by the authority;
 - 9.1.8 Recommend to Council (*or the Parish/ Town/ Community Council*) that it withdraws facilities provided to the Councillor by the Council, such as a computer, website and/or email;
 - 9.1.9 Recommend to Council (*or the Parish / Town/ Community Council*) that the Councillor be excluded from the Council's Offices or other premises, with the exception of meeting rooms (real or virtual) as necessary for attending Council, Committee and Sub-Committee meetings; or
 - 9.1.10 Take no further action.
- 9.2 The Sub-Committee has no power to suspend or disqualify the Councillor or to withdraw Councillors' basic or special responsibility allowances or any other payment made to the Councillor that they are entitled to under legislation.

What happens at the end of the hearing?

- 9.3 At the end of the hearing, the Chair will state the decision of the Standards Sub-Committee with a summary of the reasons as to whether or not the Councillor failed to comply with the Code of Conduct and, if the Councillor did fail to comply, any actions which the Sub-Committee resolves to take.
- 9.4 As soon as reasonably practicable thereafter (and in any event within 7 working days), a formal decision notice will be prepared by the Legal Adviser in consultation with the Sub-Committee, and send a copy to the complainant, the Councillor (*and to the Parish Council or Chairman as may be appropriate*) by the Monitoring Officer, and make that decision notice available for public inspection and available on the Council's website.
- 9.5 There is no further right of internal review or appeal following the determination hearing by either the Councillor or complainant. Either party may seek independent advice and apply for Judicial Review of the decision or may consider making a complaint to the Local Government Ombudsman (LGO), although there is limited remit for the LGO to consider complaints and cannot revisit any decision taken.

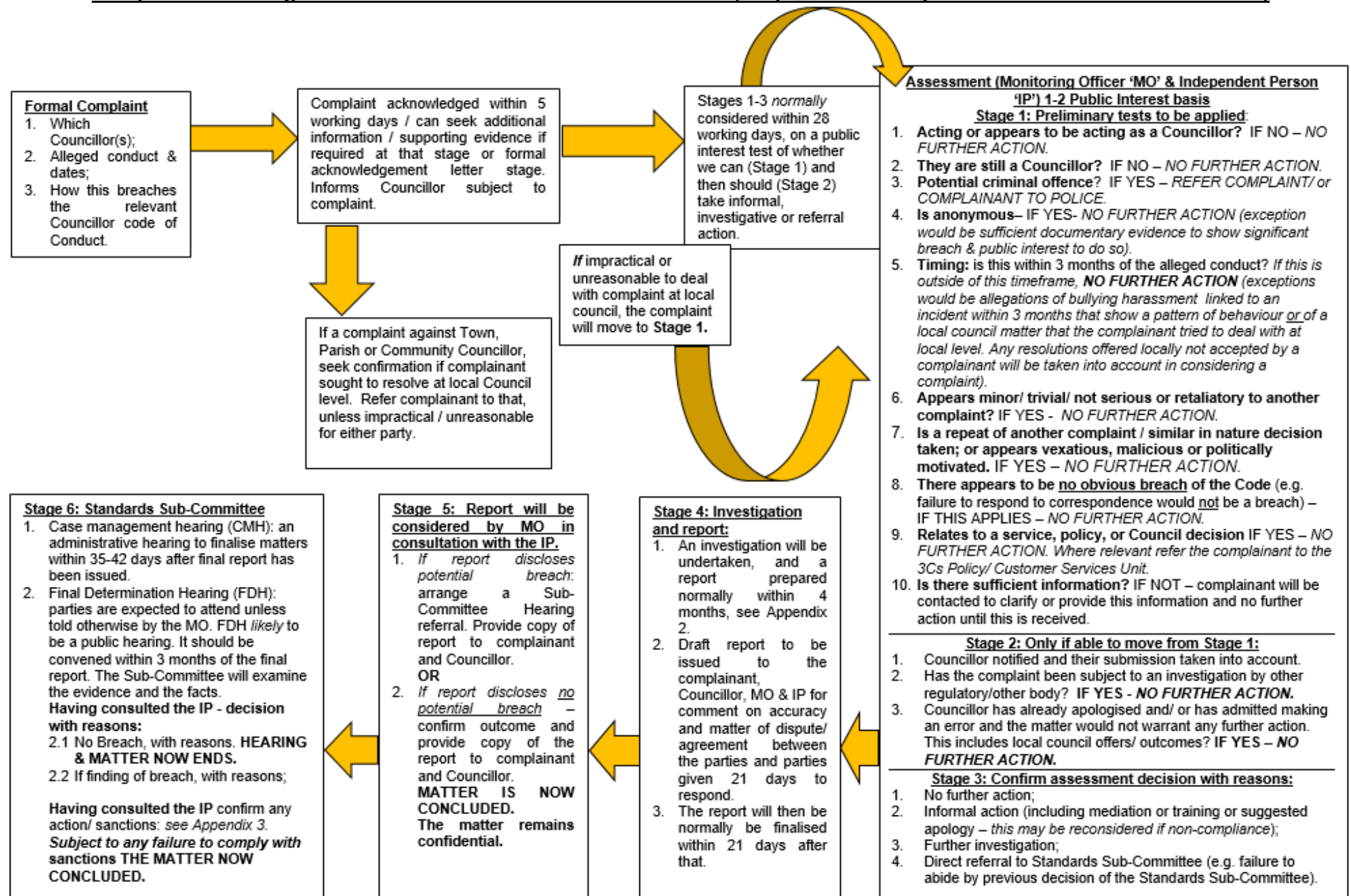
10. Revision of these arrangements

Subject to the Council's Constitution, the full Standards Committee may amend these arrangements, and has delegated to a Chair of the Sub-Committee the right to depart from these arrangements where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter, having taken the advice of the legal advisor / or Monitoring Officer into consideration. Minor amendments may be made by the Monitoring Officer in consultation with the Independent Person, Chair and Vice Chair of the Standards Committee under delegated authority.

- Appendix 1 Complaints Handling Procedure Flowchart & Assessment Criteria
- Appendix 2 North Herts Council Investigation Procedure – information/ Instructions for Investigating Officer
- Appendix 3 The Final Determination Hearing (FDR) Procedure for Standards Sub-Committee
- Appendix 4 Independent Person and Reserve Independent Persons Role Description

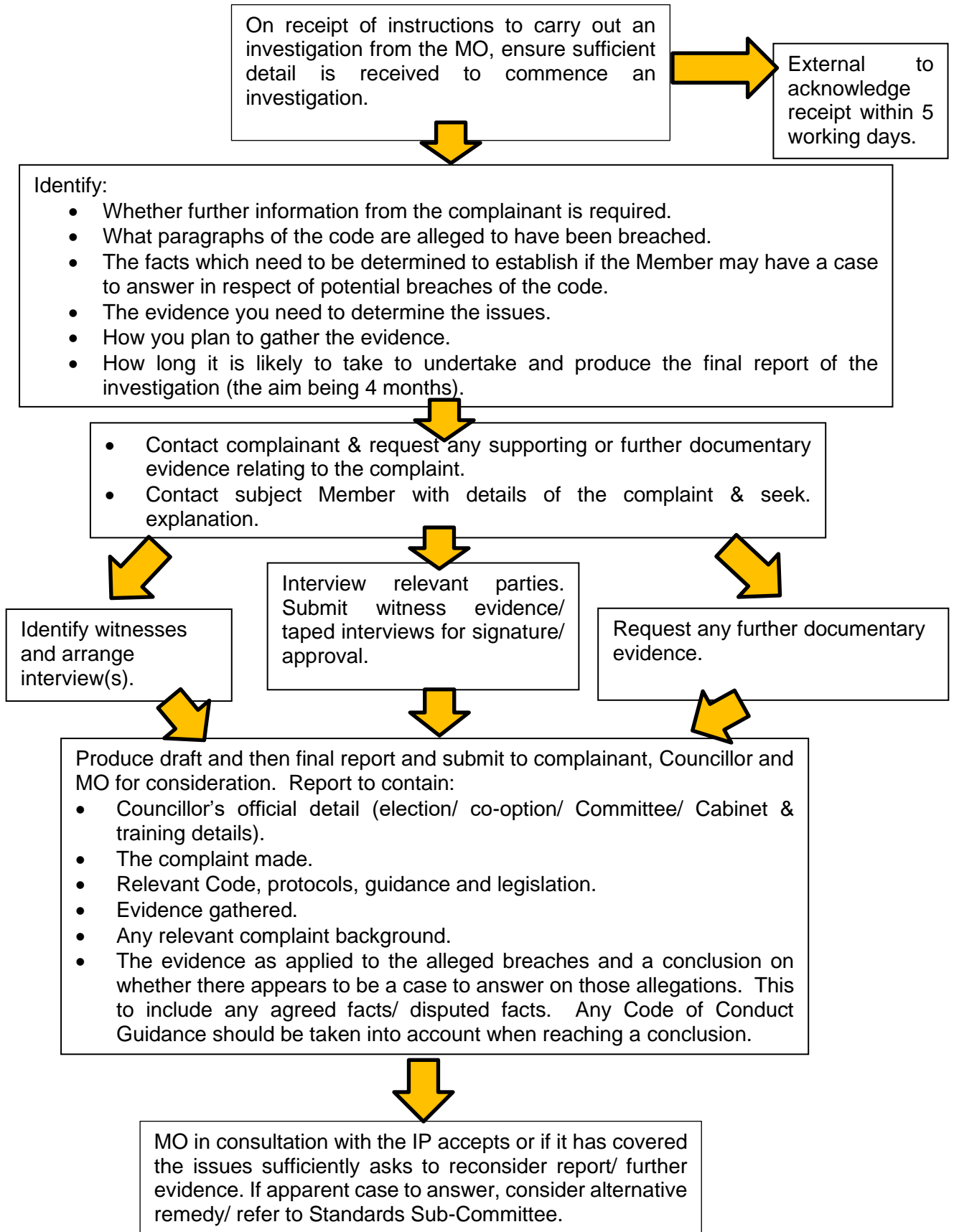
Appendix 1

Complaints Handling Procedure Flowchart & Assessment Criteria (simplified summary – full details within the Procedure)



Appendix 2

Investigation Procedure – information / instructions for Investigating Officer



Appendix 3

THE FINAL DETERMINATION HEARING (FDR) PROCEDURE FOR THE STANDARDS SUB-COMMITTEE

<p>The Standards Sub-Committee ("the Sub-Committee") must have an efficient and effective hearing process. This will assist Members of the Sub-Committee to deal with all the issues that need to be resolved in a way that is fair to the Councillor subject to the allegation, any complainant and witnesses involved. This procedure sets out a consistent approach for all concerned.</p>	
<p>1. Interpretation</p>	
<p>"Complainant":</p>	<p>means the person who referred the allegation to Monitoring Officer.</p>
<p>"CMH":</p>	<p>means the Sub-Committee Case Management Hearing that deals with administrative and procedural matters and clarifies the issues for the Final Determination Hearing (FDH).</p>
<p>"FDH":</p>	<p>means Sub-Committee Final Determining Hearing that hears evidence; decides if a Councillor has breached the Code of Conduct; and, if so, the sanction to be imposed.</p>
<p>"Investigating Officer":</p>	<p>means the Monitoring Officer, Deputy or Investigating Officer or their nominated representative(s).</p>
<p>"Independent Person/ IP":</p>	<p>means Independent Person and Reserve Independent Persons appointed by the Council under the Localism Act 2011, whose views must be sought by the authority before it takes a decision on an allegation which it has decided to investigate under section 28(7) of the Localism Act 2011, and whose views can be sought by the authority at any other stage, or by a Councillor (<i>or a Councillor or co-opted Councillor of a Town, Parish or Community Council</i>) against whom an allegation has been made.</p>
<p>"Legal Adviser":</p>	<p>means the officer responsible for providing legal advice to the Sub-Committee. This may be the Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.</p>
<p>"Councillor":</p>	<p>means the Councillor, co-opted Councillor of North Herts Council or a Town or Parish Councillor (within the North Herts Council area) who is the subject of the complaint.</p>
<p>"Proper Officer":</p>	<p>means the designated Committee Services officer or nominated representative.</p>
<p>2. Representation</p>	
<p>2.1. The Councillor may be represented or accompanied during the hearing by a solicitor, counsel or, with the permission of the Sub-Committee, another person. Such person to have been notified to the Standards Sub-Committee, and agreed where applicable, at the CMH.</p>	

2.2.	Where a representative has been appointed, reference below to Councillor will (except in respect of any evidence from the Councillor concerned) mean the representative.
2.3	Where a representative is present the Councillor must indicate if the representative is to ask questions on the Councillor's behalf and make any submissions. Once such arrangements have been confirmed, they will be applied throughout the hearing.
3. Legal Advice	
3.1.	The Sub-Committee may take legal advice from its Legal Adviser at any time during the hearing or while they are considering the final decision on the potential breach(es) of the Code and any sanctions.
3.2.	The Legal Adviser will provide a summary of any legal advice given to the Members of the Sub-Committee in private session, when the meeting reconvenes in public session.
4. Voting	
4.1	Each Member of the Sub-Committee will have one vote, and all matters/issues will be decided by a simple majority of votes cast.
4.2	Abstentions will not be permitted. The Sub-Committee's decision will record whether it was unanimous or taken by a majority.
5. Quorum	
5.1.	The Proper Officer or their representative will confirm whether the Committee is quorate. A quorum for the Sub-Committee will be three elected Members of the Council.
5.2.	Where the complaint involves an allegation of misconduct against a Parish Councillor, then a non-voting Parish Member of the Standards Committee should also be present.
5.3.	The Sub-Committee must nominate a Chairman for the meeting.
5.4.	The Independent Person must be present throughout the Sub-Committee hearing.
6. Opening/ Setting the Scene and Preliminary Procedural Issues	
6.1.	The Members of the Sub-Committee shall determine whether the hearing will be considered in private session.
6.2.	The Chairman must explain the procedure for the hearing and remind all parties to turn off mobile phones, audible alarms, and similar devices etc. If the proceedings are in open session they will be recorded.
6.3.	The Chairman must ask all present to introduce themselves.
6.4.	Most if not all of the procedural/ administrative issues should have been resolved by the CMH and any Sub-Committee resolutions complied with. The Sub-

Committee may, however, resolve any issues (including failure to abide by resolutions from the CMH and absence of parties/ witnesses and whether to proceed).
7. The presentation of the Complaint and evidence of the case to answer on alleged breach of the Code of Conduct
<p>7.1. The Investigating Officer will be invited to present the report including any evidence or other material and make any representations to support the relevant conclusions on a case to answer from the report. This will be based on the complaint made to the Council and any alleged failure to co-operate with the investigation or hearing preparation (where relevant). Witnesses will be called to give evidence or have their witnesses evidence taken as accepted, where the Councillor has indicated that the witness evidence is not disputed.</p> <p>7.2. The Councillor against whom the complaint has been made (or their representative) may question the Investigating Officer on the content of the report and question any witnesses called by the Investigating Officer.³ (This is the Councillor's opportunity to ask questions arising from the report and not to make a statement).</p> <p>7.3. Members of the Sub-Committee, the Independent Person and the Legal Adviser may question the Investigating Officer about the content of the report and/or any witnesses (including the complainant) called by the Investigating Officer.</p>
8. The Councillor's case
<p>8.1. The Councillor will then be given the opportunity to present their case (and call any relevant witnesses) including any evidence or other material and make any representations to address the specific allegations before the Sub-Committee.</p> <p>8.2. The Investigating Officer may question the Councillor and/or any witnesses.</p> <p>8.3. Members of the Sub-Committee, the Independent Person and the Legal Adviser may question the Councillor and/or any of the Councillor's witnesses.</p>
9. Summing Up
<p>9.1. The Investigating Officer will be given the opportunity to sum up the complaint and any relevant representations on the case to answer.</p> <p>9.2. The Councillor, or their representative, will be given the opportunity to sum up their case.</p>
10. Consultation with the Independent Person

³ **NOTE** If the Member disputes any relevant fact in the Investigating Officer's report, without having given prior notice of the dispute they will be required to give good reasons for not mentioning it when the draft report was finalised or in any event at the CMH. Such behaviour is likely to affect the weight of the Member's evidence on that issue and/ or be treated as evidence of failure to co-operate with an investigation.

<p>10.1. Prior to the consultation, the Independent Person may seek a short adjournment of the hearing to prepare/ finalise their view on whether, in their view, a breach of the Code of Conduct has occurred.</p> <p>10.2. The hearing will then be reconvened and Members of the Sub-Committee must consult the Independent Person on whether in his/ her opinion a breach has occurred. This view must be taken into account by the Sub-Committee before it makes its decision on an allegation.</p>
<p>11. The Members of Sub-Committee will deliberate in private session to consider evidence presented and to reach their decision (the Legal Adviser will attend)</p>
<p>12. Decision</p>
<p>12.1. Upon the Sub-Committee's return the Chairman will announce the Sub-Committee's decision in the following terms:-</p> <p>12.1.1. The Sub-Committee decides that there is no breach of the Code of Conduct; or</p> <p>12.1.2. The Sub-Committee decides that there is a breach of the Code of Conduct;</p> <p>12.2 The Sub-Committee will give reasons for its decision.</p> <p>12.3 If the Sub-Committee decides that there is no breach of the Code of Conduct the Chairman closes the hearing. The case is at an end.</p> <p>12.4 If the Sub-Committee decides that the Councillor has breached the Code of Conduct, it will consider any representations from the Investigating Officer and/or the Councillor and will seek the views of the Independent Person as to:</p> <p>12.4.1 Whether any action should be taken; and</p> <p>12.4.2 If so, what form any action (in the form of a sanction) should take.</p> <p>12.5 As part of their role under 12.4.2, the Sub-Committee will consider whether to impose any of the following sanctions:</p> <p>12.5.1 Publish its findings in respect of the Councillor's conduct (e.g. in a local newspaper in print or on-line or both). [Note that any decision will normally be made available for inspection and published on the Council's website in the event that the hearing was held in public];</p> <p>12.5.2 Report its findings to Council (or the Parish/ Town/ Community Council) for information;</p> <p>12.5.3 Report its findings and recommend to Council (or the Parish/ Town/ Community Council) that the Councillor be issued with a formal censure or be reprimanded;</p> <p>12.5.4 Recommend to the Councillor's Group Leader (or in the case of un-grouped Councillors, recommend to Council or to Committees) that the Councillor be removed from any or all Committees or Sub-Committees of the Council;</p>

- 12.5.5 Recommend to the Leader of the Council that the Councillor be removed from the Cabinet, or removed from particular Executive Member responsibilities;
 - 12.5.6 Instruct the Monitoring Officer to arrange (or recommend that the Parish/ Town/ Community Council should arrange) training for the Councillor;
 - 12.5.7 Recommend to Council (or the Parish/ Town/ Community Council) that the Councillor be removed from all outside appointments to which they have been appointed or nominated by the authority;
 - 12.5.8 Recommend to Council (or the Parish/ Town/ Community Council) that it withdraws facilities provided to the Councillor by the Council, such as a computer, website and/or email;
 - 12.5.9 Recommend to Council (or the Parish/ Town/ Community Council) that the Councillor be excluded from the Council's Offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings; or
 - 12.5.10 Take no further action.
- 12.6 [NOTE: The Sub-Committee has no power to suspend or disqualify the Councillor or to withdraw Councillor's basic or special responsibility allowances or any other payment made to the Councillor that they are entitled to under legislation]
- 12.7 The Members of Sub-Committee must then deliberate in private to consider what action, if any, should be taken (the Legal Adviser will attend).
- 12.8 On the Sub-Committee's return the Chairman must announce the Sub-Committee's decision (in relation to a Parish / Town/ Community Councillor, a recommendation to the Parish / Town/ Community Council). The Chairman will confirm whether and if so, what sanctions will be applied and the reasons for this decision.
- 12.9 The Sub-Committee must consider whether it should make any recommendations to the Council or in relation to a Parish / Town/ Community Councillor to the Parish / Town/ Community Council, with a view to promoting high standards of conduct among its Councillors.
- 12.10 The Chairman will confirm that a full written decision will be issued within 7 working days following the hearing and that the Sub-Committee's minutes will be published. The hearing will then be closed.

Appendix 4

ROLE OF INDEPENDENT PERSON AND RESERVE INDEPENDENT PERSONS – NORTH HERTFORDSHIRE DISTRICT COUNCIL

ROLE DESCRIPTION

Appointed by: The Council

Liaison with: Monitoring Officer, Deputy Monitoring Officer(s), Members of the Standards Committee, officers, District Councillors, and Town, Parish and Community Councillors within the district, key stakeholders within the community.

Reference to the IP includes the Independent Person and Reserve Independent Persons (except number 8 which is just the Reserve IP). The role is:

1. To assist the Council in promoting high standards of conduct by elected and co-opted Councillors of North Hertfordshire District Council and Parish/Town/Community Councillors and in particular to uphold the Code of Conduct adopted by the Council and underpinned by the seven principles of public life, namely selflessness, honesty, integrity, objectivity, accountability, openness and leadership.
2. To assist the Council by acting as advocate and ambassador in promoting ethical behaviour and by developing a sound understanding of the ethical framework as it operates within North Hertfordshire District Council and its local councils.
3. To be available for ad hoc consultation by the Monitoring Officer where the Monitoring Officer is dealing with a matter that has not reached the stage of a formal complaint.
4. To be available for consultations on assessment of a complaint with the Monitoring Officer
5. To be available for consultation by the Monitoring Officer and/or the Standards Committee before a decision is taken as to whether to investigate a complaint or to seek local resolution of the same.
6. To be consulted by the Council through the Monitoring Officer and/or the Standards Committee before it makes a decision on an allegation that has been investigated and to be available to attend meetings of the Standards Committee in a non-voting advisory capacity.
7. To attend a CMH meeting of the Standards Sub-Committee and an FDH meeting to confirm the IP's views as to whether a breach of the Code of Conduct has occurred and any subsequent penalty (which will be taken into account).
8. To be available for consultation by any Councillor, including Parish/ Town or Community Councillor. This may be on an ad hoc basis for views on the Complaints Procedure or process as pre-arranged between the parties, either by telephone, on-line or at the Council's offices. It is not the role of the IP to act as advocate for the Councillor who is subject to the complaint, to negotiate complaint matters, or to provide substantive advice (legal or otherwise) on the allegations themselves. This will generally be confidential between the Councillor and IP, unless the Councillor confirms they have acted illegally or has a

Appendix 4

complaint about the Procedure. This will then be confirmed to the Monitoring Officer.

9. To participate in training events to develop skills, knowledge, and experience and in any networks developed for Independent Persons operating outside the District Council's area. To share information and promote debate and discussion amongst the Standards Committee following such training. To attend training events organised and promoted by the Council's Standards Committee and Monitoring Officer.
10. To attend quarterly liaison meetings with the Monitoring Officer, Chair and Vice Chair of Standards Committee, to consider standards matters generally, including although not limited to the review of relevant complaints handling documents, guidance and processes.

This page is intentionally left blank

Complaints Handling Procedure for matters relating to the Councillors' Code of Conduct

1. Introduction

- 1.1 These Procedures are “arrangements” and set out how a formal complaint against a Councillor can be made and will be handled. This covers complaints that an elected or co-opted Councillor of [NHGNorth Herts Council](#) (or of a Parish/ Town or Community Council within the North Hertfordshire area) has failed to comply with that authority's Councillors' Code of Conduct. This does not cover complaints against [NHGNorth Herts Council](#) or local Councils as a whole, nor employees of such Councils. Note that in respect of the latter, [NHGNorth Herts Council](#) has no legal remit to consider such complaints.
- 1.2 Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a Councillor or co-opted Councillor of [NHGNorth Herts Council](#) (or of a Parish/ Town or Community Council within the authority's area), who are acting or appear to be acting as a Councillor, has failed to comply with the applicable Councillor's Code of Conduct, so that they can be, considered, investigated if appropriate and decisions made on such allegations. Any complaint will be assessed against the criteria set out in the flow chart under **Stage 1** and **Stage 2** (Appendix 1), and where this is a complaint against a local Councillor (Parish, Town or Community Councillor) *you are strongly encouraged to [try to](#) resolve this locally in the first instance.*

2. The Code of Conduct

- 2.1 [NHGNorth Herts Council](#) has adopted a Code of Conduct for Councillors, which can be found in Section 17 of the Council's Constitution [[CLICK HERE](#)]. .
- 2.2 Each Parish / Town or Community Council is also required to adopt a Code of Conduct. These should be available on the Parish / Town or Community Council's website and/or by request to the relevant council's Parish Clerk.

3. Making a complaint

- 3.1 If you wish to make a complaint, the '[Complaining about a Councillor](#)' page provides details as to how you can do so and what information you should provide. ***Please note that the complaint must relate to a Councillor's role, they should still be a Councillor and this is not the correct process to use if you are unhappy with a Council decision (which would, at District level, be the [Comments, Compliments and Complaints Policy](#). At Town, Parish and Community Council would be their local policy).***

The information you should provide in [writing in](#) the complaint is:

- 3.1.1 which Councillor you are complaining about and the name of the Council of which they are a member;
- 3.1.2 their alleged misconduct and dates; and
- 3.1.3 how you consider their alleged misconduct breaches the relevant authority's Councillor Code of Conduct.

*PLEASE NOTE that, while you may disapprove of the way you believe a Councillor has acted, there are a number of issues that would preclude further action, as set out in **Stages 1-2** as it will not be in the public interests to pursue some complaints that the Council cannot legally or should not deal with – see APPENDIX 1.*

Complaints can be made by eform:

[Making a complaint about a Councillor](#)

Or in writing to:

The Monitoring Officer, North Hertfordshire District Council, District Council Offices, Gernon Road, Letchworth Garden City SG6 3JF

3.2 The Monitoring Officer is a senior [NHGNorth Herts Council](#) officer responsible for overseeing the administration of the Council's complaints handling arrangements against District and local Councillors. Under this Procedure, however, reference to the Monitoring Officer during the assessment or investigation is deemed to include a Deputy Monitoring Officer, including an external one who may undertake any of the steps set out in this process. Complaints may be referred to an external Deputy Monitoring Officer to consider if further action is warranted. Circumstances in which a referral to an external Deputy Monitoring Officer or Investigator might arise include when:

3.2.1 The complaint comes from a senior officer of the Council, such as the Managing Director, Chief Finance Officer or the Monitoring Officer and it would be inappropriate- for the Monitoring Officer or an internal Deputy to investigate.

3.2.2 The complaint is about a high-profile Councillor such as the Leader, or an Executive Member of [NHGNorth Herts Council](#) and it would be inappropriate for the Monitoring Officer or an internal Deputy to investigate.

3.2.3 There are other complaints that the Monitoring Officer considers would not be appropriate for them to investigate (such as when there is a cross complaint against a senior officer, or the Monitoring Officer and Deputies are all witnesses to the alleged behaviour).

3.3 Once a complaint with the information detailed under 3.1 has been received by NHGNorth Herts Council, the matter will be considered to be a formal complaint.

3.4 A complainant will need to provide their name and a contact address, preferably also with an email address and telephone number, so that NHGNorth Herts Council can acknowledge receipt of the complaint and keep a complainant informed of its progress. It is possible to keep a complainant's name and locality confidential, if this is requested, although it is likely to hamper and, ultimately, prevent any effective assessment or investigation. It is also in the interests of transparency and fairness, that a Councillor accused of misconduct, generally has a right to know who has made the allegations. A complainant can ask for their name and contact to remain confidential on the complaint form, with an explanation for the request. The Monitoring Officer may agree to such a request where they his is only likely where the Monitoring Officer considers that provision of contact details this is likely to result in intimidation or violence. If the Monitoring Officer agrees to will consider the request and, if granted, they will not provide the complainant's name and contact detailslocality to the Councillor without the complainant's prior consent. Exceptions to this will be if this is referred to the Police, or if other regulatory bodies (for example the auditors or external fraud investigators). In these circumstances a request for confidentiality would be a matter for those bodies to consider.

3.5 NHGNorth Herts Council does not normally consider/ investigate anonymous complaints, unless there is a clear public interest in doing so. In any event, NHGNorth Herts Council's ability to do would be severely limited, as it is impossible in such situations to request further information from a complainant or provide confirmation of any decision.

3.53.6 Where a repeat or similar complaint has been made (which has not been upheld), no further action will be undertaken, and consideration given to the Council's unreasonable customer arrangements where such complaints continue to be made.

3.63.7 The Complaints Handling Procedure Flowchart at Appendix 1 includes the aspects of the complaint and assessment criteria that the Monitoring Officer takes into account before deciding whether to consider the complaint (**Stage 1-2**) and assess the complaint (**Stage 3**).

4. Who is the Independent Person?

4.1 The Independent Person is a statutory office holder appointed by NHGNorth Herts Council. A description of their role is set out in Appendix 4.

4.2 The Procedural arrangements must include at least one appointed Independent Person. NHGNorth Herts Council has an Independent Person whose views will be sought on all formal allegations (as part of the assessment of the complaint – before any investigation), as well as seeking their views (as it legally must) at any other stage

during an investigation or determination of a formal complaint. [NHGNorth Herts Council](#) also currently has two Reserve Independent Persons who can be contacted by a Councillor who is subject to a formal complaint for procedural advice [only](#), or who may be involved at other stages if the Independent Person is unable to participate. This will be set out in any formal letter to the complainant and Councillor confirming that a complaint has been received.

- 4.3 References to the Independent Person in this document include the Independent Person and the Reserve Independent Persons, unless otherwise stated.

5. How will my formal complaint be handled?

- 5.1 The complaint will [normally](#) –be acknowledged within 5 working days through the contact information provided by the complainant.

- 5.2 The Monitoring Officer will review every complaint received and will consult the Independent Person. The following Stages will be applied. If it is a Parish, Town, or Community Councillor complaint, then as per Appendix 1, confirmation will be sought from the complainant that they have tried to resolve this issue at local level. As a first step, the complainant will be referred to a local resolution unless this is impractical or unreasonable for either party to do so. This does not prevent a formal complaint being progressed at a later date if the first step is unsuccessful, but it encourages a quicker localised resolution (as this formal process can take in excess of 6 months from receipt of a formal complaint to conclude).

- 5.3 Where a Parish, Town, or Community Councillor complaint cannot be resolved locally or where it relates to a [NHGNorth Herts Council](#) Councillor, the tests under Appendix 1 (**Stage 1-2**) will be considered and at **Stage 3** an assessment decision~~s~~ taken, which can be one of the following:

5.3.1 no further action;

5.3.2 informal action (including mediation or training or suggested apology);

5.3.3 further investigation;

5.3.4 referral to the Standards Sub-Committee.

The Monitoring Officer does not have to take the steps in 5.3.1 to 5.3.4 in the order in which they are listed.

- 5.4 This assessment decision will normally be taken within 28 working days of receipt of the formal complaint and considered in accordance with the Assessment Criteria in Appendix 1.

- 5.5 Where the Monitoring Officer requires additional information in order to come to a decision, they will request this information.

- 5.6 Where the complaint has moved to **Stage 2**, a copy of the complaint and any relevant documentation will be forwarded to the Councillor for consideration and comment. The Councillor will be given 14 days to respond unless there are reasons to extend this deadline, for example for holidays, sick leave, a criminal or a whistleblowing investigation. The Councillor is expected to co-operate with Monitoring Officer and not to attempt to interfere with impede/obstruct any part of the process, or intimidate any person involved in this process. Failure to co-operate can be a breach of the Code, in addition to the original complaint.
- 5.7 If the complaint relates to a Parish/ Town or Community Councillor, see 5.2 above; and is then considered under **Stages 1-2**, the Monitoring Officer may also seek the views of the relevant Clerk, in confidence, before coming to an assessment decision under **Stage 3**. Such views would again be expected within 14 days (unless there are reasons to extend the deadline on grounds such as those at 5.6 above).
- 5.8 Once the Councillor's response (and any Clerk's response) has been received and/or the deadline has expired for such comments and none has been forthcoming, the Monitoring Officer will consult the Independent Person. This consultation may result in the request for further information from any relevant party, and further consultation will take place. Following this- the Monitoring Officer will make one of the assessment decisions set out under 5.3. above (**Stage 3**).
- 5.9 When the Monitoring Officer has taken a decision, they will inform the complainant and the Councillor (and in cases involving a Parish/ Town or Community Councillor) the Clerk (or Chairman as may be appropriate) of the decision and the reasons for that decision. These will remain confidential.
- 5.10 Complainants should note that this will be the assessment decision as to-ef whether there appears to be a case to answer and whether to investigate, or consider alternative action. Where there is to be an investigation, a complainant's co-operation will be required, including, Further action will require a complainant's co-operation during the investigation and, if necessary, at any- hearing, which is likely to be held in public. The complainant would be expected required to attend such a hearing and provide their evidence/ and or answer questions relating to the complaint.
- 5.11 Where the Monitoring Officer seekss to resolve the complaint informally, without the need for a formal investigation (as per 5.3.2) they will consult the Independent Person on such action. Informal resolution may involve the Councillor acknowledging greeing that their conduct was unacceptable and offering an apology, or other remedial action. Where the Councillor makes a reasonable offer of informal resolution, but the complainant is not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint merits any further action. Equally, if a Councillor refuses to engage with such an informal approach (for example by not apologising, or attending training), the Monitoring Officer may reconsider the decision and decide

whether to refer the complaint for investigation, or directly to the Standards Sub-Committee for the original complaint and (and failure to co-operate) to be determined.

- 5.12 If the complaint identifies potential criminal conduct or breach of other regulation, the Monitoring Officer is likely to refer it to the Police or other regulatory [agency/ies](#). If the complaint relates to an alleged Disclosable Pecuniary Interest offence¹, it will be dealt with under an agreed Protocol with Hertfordshire Constabulary. ~~Th, and the~~ Police (and finally the Director of Public Prosecutions) will be the relevant body that determines whether further action should be taken on such a complaint. The Council cannot influence any decisions taken by the Police or other regulatory body, would have no role in their decision, and would not wish to prejudice such bodies' consideration or enquiries other than to co-operate with them. **Please note** that where a complainant wishes to withdraw the complaint the Monitoring Officer is unlikely to take further action on the matter, with the exception of a referral to Police/ regulatory body/[ies](#) - where a withdrawal of a complaint would be for them to consider. If the complainant wishes to withdraw the complaint during the investigation, then this will be considered by the Monitoring Officer in consultation with the Independent Person as to whether the investigation will continue. The decision to terminate an investigation will, for example, depend on the nature of the allegations and the parties involved.
- 5.13 Similarly, if the Councillor subject to a complaint ceases to be a Councillor during this assessment or a later stage of the Complaints Handling Procedure, the Monitoring Officer in consultation with the Independent Person may decide to terminate *or suspend* any further steps for up to 14 months from the date on which they cease to be a Councillor. This is because the Complaints Handling Procedure only applies to elected and co-opted Councillors. Further action *may be taken* on the complaint during that 14-month period if the Councillor is re-elected / or is co-opted back to the Council during that period. This decision will be taken by the Monitoring Officer in consultation with the Independent Person. If the Councillor is not re-elected/co-opted during that period, further action on the complaint will automatically cease.
- 5.14 If a Councillor has been subject to a finding of the Standards Sub-Committee and sanctions have been imposed under 9.1. or by Council and the Councillor has failed, without reasonable excuse, to comply with a sanction, then the Monitoring Officer will refer this directly back to the Standards Sub-Committee ('direct referral') for determination.
- [5.15](#) There is no further right of internal review or appeal by a complainant following a decision on the preliminary assessment not to investigate (unless new evidence is then

¹ Under s34 Localism Act 2011

submitted within a reasonable time following such a decision. ~~This and would this will~~, in any event, be subject again to the Assessment Criteria in Appendix 1).

- 5.16 Brief and anonymised versions of the complaints and any outcomes are reported through to the Standards Committee and Full Council.

6. How is an ~~the~~ investigation conducted?

- 6.1. The Council has adopted a procedure for the investigation of conduct complaints, which is attached as Appendix 2 to these arrangements.

- 6.2. If the Monitoring Officer decides that a complaint merits investigation, they may appoint an Investigating Officer, who may be a Deputy Monitoring Officer, another senior NHGC North Herts Council officer, an officer of another authority or an external investigator. This Officer's purpose is to conduct an objective investigation on the merits of the complaint and whether there appears to be a case to answer that will be presented to the Standards Sub-Committee. The Officer is not there to represent the complainant or the Councillor and there is no difference in the status of the report prepared by an Investigating Officer and that of the Monitoring Officer.

- 6.3 Any investigation should be completed within 4 months, and parties must co-operate to ensure that this deadline can be met (unless there are extenuating circumstances to justify extending this). Any failure by the Councillor complained of to co-operate or attempt to interfere with impede OR obstruct any part of the process, or ~~any~~ person involved in the process, may, as previously indicated, be considered a separate potential breach of the Code of Conduct, notwithstanding the original complaint. Equally should a complainant attempt to interfere with impede/obstruct any part of the process, or intimidate any person involved in the process, the Monitoring Officer reserves the right to terminate the investigation. Any such decision will be taken in consultation with the Independent Person.

- 6.4 The Investigating Officer or Monitoring Officer will decide whether they need to interview a complainant to understand the nature of the complaint, any events surrounding it and consider what documents need to be seen, and any other party who needs to be interviewed. Such interviews may be by telephone, virtual platform (e.g. Teams or Zoom) or in person and are likely to be recorded and that record used/produced as part of the witness evidence, together with any other relevant evidence that has been produced. If any witness(es) to the alleged breaches of the Code have been identified, the Monitoring Officer/ Investigating Officer will decide whether to interview those witnesses. Again, these interview arrangements may be by telephone, virtual platform or in person and will be recorded/ used as part of witness evidence. This is to prevent disagreements as to what has or has not been said at interview. Any witnesses must be identified by the complainant at this stage of the Procedure, as late witnesses will generally not be accepted after the investigation has been concluded.

- 6.5 The Investigating Officer or Monitoring Officer will ~~provide~~ the Councillor with a further copy of the complaint. ~~If a further linked complaint or expanded complaint has been received between the initial assessment decision and investigation, to include further allegations, this will be provided to the Councillor and made clear whether this will be investigated,~~ -and ask- The Councillor will be asked to provide their explanation of events, and to identify what documents they need to see and the name(s) of anyone witnesses the believe should be interviewed. The Councillor and any of their witnesses relevant to the alleged breaches, are likely to be interviewed on the same basis as under 6.4. Any witnesses must be identified at this stage of the Procedure as late witnesses will generally not be accepted after the investigation has been concluded. The Councillor is expected to co-operate with any investigation. As noted at 5.6, failure to co-operate can be a breach of the code, in addition to the original complaint.
- 6.6 At the end of their investigation, the Investigating Officer or Monitoring Officer will produce a draft report (“the Investigation Report”) and will send copies of that draft report, in confidence, to the complainant, to the Councillor concerned and to the Monitoring Officer where they were not the investigating officer, so that there is an opportunity to identify any inaccuracies and any matter in that draft report of dispute or which the parties believe require more consideration. Similarly, the Independent Person will also see a copy of the report for comment. Relevant parties will be given 21 days to respond. The complainant / Councillor will be expected to raise any issues with the draft report at this stage.
- 6.7 Where an Investigating Officer has been appointed and if the Monitoring Officer and Independent Person are not satisfied from the draft report that the investigation has covered the issues sufficiently the Monitoring Officer may ask the Investigating Officer to reconsider their draft.
- 6.8 Equally, parties are encouraged to acknowledge or accept any findings at the draft report stage, so that the issues can be narrowed to those that remain in dispute. It is possible that parties will disagree with the findings / reasons on whether there is a case to answer in the report. Comments and issues will be considered by the Monitoring Officer/ Investigating Officer; errors will be corrected; however, this does not mean the report findings will be changed. A summary of these comments from the complainant/ Councillor are likely to be included in the final report.
- 6.9 Having received and considered any comments made on the draft Investigation Report, it will then be finalised. Where an Investigating Officer has been appointed, the Investigating Officer will send their final report (again in confidence) to the complainant, the Councillor and to the Monitoring Officer and the Independent Person. Note that this report will remain confidential until the Monitoring Officer determines- otherwise or

in any hearing, the Standards Sub-Committee determines that this matter shall be heard in public².

6.10 ~~Where an Investigating Officer has been appointed and if the Monitoring Officer and Independent Person are not satisfied that the investigation has covered the issues sufficiently the Monitoring Officer may ask the Investigating Officer to reconsider their draft report.~~ The Monitoring Officer, in consultation with the Independent Person, will review any ~~revised~~final report and may decide that there remains no case to answer or further action is required, as set out below.

7. What happens if the Investigating Officer, or Monitoring Officer, concludes that there is no evidence of a failure to comply with the Code of Conduct?

7.1 Where an Investigating Officer has been appointed by the Monitoring Officer to conduct an investigation, the Monitoring Officer will review the Investigating Officer's final report in consultation with the Independent Person.

7.2 If the Monitoring Officer is satisfied that the Investigating Officer's report is sufficient and there is no apparent case to answer of a potential failure to comply with the Code, the Monitoring Officer will write to the parties (*and to the Clerk, if the complaint relates to a Parish/Town or Community Councillor, or Chairman as may be appropriate*), to notify them that they are satisfied that no further action is required. The report shall remain confidential and, other than to those parties who have received a report, it shall not be disclosed further by the Council or by them. An anonymised summary of the complaint and outcome will, however, be reported through to Standards Committee and Full Council during the year.

8. What happens if the Investigating Officer or Monitoring Officer concludes in the report that there is evidence of a failure to comply with the Code of Conduct?

8.1. As noted at 6.10, where an Investigating Officer has been appointed by the Monitoring Officer to conduct an investigation, the Monitoring Officer will review the Investigating Officer's final report in consultation with the Independent Person.

8.1-8.2. If the Monitoring Officer is satisfied that the Investigating Officer's report is sufficient and there is an apparent case to answer of a potential failure to comply with the Code, the Monitoring Officer will write to the parties (*and to the Clerk, if the complaint relates to a Parish/Town or Community Councillor, or Chairman as may be appropriate*), to notify them that the matter will proceed to a hearing before the

² In accordance with Data Protection Act/ GDPR principles and exemptions and any requirements under the Local Government Act 1972 Schedule 12A.

Standards Sub-Committee or, in consultation with the Independent Person, that the scope for an Alternative remedy will be considered.

Alternative remedy

8.2.8.3. In addition to the provisions of 5.11. of this Procedure, at any point in Stage 3, ~~t~~The Monitoring Officer may also consider that the matter can reasonably be resolved without the need for a hearing. In such a case, they will consult the Independent Person and the complainant and seek to agree a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Councillor acknowledging that their conduct was unacceptable and offering an apology, and/or other remedial action (such as training or mediation). If the Councillor complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee *(and the Parish Council)* for information, but will take no further action. If the Councillor fails to abide by the terms of the alternative remedy the Monitoring Office may re-open the issue and refer the case to the Standards Sub-Committee for a hearing to determine whether there has been a breach of the Code of Conduct.

Hearings

8.3.8.4. The Councillor will be expected to attend, unless there is a reasonable excuse for not doing so – as notified to the Monitoring Officer in advance of any hearing. Any request by the Councillor not to attend, must include the reasons for it, together with any evidence to support such a request to the Monitoring Officer, and as soon as practicably possible in advance of the hearing.

8.4.8.5. Normal Committee rules apply as to whether the Sub-Committee meets in public or private- with the presumption that any hearings will be in public in NHC North Herts Council offices.

8.5.8.6. In all but straightforward cases there will be a preliminary administrative hearing of the Standards Sub-Committee, to case-manage the preparation and arrangements for the hearing called a **Case Management Hearing** – (“CMH”), followed by a **Final Determination Hearing** (“FDH”). The Membership of the sub-Committee for those hearings may or may not be the same.

CMH

8.7. Theis CMH should be arranged between 35 - 42 calendar days after the report has been sent to the parties.

8.6.8.8. The CMH will deal with administrative issues, such as fixing a date for the final hearing/ length of the hearing/ final evidence or representations that may be presented at the FDH.

~~**8.7.8.1.** This CMH should be arranged between 35 – 42 calendar days after the report has been sent to the parties.~~

~~8.8.8.9.~~ As part of the investigation, the Councillor will have been asked and should have informed the Investigating Officer of any witnesses that the Councillor wishes to rely on / and evidence obtained as part of the Investigation. However, if this has not taken place the Councillor will be expected ~~to within confirm~~ 14 days prior to the **CMH** to notify the monitoring officer:

8.8.1 the areas of the Investigating Officer's report that the Councillor disputes (and the factual reasons for doing so), including evidence from current witnesses that are relevant to the matter of dispute; and

8.8.2 whether they will be represented at the final hearing (and details of that representative).

8.9 If the Councillor fails to confirm the above information by a date specified prior to the CMH or fails to attend the hearing without reasonable explanation, then this may be considered a further potential breach of the Code of Conduct (for failure to co-operate). In the event that the Councillor fails (with or without excuse) to attend, the CMH may take place in the absence of Councillor. Where the Councillor attends they may be represented or accompanied during the hearing by a solicitor, counsel or, with the permission of the Sub-Committee, another person.

8.10 The Councillors of the Sub-Committee, Independent Person, Investigating Officer, Monitoring Officer, or Legal Adviser may ask questions of the Councillor and of the complainant.

8.11 The Sub-Committee may take legal advice from its Legal Adviser, or seek the opinion of the Independent Person at any time during the CMH and may retire to deliberate in private before it comes to a decision. The Legal Adviser will retire with the Members of the Committee and the substance of any legal advice provided when the Sub-Committee retires, will be shared with the Member and the Investigating Officer if they are present when the Members return to the hearing. The Independent Person will not retire with the Sub-Committee. If the Sub-Committee requires the opinion of the Independent Person on CMH matters, this should be requested prior to retiring to consider the decision/ or in any event before the decision is taken. **Note:** as the CMH is an administrative hearing and not the determination of the complaint, such opinion *may* rather than *has to be* sought prior to the decision being made.

8.12 Other than in exceptional circumstances, the date of the FDH must be fixed at the CMH, within 35-42 calendar days of the CMH.

~~8.128.13~~ Decisions taken by the CMH Sub-Committee are subject to the Council's constitution.

FDH

~~8.138.14~~ The Council has agreed a procedure for the FDH for the complaint, which is attached as Appendix 3.

8.148.15 At the FDH, the Investigating Officer or the Monitoring Officer (or nominated representative) will present their report, call such witnesses as they consider necessary and make representations to substantiate their conclusion that there is a case to answer that the Councillor has failed to comply with the Code of Conduct. The Standards Sub-Committee may set out a timetable for the hearing.

8.158.16 At the FDH, the Councillor will not be able to challenge evidence from a witness that has been contained/ reflected in the Investigation Report, unless the Councillor has indicated by the specified date prior to the CMH that a particular witness' evidence is disputed and why. Subject to that indication, the Monitoring Officer/ Investigating Officer will be expected to request the attendance of that witness at the hearing. If the Councillor has not indicated by a specified date that a witness' evidence is disputed, the Monitoring Officer is unlikely to request that witness' attendance ~~at~~ attend the FDH.

8.168.17 The complainant should be prepared to attend and give evidence to the Sub-Committee. The Councillor will then have an opportunity to ask any relevant questions of the Investigating Officer or witnesses produced at the hearing through the Chairman, give their evidence, call witnesses and to make representations to the Sub-Committee as to why they consider that they have not failed to comply with the Code of Conduct. The Members of the Sub-Committee, Independent Person, Investigating Officer, Monitoring Officer, or Legal Adviser may ask questions of any of the witnesses present (including the Councillor and complainant). The Chairman of the Sub-Committee has the ability to halt any questions that they believe are irrelevant, repetitive, or haranguing in nature.

8.178.18 The Sub-Committee may take legal advice from its Legal Adviser at any time during the FDH and may retire to deliberate in private before it comes to its decision. The Legal Adviser will retire with the Members of the Sub-Committee and the substance of any legal advice given to the Members in private session will be confirmed when the meeting reconvenes in public session. The Independent Person will not retire with the Sub-Committee. The Sub-Committee should request the views of the Independent Person prior to retiring to consider the decision/ or in any event before the decision is taken, on whether there has been a breach of the Code of Conduct. Please note that in accordance with section 28(7) of the Localism Act 2011 the views of the Independent Person are to be sought, and taken into account, by the Sub-Committee before it makes its decision on an allegation that it has decided to investigate.

8.188.19 The Sub-Committee, with the benefit of any views from the Independent Person, may conclude that the Councillor *did not* fail to comply with the Code of Conduct, and dismiss the complaint. In these circumstances, the case is at an end and the Sub-Committee closes the hearing.

8.198.20 If the Sub-Committee concludes that the Councillor *did* fail to comply with the Code of Conduct, the Chair will inform the Councillor of this finding and of the reasons for it. The Sub-Committee will then consider what action, if any, it should take as a result of the Councillor's failure to comply with the Code of Conduct. In doing this, the Sub-Committee will give the Councillor an opportunity to make representations to it and will seek the view of the Independent Person on any sanction, but will then decide what action, if any, to take in respect of the matter. The Sub-Committee may retire in private session to deliberate on what, if any, sanctions will be applied. The Legal Adviser will retire with the Members of the Sub-Committee and the substance of any legal advice given to the Members in private session will be confirmed when the meeting reconvenes in public session. The Independent Person will not retire with the Sub-Committee

9. What action can the Standards Sub-Committee take where a Councillor has failed to comply with the Code of Conduct?

9.1 The Council has delegated to the Sub-Committee such of its powers to take action in respect of individual Councillors as may be necessary to promote and maintain high standards of conduct. The Sub Committee will impose sanctions (or a combination of sanctions) commensurate with the nature and gravity of the breach of the Code of Conduct and confirm their reasons for doing so. Accordingly the sanctions available to the Sub-Committee are to:-

9.1.1 Publish its findings in respect of the Councillor's conduct (e.g. in a local newspaper, in print or on-line or both). Any decision will be published on the Council's website in any event;

9.1.2 Report its findings to Council (*or the Parish/ Town/ Community Council*) for information;

9.1.3 Report its findings and recommend to Council (*or the Parish/ Town/ Community Council*) that the Councillor be issued with a formal censure or be reprimanded;

9.1.4 Recommend to the Councillor's Group Leader or Deputy (or in the case of ungrouped Councillors, recommend to Council or to Committees) that the Councillor be removed from any or all Committees or Sub-Committees of the Council;

9.1.5 Recommend to the Leader of the Council that the Councillor be removed from the Cabinet, or removed from particular Executive Member responsibilities;

9.1.6 Instruct the Monitoring Officer to arrange (or recommend that the Parish /Town / Community Council should arrange) training for the Councillor;

9.1.7 Recommend to Council (*or the Parish/ Town/ Community Council*) that the Councillor be removed from all outside appointments to which they have been appointed or nominated by the authority;

9.1.8 Recommend to Council (*or the Parish/ Town/ Community Council*) that it withdraws facilities provided to the Councillor by the Council, such as a computer, website and/or email;

9.1.9 Recommend to Council (*or the Parish / Town/ Community Council*) that the Councillor be excluded from the Council's Offices or other premises, with the exception of meeting rooms (-real or virtual) as necessary for attending Council, Committee and Sub-Committee meetings; or

9.1.10 Take no further action.

9.2 The Sub-Committee has no power to suspend or disqualify the Councillor or to withdraw Councillors' basic or special responsibility allowances or any other payment made to the Councillor that they are entitled to under legislation.

What happens at the end of the hearing?

9.3 At the end of the hearing, the Chair will state the decision of the Standards Sub-Committee with a summary of the reasons as to whether or not the Councillor failed to comply with the Code of Conduct and, if the Councillor did fail to comply, any actions which the Sub-Committee resolves to take.

9.4 As soon as reasonably practicable thereafter (and in any event within 7 working days), a formal decision notice will be prepared by the Legal Adviser in consultation with the Sub-Committee, and send a copy to the complainant, the Councillor (*and to the Parish Council or Chairman as may be appropriate*) by the Monitoring Officer, and make that decision notice available for public inspection and available on the Council's website.

9.5 There is no further right of internal review or appeal following the determination hearing by either the Councillor or complainant. Either party may seek independent advice and apply for Judicial Review of the decision or may consider making a complaint to the Local Government Ombudsman (LGO), although there is limited remit for the LGO to consider complaints and cannot revisit any decision taken-.

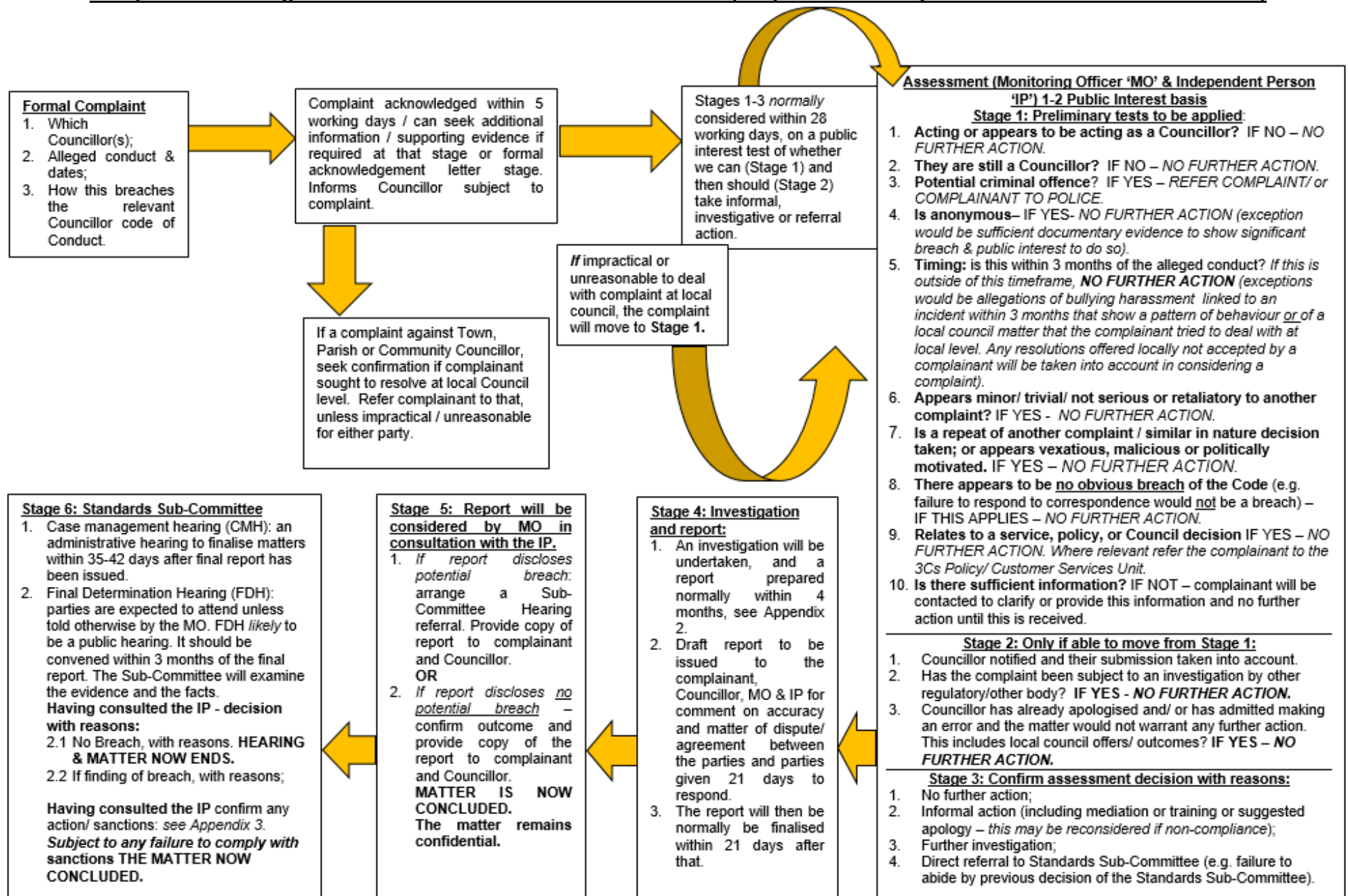
10. Revision of these arrangements

Subject to the Council's Constitution, the full Standards Committee may amend these arrangements, and has delegated to a Chair~~man~~ of the Sub-Committee the right to depart from these arrangements where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter. having taken the advice of the legal advisor / or Monitoring Officer into consideration. Minor amendments may be made by the Monitoring Officer in consultation with the Independent Person, Chair and Vice Chair of the Standards Committee under delegated authority.

- Appendix 1 Complaints Handling Procedure Flowchart & Assessment Criteria
- Appendix 2 ~~NHC~~[North Herts Council](#) Investigation Procedure – information/ Instructions for Investigating Officer
- Appendix 3 The Final Determination Hearing (FDR) Procedure for Standards Sub-Committee
- Appendix 4 Independent Person and Reserve Independent Persons Role Description

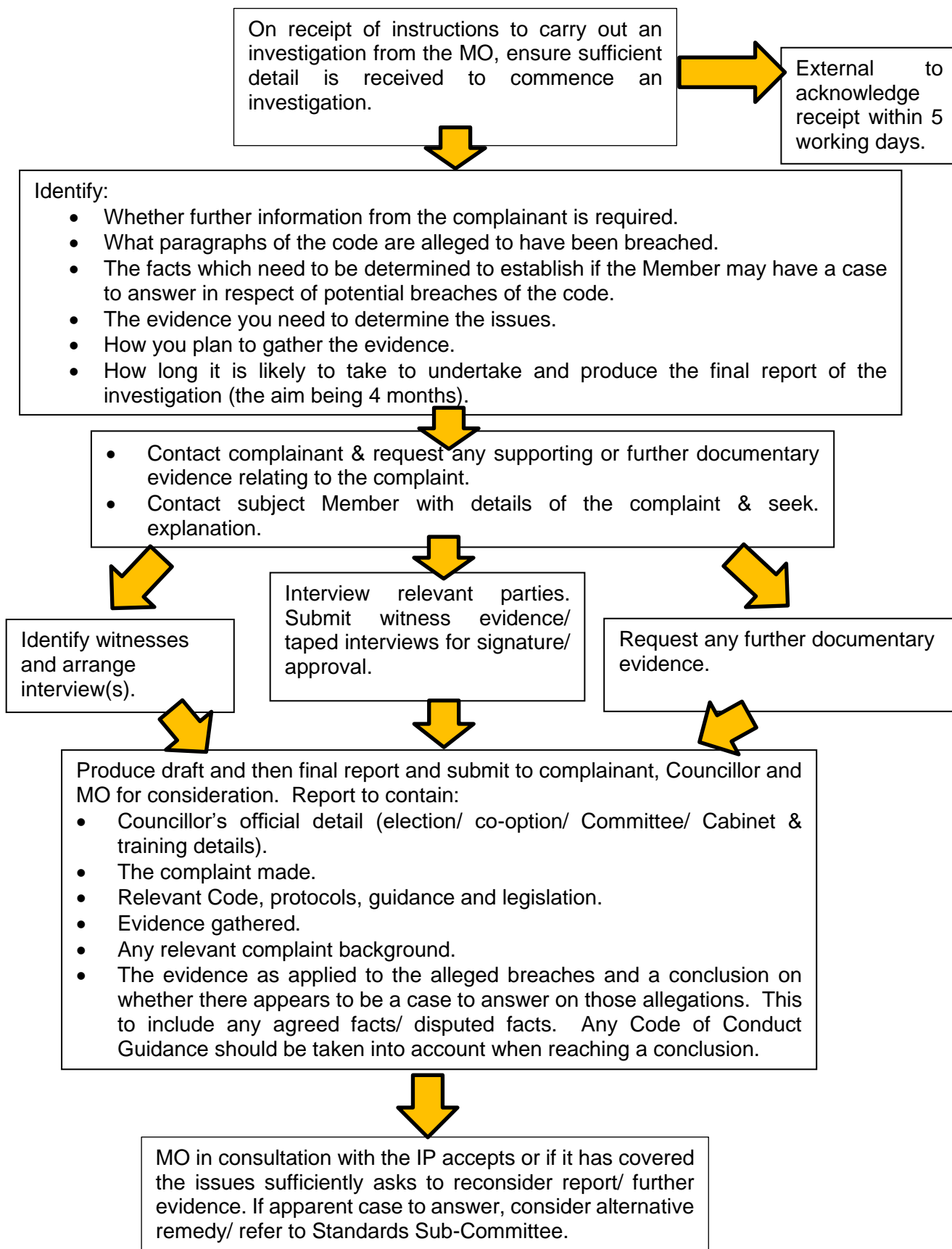
Appendix 1

Complaints Handling Procedure Flowchart & Assessment Criteria (simplified summary – full details within the Procedure)



Appendix 2

Investigation Procedure – information / instructions for Investigating Officer



Appendix 3

THE FINAL DETERMINATION HEARING (FDR) PROCEDURE FOR THE STANDARDS SUB-COMMITTEE

<p>The Standards Sub-Committee ("the Sub-Committee") must have an efficient and effective hearing process. This will assist Members of the Sub-Committee to deal with all the issues that need to be resolved in a way that is fair to the Councillor subject to the allegation, any complainant and witnesses involved. This procedure sets out a consistent approach for all concerned.</p>	
<p>1. Interpretation</p>	
<p>"Complainant":</p>	<p>means the person who referred the allegation to Monitoring Officer.</p>
<p>"CMH":</p>	<p>means the Sub-Committee Case Management Hearing that deals with administrative and procedural matters and clarifies the issues for the Final Determination Hearing (FDH).</p>
<p>"FDH":</p>	<p>means Sub-Committee Final Determining Hearing that hears evidence; decides if a Councillor has breached the Code of Conduct; and, if so, the sanction to be imposed.</p>
<p>"Investigating Officer":</p>	<p>means the Monitoring Officer, Deputy or Investigating Officer or their nominated representative(s).</p>
<p>"Independent Person/ IP":</p>	<p>means Independent Person and Reserve Independent Persons appointed by the Council under the Localism Act 2011, whose views must be sought by the authority before it takes a decision on an allegation which it has decided to investigate under section 28(7) of the Localism Act 2011, and whose views can be sought by the authority at any other stage, or by a Councillor (<i>or a Councillor or co-opted Councillor of a Town, Parish or Community Council</i>) against whom an allegation has been made.</p>
<p>"Legal Adviser":</p>	<p>means the officer responsible for providing legal advice to the Sub-Committee. This may be the Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.</p>
<p>"Councillor":</p>	<p>means the Councillor, co-opted Councillor of NHG North Herts Council or a Town or Parish Councillor (within the NHG North Herts Council area) who is the subject of the complaint.</p>
<p>"Proper Officer":</p>	<p>means the designated Committee Services officer or nominated representative.</p>
<p>2. Representation</p>	
<p>2.1. The Councillor may be represented or accompanied during the hearing by a solicitor, counsel or, with the permission of the Sub-Committee, another person. Such person to have been notified to the Standards Sub-Committee, and agreed where applicable, at the CMH.</p>	

2.2.	Where a representative has been appointed, reference below to Councillor will (except in respect of any evidence from the Councillor concerned) mean the representative.
2.3	Where a representative is present the Councillor must indicate if the representative is to ask questions on the Councillor's behalf and make any submissions. Once such arrangements have been confirmed, they will be applied throughout the hearing.
3. Legal Advice	
3.1.	The Sub-Committee may take legal advice from its Legal Adviser at any time during the hearing or while they are considering the final decision on the potential breach(es) of the Code and any sanctions.
3.2.	The Legal Adviser will provide a summary of any legal advice given to the Members of the Sub-Committee in private session, when the meeting reconvenes in public session.
4. Voting	
4.1	Each Member of the Sub-Committee will have one vote, and all matters/issues will be decided by a simple majority of votes cast.
4.2	Abstentions will not be permitted. The Sub-Committee's decision will record whether it was unanimous or taken by a majority.
5. Quorum	
5.1.	The Proper Officer or their representative will confirm whether the Committee is quorate. A quorum for the Sub-Committee will be three elected Members of the Council.
5.2.	Where the complaint involves an allegation of misconduct against a Parish Councillor, then a non-voting Parish Member of the Standards Committee should also be present.
5.3.	The Sub-Committee must nominate a Chairman for the meeting.
5.4.	The Independent Person must be present throughout the Sub-Committee hearing.
6. Opening/ Setting the Scene and Preliminary Procedural Issues	
6.1.	The Members of the Sub-Committee shall determine whether the hearing will be considered in private session.
6.2.	The Chairman must explain the procedure for the hearing and remind all parties to turn off mobile phones, audible alarms, and similar devices etc. If the proceedings are in open session they will be recorded.
6.3.	The Chairman must ask all present to introduce themselves.
6.4.	Most if not all of the procedural/ administrative issues should have been resolved by the CMH and any Sub-Committee resolutions complied with. The Sub-

Committee may, however, resolve any issues (including failure to abide by resolutions from the CMH and absence of parties/ witnesses and whether to proceed).
7. The presentation of the Complaint and evidence of the case to answer on alleged breach of the Code of Conduct
<p>7.1. The Investigating Officer will be invited to present the report including any evidence or other material and make any representations to support the relevant conclusions on a case to answer from the report. This will be based on the complaint made to the Council and any alleged failure to co-operate with the investigation or hearing preparation (where relevant). Witnesses will be called to give evidence or have their witnesses evidence taken as accepted, where the Councillor has indicated that the witness evidence is not disputed.</p> <p>7.2. The Councillor against whom the complaint has been made (or their representative) may question the Investigating Officer on the content of the report and question any witnesses called by the Investigating Officer.³ (This is the Councillor's opportunity to ask questions arising from the report and not to make a statement).</p> <p>7.3. Members of the Sub-Committee, the Independent Person and the Legal Adviser may question the Investigating Officer about the content of the report and/or any witnesses (including the complainant) called by the Investigating Officer.</p>
8. The Councillor's case
<p>8.1. The Councillor will then be given the opportunity to present their case (and call any relevant witnesses) including any evidence or other material and make any representations to address the specific allegations before the Sub-Committee.</p> <p>8.2. The Investigating Officer may question the Councillor and/or any witnesses.</p> <p>8.3. Members of the Sub-Committee, the Independent Person and the Legal Adviser may question the Councillor and/or any of the Councillor's witnesses.</p>
9. Summing Up
<p>9.1. The Investigating Officer will be given the opportunity to sum up the complaint and any relevant representations on the case to answer.</p> <p>9.2. The Councillor, or their representative, will be given the opportunity to sum up their case.</p>
10. Consultation with the Independent Person

³ **NOTE** If the Member disputes any relevant fact in the Investigating Officer's report, without having given prior notice of the dispute they will be required to give good reasons for not mentioning it when the draft report was finalised or in any event at the CMH. Such behaviour is likely to affect the weight of the Member's evidence on that issue and/ or be treated as evidence of failure to co-operate with an investigation.

10.1. Prior to the consultation, the Independent Person may seek a short adjournment of the hearing to prepare/ finalise their view on whether, in their view, a breach of the Code of Conduct has occurred.
10.2. The hearing will then be reconvened and Members of the Sub-Committee must consult the Independent Person on whether in his/ her opinion a breach has occurred. This view must be taken into account by the Sub-Committee before it makes its decision on an allegation.
11. The Members of Sub-Committee will deliberate in private session to consider evidence presented and to reach their decision (the Legal Adviser will attend)
12. Decision
12.1. Upon the Sub-Committee's return the Chairman will announce the Sub-Committee's decision in the following terms:- <ul style="list-style-type: none"> 12.1.1. The Sub-Committee decides that there is no breach of the Code of Conduct; or 12.1.2. The Sub-Committee decides that there is a breach of the Code of Conduct;
12.2 The Sub-Committee will give reasons for its decision.
12.3 If the Sub-Committee decides that there is no breach of the Code of Conduct the Chairman closes the hearing. The case is at an end.
12.4 If the Sub-Committee decides that the Councillor has breached the Code of Conduct, it will consider any representations from the Investigating Officer and/or the Councillor and will seek the views of the Independent Person as to: <ul style="list-style-type: none"> 12.4.1 Whether any action should be taken; and 12.4.2 If so, what form any action (in the form of a sanction) should take.
12.5 As part of their role under 12.4.2, the Sub-Committee will consider whether to impose any of the following sanctions: <ul style="list-style-type: none"> 12.5.1 Publish its findings in respect of the Councillor's conduct (e.g. in a local newspaper in print or on-line or both). [Note that any decision will normally be made available for inspection and published on the Council's website in the event that the hearing was held in public]; 12.5.2 Report its findings to Council (or the Parish/ Town/ Community Council) for information; 12.5.3 Report its findings and recommend to Council (or the Parish/ Town/ Community Council) that the Councillor be issued with a formal censure or be reprimanded; 12.5.4 Recommend to the Councillor's Group Leader (or in the case of un-grouped Councillors, recommend to Council or to Committees) that the Councillor be removed from any or all Committees or Sub-Committees of the Council;

- 12.5.5 Recommend to the Leader of the Council that the Councillor be removed from the Cabinet, or removed from particular Executive Member responsibilities;
 - 12.5.6 Instruct the Monitoring Officer to arrange (or recommend that the Parish/ Town/ Community Council should arrange) training for the Councillor;
 - 12.5.7 Recommend to Council (or the Parish/ Town/ Community Council) that the Councillor be removed from all outside appointments to which they have been appointed or nominated by the authority;
 - 12.5.8 Recommend to Council (or the Parish/ Town/ Community Council) that it withdraws facilities provided to the Councillor by the Council, such as a computer, website and/or email;
 - 12.5.9 Recommend to Council (or the Parish/ Town/ Community Council) that the Councillor be excluded from the Council's Offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings; or
 - 12.5.10 Take no further action.
- 12.6 [NOTE: The Sub-Committee has no power to suspend or disqualify the Councillor or to withdraw Councillor's basic or special responsibility allowances or any other payment made to the Councillor that they are entitled to under legislation]
- 12.7 The Members of Sub-Committee must then deliberate in private to consider what action, if any, should be taken (the Legal Adviser will attend).
- 12.8 On the Sub-Committee's return the Chairman must announce the Sub-Committee's decision (in relation to a Parish / Town/ Community Councillor, a recommendation to the Parish / Town/ Community Council). The Chairman will confirm whether and if so, what sanctions will be applied and the reasons for this decision.
- 12.9 The Sub-Committee must consider whether it should make any recommendations to the Council or in relation to a Parish / Town/ Community Councillor to the Parish / Town/ Community Council, with a view to promoting high standards of conduct among its Councillors.
- 12.10 The Chairman will confirm that a full written decision will be issued within 7 working days following the hearing and that the Sub-Committee's minutes will be published. The hearing will then be closed.

Appendix 4

ROLE OF INDEPENDENT PERSON AND RESERVE INDEPENDENT PERSONS – NORTH HERTFORDSHIRE DISTRICT COUNCIL

ROLE DESCRIPTION

Appointed by: The Council

Liaison with: Monitoring Officer, Deputy Monitoring Officer(s), Members of the Standards Committee, officers, District Councillors, and Town, Parish and Community Councillors within the district, key stakeholders within the community.

Reference to the IP includes the Independent Person and Reserve Independent Persons (except number 8 which is just the Reserve IP). The role is:

1. To assist the Council in promoting high standards of conduct by elected and co-opted Councillors of North Hertfordshire District Council and Parish/Town/Community Councillors and in particular to uphold the Code of Conduct adopted by the Council and underpinned by the seven principles of public life, namely selflessness, honesty, integrity, objectivity, accountability, openness and leadership.
2. To assist the Council by acting as advocate and ambassador in promoting ethical behaviour and by developing a sound understanding of the ethical framework as it operates within North Hertfordshire District Council and its local councils.
3. To be available for ad hoc consultation by the Monitoring Officer where the Monitoring Officer is dealing with a matter that has not reached the stage of a formal complaint.
4. To be available for consultations on assessment of a complaint with the Monitoring Officer
5. To be available for consultation by the Monitoring Officer and/or the Standards Committee before a decision is taken as to whether to investigate a complaint or to seek local resolution of the same.
6. To be consulted by the Council through the Monitoring Officer and/or the Standards Committee before it makes a decision on an allegation that has been investigated and to be available to attend meetings of the Standards Committee in a non-voting advisory capacity.
7. To attend a CMH meeting of the Standards Sub-Committee and an FDH meeting to confirm the IP's views as to whether a breach of the Code of Conduct has occurred and any subsequent penalty (which will be taken into account).
8. To be available for consultation by any Councillor, including Parish/ Town or Community Councillor. This may be on an ad hoc basis for views on the Complaints Procedure or process as pre-arranged between the parties, either by telephone, on-line or at the Council's offices. It is not the role of the IP to act as advocate for the Councillor who is subject to the complaint, to negotiate complaint matters, or to provide substantive advice (legal or otherwise) on the allegations themselves. This will generally be confidential between the Councillor and IP, unless the Councillor confirms they have acted illegally or has a

Appendix 4

complaint about the Procedure. This will then be confirmed to the Monitoring Officer.

9. To participate in training events to develop skills, knowledge, and experience and in any networks developed for Independent Persons operating outside the District Council's area. To share information and promote debate and discussion amongst the Standards Committee following such training. To attend training events organised and promoted by the Council's Standards Committee and Monitoring Officer.
10. To attend quarterly liaison meetings with the Monitoring Officer, Chair and Vice Chair of Standards Committee, to consider standards matters generally, including although not limited to the review of relevant complaints handling documents, guidance and processes.

Protocol between Hertfordshire Police and Hertfordshire Monitoring Officers

Purpose of the agreement

Due to the existence of the Localism Act 2011 there are summary offences which relate to elected and co-opted members. These relate to members failure to disclose/register and participate in meetings where they have certain financial interest (which are termed as Disclosable Pecuniary interests). It also applies to spouse and partners living at the same address. The true definition of this term has been placed in the Relevant Authorities Regulations 2012 (DPI). The full description of these offences can be found at the conclusion of this document.

The authorisation of such offences is from the DPP (S34(5)). The Council are the most likely body to receive the initial allegation. It is then investigated by the police. It is necessary that a sharing agreement and protocol is agreed between us. Guidance and agreement has been addressed in this document which will be signed by the police and monitoring officers within each Council.

At this stage it would be prudent to draw correlation between the Council principles and police Code of Ethics. The Council rely on Nolan Principles such as Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership. Police Code of Ethics are Accountability, Fairness, Honesty, Integrity, Leadership, Objectivity, Openness, Respect, Selflessness. Therefore both bodies adhere to similar principles which is at the forefront of any decision making made.

Definitions and description:

Complainant – the individual who submits the written complaint to a Local Authority Monitoring Officer who alleges the breach.

Subject Member – refers to the councillor who is the subject of the complaint.

The DPI offences are summary only but carry a 12 month limit from the date that the evidence was deemed sufficient in the prosecutor's opinion to warrant proceedings came to their knowledge. If the offence is proven - then the accused could face disqualification as a member and a fine.

Should 3 years pass from the commission of the offence or the last date of the offence no proceedings can be brought.

These are summary only offences and require the consent of the DPP to proceed. Therefore these offences do not lend themselves to further police powers such as PACE Section 32, 18 and 8.

Further consideration needs to be made concerning alternative offences which are more substantial – such as Bribery and Corruption 2010, Fraud Act 2006 and Misconduct in a public office.

Threshold test to be applied by monitoring officer

It is possible that the complaint could come from the Monitoring Officer or that the police receive the complaint themselves. In any case the Monitoring Officer should apply these following principles to the initial report before the decision is made that the police will investigate. It should be borne in mind that there may well be a genuine error which should be negated before this is referred as a criminal matter.

These are:

- Was the person a member of the council when the alleged offence took place?
- Did the conduct take place when the member was a member of another authority?
- Are the facts - should they be proved be capable of a breach of Code of Conduct?
- That the complaint is about the conduct of the member and his DPI and not about the dissatisfaction of the Council's decision and rationale.

Once these questions have been answered then the matter can be considered by the police. Council investigation into the matter is paused whilst the police investigation takes place.

The Monitoring Officer should make no comment on the investigation and will have no further input into the matter whilst it is being investigated by the police.

Should the threshold not be met then the matter can be dealt with by the council.

The informant of the complaint

Once with the police the OIC should liaise with the council who can assist in the early capture of evidence.

The OIC will liaise with the Monitoring Officer to gain the following information to establish the facts:

- The subject members register of interest be checked and minutes of the relevant council meetings be made available.
- Check for any background complaints of the Councillor and how these were investigated, by whom and what the outcome was.
- Check for the complainants' background complaints - if there are any.
- Check if the suspect has benefited from the failure to disclose the pecuniary interest and if so - to what end.
- The Monitoring Officer is to be notified of any communications regarding the complaint and to make these communications available to the OIC.

Crime recording

The offence under the S34 Localism Act is not a notifiable one and therefore a crime is not required for National Crime Recording Standards.

Disposal

Once the outcome of an investigation has been established – Monitoring Officer to be informed.

If a prima facie case is established then file to be completed for CPS consideration. Other disposal methods may also be considered proportionate if public interest test is not met.

List of offences and descriptions

Section 30 (1) Failure to notify the Monitoring officer before the end of 28 days beginning with the day on which they become an elected member or co opted member of any pecuniary interest which they have at the time of notification.

Section 31 (2) – Failure to disclose the DPI at council meetings where interest is not entered in the council's registers of member's interest.

Section 31(3) – Failure to notify the Monitoring Officer of a DPI before end of 28 days beginning with the date of disclosure at a Council meeting if the interest is not entered in the councils register of member's interests and is not subject of a pending notification.

Section 31(4) – takes part in a discussion or votes or further discussions or votes at a council meeting on matters in which they have a DPI.

Section 31(7) – Failure to notify the monitoring officer of a DPI before the end of 28 days beginning with the date when they become aware they have an interest in a matter to be dealt with, when acting alone in the course of discharging a council function.

Section 31(8) – takes further steps in relation to a matter being dealt with by him/her acting alone I the course of discharging a council function except a step for the purpose of enabling the matter to be dealt with by him or her.

False/misleading information

Knowingly or recklessly provides false or misleading information – knowingly or recklessly proving false or misleading information in any disclosures or notifications under the above Sections.

Single point of contact for the police is [REMOVED FOR REPORT PURPOSES]

This document has been checked and signed by:

[REMOVED FOR REPORT PURPOSES]

Detective Superintendent

Dated: 26/11/22

Monitoring officer:

Dated: 6.1.23

[names removed in respect of Monitoring Officers]

This page is intentionally left blank