

24 February 2026

Our Ref Standards Sub-Committee 4 March 2026
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To: The Chair and Members of the Standards Committee of North Hertfordshire District Council

District Councillors	Ian Albert, Keith Hoskins and Ralph Muncer
Substitutes: Councillors	Val Bryant, Elizabeth Dennis, Dominic Griffiths, Ian Mantle, Caroline McDonnell, Sean Nolan, Vijaiya Poopalasingham and Sean Prendergast
Independent Persons	Nicholas Moss OBE (Independent Person) Joel Rogers and Patrick Hodson (Reserve – Independent Person) – advisory roles

NOTICE IS HEREBY GIVEN OF A

MEETING OF THE STANDARDS SUB-COMMITTEE

to be held in the

**COMMITTEE ROOM 2 - DISTRICT COUNCIL OFFICES, GERNO
N ROAD, LETCHWORTH, SG6 3JF**

On

WEDNESDAY, 4TH MARCH, 2026 AT 5.00 PM

Yours sincerely,

Isabelle Alajooz
Director – Governance

****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. ELECTION OF A CHAIR The Sub-Committee Members will elect a Chair for the meeting.	
2. APOLOGIES FOR ABSENCE	
3. 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.	
4. HEARING OF THE STANDARDS SUB-COMMITTEE IN CONSIDERATION OF A STANDARDS COMPLAINT - PART 1 REPORT OF THE INTERIM LEGAL MANAGER AND DEPUTY MONITORING OFFICER	(Pages 3 - 54)
<p>This report refers a complaint under the Councillors' Code of Conduct to the Standards Sub-Committee for determination following the failure of informal resolution under the Council's Complaints Handling Procedure.</p>	
5. EXCLUSION OF THE PRESS AND PUBLIC To consider passing the following resolution: That under Section 100A of the Local Government Act 1972, the Press and Public be excluded from the meeting on the grounds that the following report will involve the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A of the said Act (as amended).	
6. HEARING OF THE STANDARDS SUB-COMMITTEE IN CONSIDERATION OF A STANDARDS COMPLAINT - PART 2 REPORT OF THE INTERIM LEGAL MANAGER AND DEPUTY MONITORING OFFICER	55 - 56
<p>This report refers a complaint under the Councillors' Code of Conduct to the Standards Sub-Committee for determination following the failure of informal resolution under the Council's Complaints Handling Procedure.</p>	

STANDARDS SUB-COMMITTEE
4 March 2026

PART 1

TITLE OF REPORT: Hearing of the Standards Sub-Committee in Consideration of a Standards Complaint

REPORT OF: INTERIM LEGAL MANAGER AND DEPUTY MONITORING OFFICER

COUNCIL PRIORITY: THRIVING COMMUNITIES / ACCESSIBLE SERVICES / RESPONSIBLE GROWTH / SUSTAINABILITY

1. EXECUTIVE SUMMARY

- 1.1 This report refers a complaint under the Councillors' Code of Conduct to the Standards Sub-Committee for determination following the failure of informal resolution under the Council's Complaints Handling Procedure. The complaint was assessed by an external Deputy Monitoring Officer in consultation with the Independent Person pursuant to section 28 of the Localism Act 2011, and informal resolution was proposed but not achieved.
- 1.2 The Sub-Committee is therefore required to consider the complaint afresh, determine whether Councillor Chris Lucas failed to comply with the Code of Conduct, and, if so, determine what action (if any) is appropriate and proportionate in accordance with the Council's adopted arrangements.

2. RECOMMENDATIONS

The Standards Sub-Committee is recommended to:

1. Consider the complaint referred under the Councillors' Code of Conduct in accordance with the Council's Complaints Handling Procedure.
2. Determine whether Councillor Chris Lucas failed to comply with the North Hertfordshire District Council Code of Conduct in relation to the conduct which forms the subject of the complaint.
3. If a breach of the Code of Conduct is found, determine what action, (as set out at paragraph 7.9 of the report), if any, is appropriate and proportionate in accordance with paragraph 9 of the Complaints Handling Procedure.
4. Authorise the Monitoring Officer to publish the Sub-Committee's decision and reasons in accordance with paragraph 9.4 of the Complaints Handling Procedure.

3. REASONS FOR RECOMMENDATIONS

- 3.1 The recommendations are made in order to enable the Standards Sub-Committee to discharge its functions under Section 7 of the Constitution and the Council's adopted Complaints Handling Procedure. Where informal resolution has not been achieved, the adopted arrangements allow for referral to the Standards Sub-Committee. The Sub-Committee must determine whether there has been a failure to comply with the Code of Conduct and, if so, determine what action (if any) is appropriate and proportionate in

accordance with section 9 of the Complaints Handling Procedure.

4. ALTERNATIVE OPTIONS CONSIDERED

4.1 None.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

5.1 The complaint was assessed by an external Deputy Monitoring Officer in consultation with the Independent Person appointed pursuant to section 28 of the Localism Act 2011, in accordance with the Council's Complaints Handling Procedure. At the assessment stage, the Subject Member was invited to enable the complaint to be resolved informally by an apology. This proposed approach was unsuccessful. No further external consultation is required at this stage. The Independent Person will be consulted again by the sub-committee at the determination stage in accordance with paragraph 8.19 of the Complaints Handling Procedure.

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"**.

7.2 A complaint was received from a Councillor concerning the conduct of Councillor Chris Lucas during the Full Council meeting that took place on the 2 October 2025.

7.3 The complaint relates to comments made by Councillor Lucas during a supplementary question regarding the Safety Advisory Group and an event held on Council land.

7.4 The conduct complained of occurred whilst Councillor Lucas was acting in his official capacity.

7A. Pre-Meeting Advice and Events at Full Council

7A.1 Prior to the meeting, Councillor Lucas submitted a proposed question referring to an *internal* email circulated to Members regarding the Safety Advisory Group.

7A.2 The Democratic Services Manager advised that the question in its original form could not be accepted under paragraph 4.8.11(e)(vi) of the Constitution as it required disclosure of confidential or exempt information.

7A.3 Councillor Lucas was advised in two separate emails that he could ask a general question regarding liability but must not refer to any specific event or to confidential information.

7A.4 At the meeting, during a supplementary question, Councillor Lucas referred to and quoted from the content of the internal officer email.

7A.5 The Chair intervened following advice from the Monitoring Officer that the supplementary question relied upon confidential information and could not lawfully be answered in public session.

7A.6 During this exchange, Councillor Lucas interrupted and challenged the Monitoring Officer during the provision of statutory advice.

7A.7 The meeting was live-streamed and the exchange is publicly available.

7.5 Assessment Stage

7.5.1 The complaint was referred to an external Deputy Monitoring Officer in consultation with the Independent Person in accordance with section 28 of the Localism Act 2011 and the Council's Complaints Handling Procedure.

7.5.2 The assessment decision, dated 28 January 2026 (Appendix 4 – part 2), concluded that the complaint should be dealt with by informal resolution (CHP 5.3.2).

7.5.3 The Deputy Monitoring Officer considered that an apology from Councillor Lucas to the Chief Executive, the Monitoring Officer and the Democratic Services Manager would be an appropriate resolution, on the basis that his words unfairly cast aspersions on the integrity of these officers.

7.5.4 Councillor Lucas was invited to provide an apology by 10 February 2026.

7.5.5 The proposed informal resolution has not been achieved.

7.5.6 In accordance with section 8.3 of the Council's Complaints Handling Procedure, where a Councillor fails to abide by the terms of informal resolution, the Monitoring Officer is likely to refer the matter to the Standards Sub-Committee for determination.

7.6 Relevant Constitutional Provisions

7.6.1 The following provisions of the Code of Conduct (Section 17 of the Constitution) are engaged:

- Obligation to treat others with respect.
- Prohibition on bullying or intimidation.
- Requirement not to conduct oneself in a manner which could reasonably be regarded as bringing the office of Councillor into disrepute.

7.6.2 Section 18 of the Constitution (Protocol for Member–Officer Working Arrangements) provides that:

- Members and officers must treat each other with mutual respect.
- Officers must be able to provide professional advice without fear of public denigration.
- Members must not make public allegations against officers which undermine professional integrity.

7.6.3 The Sub-Committee's authority to determine this complaint arises under Section 7 of the Constitution and CHP 8.4 to 8.21.

7.7 Role of the Standards Sub-Committee

7.7.1 In accordance with Appendix 4 of the Complaints Handling Procedure (Final Determination Hearing Procedure), the Sub-Committee must determine:

- (a) Whether Councillor Lucas failed to comply with the Code of Conduct; and
- (b) If so, what action (if any) should be taken.

7.7.2 Before reaching its determination, the Sub-Committee must seek and consider the views of the Independent Person (CHP 8.19).

7.8. Hearing Arrangements

7.8.1 In accordance with CHP 8.5, there is a presumption that the hearing will be held in public.

7.8.2 The Sub-Committee may resolve to exclude the press and public only where justified under Schedule 12A of the Local Government Act 1972.

7.8.3 The Sub-Committee's decision must be made in public and a decision notice will be published (CHP 9.4).

7.8.4 The Sub-Committee is invited to resolve to exclude the press and public during consideration of Appendix 4 pursuant to Schedule 12A paragraph 1 of the Local Government Act 1972 (information relating to an individual).

7.9 Possible Outcomes

7.9.1 If the Sub-Committee determines that there has been a breach of the Code of Conduct, it may take one or more of the actions set out in CHP 9.1, including:

- i. 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;
- ii. Report its findings to Council for information;
- iii. Report its findings and recommend to Council that the Councillor be issued with a formal censure or be reprimanded;
- iv. Recommend to the Councillor's Group Leader or Deputy that the Councillor be removed from any or all Committees or Sub-Committees of the Council;
- v. Instruct the Monitoring Officer to arrange training for the Councillor;
- vi. Recommend to Council that the Councillor be removed from all outside appointments to which they have been appointed or nominated by the authority;
- vii. Recommend to Council that it withdraws facilities provided to the Councillor by the Council, such as a computer, website and/or email;
- viii. Recommend to Council that the Councillor be excluded from the Council's Offices or other premises, except for meeting rooms (real or virtual) as necessary for attending Council, Committee and Sub-Committee meetings;
or
- ix. Take no further action.

8. RELEVANT CONSIDERATIONS

8.1 In determining this complaint, the Sub-Committee must have regard to:

- The Council's adopted Code of Conduct (Section 17 of the Constitution);
- The Protocol for Member–Officer Working Arrangements (Section 18 of the Constitution);
- The Council's Complaints Handling Procedure;
- The requirement under section 28 of the Localism Act 2011 to consult and have regard to the views of the Independent Person;
- The need to ensure proportionality and fairness in decision-making; and
- The limits of sanction available to the authority under the current legislative framework.

8.2 The Sub-Committee must determine the matter on the balance of probabilities.

9. LEGAL IMPLICATIONS

9.1 The Council is required under section 28 of the Localism Act 2011 to have in place arrangements for dealing with complaints that a Member has failed to comply with the Code of Conduct.

9.2 The Standards Sub-Committee is established under Section 7 of the Constitution to discharge those functions. The hearing must be conducted in accordance with the Council's adopted Complaints Handling Procedure and the principles of natural justice. The Sub-Committee has no power to suspend or disqualify a Member. Any decision must be reasonable, proportionate, and supported by reasons.

10. FINANCIAL IMPLICATIONS

10.1 There are no direct financial implications arising from the determination of this report. However, the complaint has required officer time and resources, including the engagement of an external Deputy Monitoring Officer and consultation with the Independent Person in accordance with the adopted arrangements.

10.2 There were costs to the public purse for having to instruct an external Deputy Monitoring Officer.

10.3 Any further financial impact would be limited to officer time associated with the hearing and publication of the decision.

11. RISK IMPLICATIONS

11.1 Failure to deal with complaints under the Code of Conduct in accordance with the Council's adopted arrangements may expose the authority to governance, reputational, and procedural risk. It is important that complaints are determined transparently, lawfully, and proportionately. The Sub-Committee's determination will contribute to maintaining public confidence in standards of conduct and the integrity of the Council's decision-making processes.

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.

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 There are no direct social value implications arising from the determination of this complaint. However, maintaining high standards of conduct contributes to effective governance and public trust in local democratic processes.

14. ENVIRONMENTAL IMPLICATIONS

- 14.1 There are no implications to this report.

15. HUMAN RESOURCE IMPLICATIONS

- 15.1 There are no direct employment implications arising from this report. The complaint concerns the conduct of an elected Member. However, the matter engages the Council's Member–Officer Working Protocol and the professional integrity of officers. The determination of the Sub-Committee may have indirect implications for governance culture and professional working relationships within the authority.

16. APPENDICES

- 16.1 Part 1 (Public):
Appendix 1: North Herts District Council Code of Conduct for Councillors (Section 17)
Appendix 2: Complaints Handling Procedure for matters relating to the Councillors' Code of Conduct
Appendix 3: Member–Officer Protocol (Section 18)
- Part 2 (Exempt):
Appendix 4: Assessment Decision Letter dated 28 January 2026 (Exempt - Schedule 12A paragraph 1, information relating to an individual).

17. CONTACT OFFICERS

- 17.1 Natasha Jindal: Legal Manager & Deputy Monitoring Officer:
Natasha.Jindal@north-herts.gov.uk

18. BACKGROUND PAPERS

- 18.1 None other than those referred to/ linked above.

SECTION 17

NORTH HERTS DISTRICT COUNCIL CODE OF CONDUCT⁴⁵ FOR COUNCILLORS (AND VOTING / NON-VOTING CO-OPTees) BASED ON THE LOCAL GOVERNMENT ASSOCIATION MODEL CODE⁴⁶

Joint statement

The role of Councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as Councillors we can be held accountable and all adopt the behaviours and responsibilities associated with the role. Our conduct as an individual Councillor affects the reputation of all Councillors. We want the role of Councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become Councillors.

As Councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations. Importantly, we should be able to undertake our role as a Councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

[NB LGA introduction moved to footnote. Guidance notes in BLUE below requirements]

Definitions

For the purposes of this Code of Conduct, a "Councillor" means a member or co-opted member of a local authority or a directly elected mayor. A "co-opted member" is defined in the Localism Act 2011 Section 27(4) as "a person who is not a member of the authority but who:

- (a) is a member of any committee or sub-committee of the authority; or
- (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority; and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee".

For the purposes of this Code of Conduct, "local authority" includes County Councils, District Councils, London Borough Councils, Parish Councils, Town Councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a Councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow Councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all Councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support,

⁴⁵ Approved by Full Council 15 April 2021 – in effect from 7 May 2021.

⁴⁶ LGA Model dated 19.1.21, (as amended by recommendation of Standards Committee) Introduction -The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments. All councils are required to have a local Councillor Code of Conduct. The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and Councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils

CONSTITUTION

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training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of Councillor and local government.

General principles of Councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, Councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of Councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of Councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a Councillor.

This Code of Conduct applies to you when you are acting in your capacity as a Councillor which may include when:

- you misuse your position as a Councillor
- your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a Councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a Councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish Councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

Standards of Councillor conduct

CONSTITUTION

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This section sets out your obligations, which are the minimum standards of conduct required of you as a Councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance⁴⁷ is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. Respect

As a Councillor:

- 1.1 I treat other Councillors and members of the public with respect.**
- 1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow Councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's Councillor-officer protocol.

2. Bullying, harassment and discrimination

As a Councillor:

- 2.1 I do not bully any person.**
- 2.2 I do not harass any person.**
- 2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there

⁴⁷ *In italics & blue*

is a strong vision and public commitment to equality across public services.

3. Impartiality of officers of the Council

As a Councillor:

- 3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentiality and access to information

As a Councillor:

4.1 I do not disclose information:

- a. **given to me in confidence by anyone**
- b. **acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
 - i. **I have received the consent of a person authorised to give it;**
 - ii. **I am required by law to do so;**
 - iii. **the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
 - iv. **the disclosure is:**
 1. **reasonable and in the public interest; and**
 2. **made in good faith and in compliance with the reasonable requirements of the local authority; and**
 3. **I have consulted the Monitoring Officer prior to its release.**

- 4.2 I do not improperly use knowledge gained solely as a result of my role as a Councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

- 4.3 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute

As a Councillor:

- 5.1 I do not bring my role or local authority into disrepute.**

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other Councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute. You are able to hold the local authority and fellow Councillors to account and are able to constructively

CONSTITUTION

challenge and express concern about decisions and processes undertaken by the Council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of position

As a Councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. Use of local authority resources and facilities

As a Councillor:

7.1 I do not misuse Council resources.

7.2 I will, when using the resources of the local or authorising their use by others:

- a. **act in accordance with the local authority's requirements; and**
- b. **ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a Councillor. Examples include:

- *office support*
- *stationery*
- *equipment such as phones, and computers*
- *transport*
- *access and use of local authority buildings and rooms.*

These are given to you to help you carry out your role as a Councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. Complying with the Code of Conduct

As a Councillor:

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a Councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

Protecting your reputation and the reputation of the local authority

9. Interests

As a Councillor:

9.1 I register and disclose my interests.

CONSTITUTION

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Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a Register of interests⁴⁸ of members of the authority.

You need to register your interests so that the public, local authority employees and fellow Councillors know which of your interests might give rise to a conflict of interest. The Register is a public document that can be consulted when (or before) an issue arises. The Register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other Councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a Disclosable Pecuniary Interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

10. Gifts and hospitality

As a Councillor:

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a Councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a Councillor. If you are unsure, do contact your Monitoring Officer for guidance.

⁴⁸ Councillors within the NHDC District have *individual* Registers of Interest – Modern.gov for District and pdf for local councillors

APPENDICES A-C

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register⁴⁹ with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register **details** of your other personal interests which fall within the categories set out in **Table 2 (Other Registrable Interests)**.

"Disclosable Pecuniary Interest" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your Register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the Councillor, or a person connected with the Councillor, being subject to violence or intimidation.

⁴⁹ On your Register of Interest [modern.gov]

3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public Register.

Nonparticipation in case of Disclosable Pecuniary Interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room⁵⁰ unless you have been granted a dispensation⁵¹. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it

Disclosure of Other Registrable Interests

6. Where a matter arises at a meeting which **directly relates** to one of your Other Registrable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter⁵² [only if members of the public are also allowed to speak at the meeting] but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Disclosure of Non-Registrable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
 - a. your own financial interest or well-being;
 - b. a financial interest or well-being of a relative, close associate; or
 - c. a body included in those you need to disclose under Other Registrable Interests as set out in **Table 2**you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied
9. Where a matter **affects** your financial interest or well-being:
 - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
 - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

⁵⁰ Where this includes virtual meeting, that includes the virtual meeting room.

⁵¹ Subject to any dispensation granted by the Monitoring Officer – see Appendix C

⁵² Subject to any Speaking Rights you may have under the Standing Orders

CONSTITUTION

10. Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest.

Table 1: Disclosable Pecuniary Interests

This sets out the explanation of Disclosable Pecuniary Interests. The statutory provisions can be found in [The Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Description of Disclosable Pecuniary Interests (from *DCLG Guide for Councillors “Openness and Transparency on Personal Interests” March 2013*⁵³).

If you have any of the following pecuniary interests, they are your **Disclosable Pecuniary Interests** under the national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Employment, office, trade, profession or vocation

Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.

Other payments received

Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992. The relevant period is the 12 months ending on the day when you tell the Monitoring Officer about your Disclosable Pecuniary Interests following your election or re-election, or when you became aware you had a Disclosable Pecuniary Interest relating to a matter on which you were acting alone.

Contracts

Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority:

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.

Land

Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.

Licences

Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.

Corporate tenancies

Any tenancy where (to your knowledge) –

- the landlord is your council or authority; and
- the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

Securities⁵⁴

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where –

- (a) that body (to your knowledge) has a place of business or land in the area of your council

⁵³ Updated in September 2013.

⁵⁴ Means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the [Financial Services and Markets Act 2000](#) and other securities of any description, other than money deposited with a building society.

or authority; and

(b) either –

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Table 2: Other Registrable Interests

You have a personal interest in any business of your authority where it relates to or is likely to affect:

a) any body of which you are in general control or management and to which you are nominated or appointed by your authority

b) any body

(i) exercising functions of a public nature

(ii) any body directed to charitable purposes or

(iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).

Appendix C - Dispensations

Reference to 'dispensation' in the code means under section 33 of the Localism Act 2011

If you would like the authority to consider granting you a dispensation where you have a DPI or other Interest, you must make a prior written request to the Monitoring Officer. The grounds under which such an application will be considered are detailed below:

Dispensation grounds⁵⁵

A dispensation may be granted only if, after having had regard to all relevant circumstances, the Monitoring Officer considers that:

- (a) without the dispensation the number of Councillors prohibited from participating in any particular business, would be so great a proportion of the body transacting the business, as to impede the transaction of the business;
- (b) without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
- (c) granting the dispensation is in the interests of persons living in the authority's area;
- (d) without the dispensation each member of the authority's executive would be prohibited from participating in any particular business to be transacted by the authority's executive, or
- (e) considers that it is otherwise appropriate to grant a dispensation.

A dispensation must specify the period for which it has effect, and the period specified may not exceed four years.

⁵⁵ The full wording for the statutory grounds for a DPI dispensation can be found under section 33 Localism Act 2011

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 Hertfordshire District 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 Hertfordshire District Council or local Councils as a whole, nor employees of such Councils. Note that in respect of the latter¹, North Hertfordshire District 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 Hertfordshire District Council (*or of a Parish/ Town or Community Council within the authority's area*), who are 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 Hertfordshire District 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 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. 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](#)***

¹ The Councils or their employee(s)

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** – jurisdictional, then merits and the public interests considered – see also APPENDIX 1.*

Complaints can be made by eform:

[Making a complaint against 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 Hertfordshire District Council officer responsible for overseeing the administration of the Council's complaints handling arrangements against District and Parish, Town, and Community 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 Hertfordshire District 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 Hertfordshire District Council, the matter will become 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 Hertfordshire District 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 consider 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 Hertfordshire District Council does not normally consider/ investigate anonymous complaints unless there is sufficient information and then there is a clear public interest in doing so. In any event, North Hertfordshire District 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 considers before deciding whether to consider the complaint (**Stage 1-2**) and assess the complaint (**Stage 3**). A Councillor would not normally be notified of a complaint if the assessment criteria have not been met under **Stage 1**, although they may be informed after that a complaint had been received and was not proceeding further.

4. Who is the Independent Person?

- 4.1 The Independent Person is a statutory office holder appointed by North Hertfordshire District Council. A description of their role is set out in Appendix 5.

4.2 The Procedural arrangements must include at least one appointed Independent Person. North Hertfordshire District 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 Hertfordshire District 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 expected to seek a local resolution unless this is impractical or unreasonable for either party to do so. This does not prevent a formal complaint being progressed later, to the District Council, if this is unsuccessful, but local resolution is quicker. The formal process through the District Council 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 Hertfordshire District Council Councillor, then an assessment will be undertaken and the tests under Appendix 1 (**Stage 1**) will be considered. **Stage 1** and **Stage 2** have been described by the Committee on Standards in Public Life as the 1 ‘can we’ - jurisdictional, 2 ‘should we’ – initial merits and the public interest stages. **Stage 1** is the jurisdictional one i.e. can the Council deal with this complaint. If any of those factors listed under **Stage 1** are not met, then the complaint cannot proceed, and the complainant will be informed that no further action will be taken. **Stage 2** would then only apply if the jurisdictional tests at **Stage 1** have been met. At **Stage 2** the initial merits and the public interest of the complaint will be considered, as per the criteria, summarised in **Appendix 1**. **Stage 3** signifies an assessment decision taken, which can be one of the following:

5.3.1 no further action;

The Monitoring Officer, in consultation with the Independent Person may decide that no further action is appropriate both if there is no apparent case to answer

- because there is no apparent infringement, but also where there is a potential breach of the Code.

Where it appears that an allegation has disclosed a potential breach of the Code, the Monitoring Officer may decide that it is not in the public interest to take the matter further. This could be because the alleged infringement is a minor or the matter has already been dealt with or rectified (such as a register of interests has been updated) or an apology been issued. In circumstances such as these it is important to reiterate that there has been no finding that the Code has been breached.

5.3.2 **informal resolution**

As with a decision at 5.3.1 to take no further action, the Monitoring Officer, following consultation with the Independent Person, decides that an initial assessment has revealed a potential breach of the Code. As part of the assessment (and public interest) concludes that informal resolution would be an appropriate outcome (such as an apology to the complainant, training, or other resolution). See Appendix 2 for further guidance of what this means.

However, if the Councillor subject to the complaint fails to agree to the informal resolution, the Monitoring Officer can deal with the complaint in another way, including an investigation and/ or direct referral to the Standards Committee. 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

Where a complaint is dealt with informally, it is important to note that there has been no finding that the Code has been breached.

5.3.3 **investigation;**

Where the Monitoring Officer, following consultation with the Independent Person, decides that a complaint warrants an investigation. See section 6-8 and Appendix 3 for further guidance on what this means.

It is important to note that this decision to refer for investigation is not a finding that the Code has been breached.

5.3.4 **referral to the Standards Sub-Committee.**

This may follow an investigation or in other circumstance, as set out in 5.3.2, also below and at Appendix 1.

It is only after the final determination for the complaint by the Sub-Committee that a conclusion as to whether the Code has been breached will be reached.

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, any further information requested or clarifications, and considered in accordance with the Assessment Criteria in Appendix 1.
- 5.5 Where the Monitoring Officer requires additional information 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 calendar 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 the 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 and then Stage 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 calendar days (unless there are reasons to extend the deadline on grounds such as those at 5.6 above). Note if there is an alleged conflict by a complainant regarding the involvement of a Clerk, and this is accepted by the Monitoring Officer, or there would appear to be one, then another Clerk or Council contact will be sought as the contact for relevant information.
- 5.8 There will be an initial consultation with the Independent Person at Stage 1 and if this has progressed to **Stage 2**, a further consultation, following receipt of the Councillor's response (and any Clerk's response) and/or the deadline has expired for such comments, and none has been forthcoming. 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**). Some of the criteria under **Stage 2** are subjective and account will be taken by the Monitoring Officer and the Independent Person of the public interest – namely in a fair, balanced, and proportionate approach to the complaint made.
- 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 Chair as may be appropriate) of the decision and the reasons for that decision. These will remain confidential. Note that if both the Clerk and Chair have a perceived

conflict, and this is accepted by the Monitoring Officer, or there would appear to be one, then such notice will be provided to a nominated Clerk or Council contact.

- 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 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 offence², 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. In this situation any further action on the complaint by the Council will cease, pending the outcome of the referral. Once that has been concluded, the Monitoring Officer may consider the complaint further with the Independent Person, even if the regulatory body has decided on no further action.

Please note that where a complainant wishes to withdraw the complaint the Monitoring Officer is unlikely to take further action on the matter, apart from 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.

- 5.12 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

² Under s34 Localism Act 2011

with the Independent Person. If the Councillor is not re-elected/co-opted during that period, further action on the complaint will automatically cease.

- 5.13 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.
- 5.14 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).
- 5.15 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 3 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 Hertfordshire District 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 stage³ 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.

³ I.e. Interviewing the complainant, the Councillor subject to the complaint, any witnesses, and any report.

- 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, and includes 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 any witnesses they 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 calendar 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 public⁴.

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 investigate, 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 Chair as may be appropriate – see conflicts situation and notice at 5.9*), 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 investigate, the Monitoring Officer will review the Investigating Officer's final report in consultation with the Independent Person.

⁴ In accordance with Data Protection Act/ GDPR principles and exemptions and any requirements under the Local Government Act 1972 Schedule 12A.

- 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 Chair as may be appropriate – see conflicts situation and notice at 5.9*), 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 Informal resolution will be considered.

Informal resolution

- 8.3. In addition to a decision at **Stage 3**, the Monitoring Officer in consultation with the Independent Person, as indicated, may also consider that the matter can reasonably be resolved without the need for a hearing. This can be at **Stage 5**, following conclusion of an investigation. In such a case, they will consult 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). See Appendix 2 for further guidance of what informal resolution means. If the Councillor complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee (*and the Parish. Town or Community Council*) for information but will take no further action. If the Councillor fails to abide by the terms of the informal resolution the Monitoring Office is likely to refer the case to the Standards Sub-Committee for a hearing to determine whether there has been a breach of the Code of Conduct. Note, once the matter has been referred to the Sub-Committee, then it will be for that Sub-Committee to determine the matter and any sanction (if applicable).

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 Hertfordshire District 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 calendar days prior to the CMH to notify the monitoring officer:
- 8.9.1 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
- 8.9.2 whether they will be represented at the final hearing (and details of that representative).
- 8.10 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). If 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.
- 8.11 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.
- 8.12 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 *must be* sought prior to the decision being made.

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

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

FDH

8.15 The Council has agreed a procedure for the FDH for the complaint, which is attached as Appendix 4.

8.16 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.

8.17 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.

8.18 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 Chair, 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 Chair of the Sub-Committee can halt any questions that they believe are irrelevant, repetitive, or haranguing in nature.

8.19 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 considered, by the Sub-Committee before it makes its decision on an allegation that it has decided to investigate.

8.20 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.

8.21 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 because 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. When deciding the type and nature of any sanction, the Sub-Committee will try to ensure that it is reasonable, proportionate, and relevant to the behaviour concerned and consider the matters set out in the relevant Guidance⁵. 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;

⁵ <https://www.local.gov.uk/publications/guidance-member-model-code-conduct-complaints-handling>

- 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, except for 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 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 Chair 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.

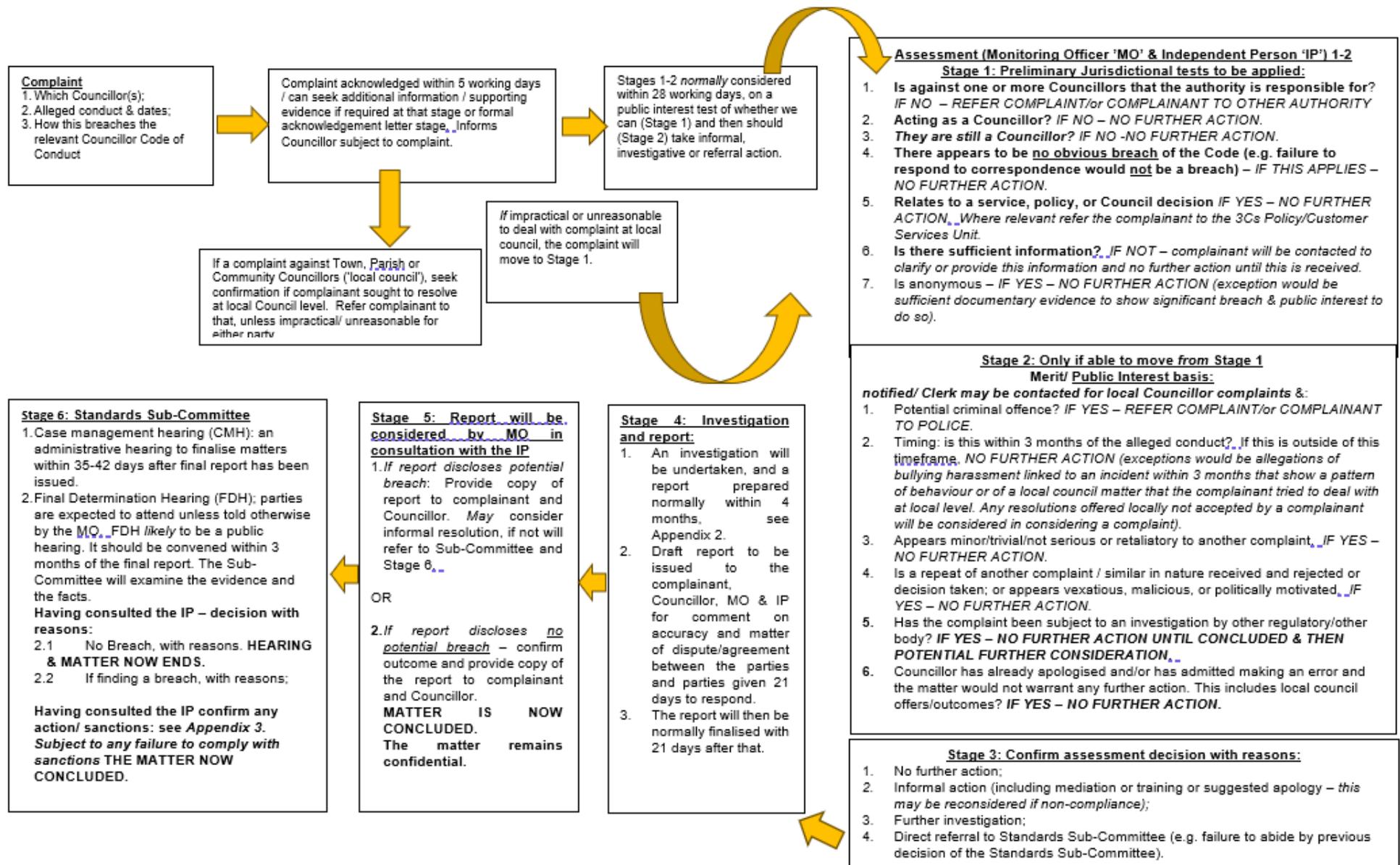
10. Revision of these arrangements

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 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 or Vice Chair of the Standards Committee under delegated authority.

- Appendix 1 Complaints Handling Procedure Flowchart & Assessment Criteria
- Appendix 2 Informal Resolution
- Appendix 3 North Hertfordshire District Council Investigation Procedure – information/ Instructions for Investigating Officer
- Appendix 4 The Final Determination Hearing (FDR) Procedure for Standards Sub-Committee
- Appendix 5 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

INFORMAL RESOLUTION

What is it?

An informal resolution is a more proportionate way of dealing with relatively minor allegations, one-off incidents, or underlying disagreements between individuals.

This could be an apology, training, supervised mediation, or a combination of these things.

It should be borne in mind however that dealing with a matter by informal resolution at the initial assessment stage is making no finding of fact as there has been no formal investigation, or finding by the Standards Sub-Committee and therefore this will be confidential, unless this is post investigation and the matter has been referred to the Standards Sub-Committee.

Training

Training may be in anything considered appropriate, such as:

- the Code of Conduct;
- authority procedures and protocols;
- chairing skills;
- working with external bodies;
- wider governance issues;
- planning and licensing;
- working with officers;
- use of authority resources.

Apology

This should be a genuine and meaningful attempt to acknowledge conduct, any potential upset or harm caused, how the councillor has learnt from the incident to prevent recurrence. Whilst this will be reviewed by the Monitoring Officer and Independent Person, and advice provided on whether an apology meets these principles, ultimately they cannot draft the apology. The following principles should be borne in mind by the Councillor and those handling the complaint, when determining whether the apology offered is sufficient and acceptable. It should be:

- timely;
- sincere [*it should not be stated that you have made an apology because you have been told to apologise by the Monitoring Officer*]
- specific;
- in plain language;
- an acknowledgement of ownership of the alleged conduct;
- an expression of regret for the conduct/ action/ offence/ distress as may be relevant etc.
- an acceptance of learning from the incident and of how this will not be repeated/ taking any corrective action (e.g. you may voluntarily attend training).

The complainant will be consulted on the apology received, and should ideally (unless unforeseen circumstances arise) be provided with up to 7 calendar days' notice of this apology. However, whether the apology is considered sufficient will ultimately be a matter for the Monitoring Officer in consultation with the Independent Person.

Mediation or reconciliation

This could be arranged with a professional third party or with the Monitoring Officer/ Deputy Monitoring Officer/ Independent (or Reserve Independent) Person.

This is a process designed to settle a dispute between two or more parties and reach agreed outcomes. It would only be used if parties agree to participate, be bound by the agreed outcome(s), and not use any information obtained in other procedures (other than the actual complaint being dealt with). Less formal mechanisms may also be used to work with the authority to draw up an action plan to move matters forward and again these are often best done by somebody independent.

Where this relates to a local council and multiple Councillors are involved (and external independent mediation considered appropriate), the costs of this will be sought from the local council. If this cannot be agreed, then an alternative may be considered.

Examples when appropriate?

The following is not an exhaustive list, however, matters which you might consider appropriate for informal resolution may include:

- the same potential breach of the Code by several Councillors, indicating poor understanding of the Code and the authority's procedures;
- a general breakdown of relationships, including those between Councillors and officers, as evidenced by a pattern of allegations of minor disrespect, harassment or bullying to such an extent that it becomes difficult to conduct the business of the authority;
- misunderstanding of procedures or protocols which could amount to a breach of the Code;
- misleading, unclear, or misunderstood advice from officers;
- lack of experience or training;
- interpersonal conflict;
- allegations and retaliatory allegations from the same Councillors;
- allegations that may be symptomatic of governance problems within the authority, which are more significant than the allegations in themselves

When would informal resolution not be appropriate?

The following is not an exhaustive list as each case is considered on its merits, however, the following may not be considered appropriate:

- the seriousness of the allegations or because it demonstrates a pattern of behaviour;
- an allegation which challenges the Councillor's honesty or integrity may be better dealt with as a formal investigation because of the potential reputational issues.

Who can be the subject of informal resolution?

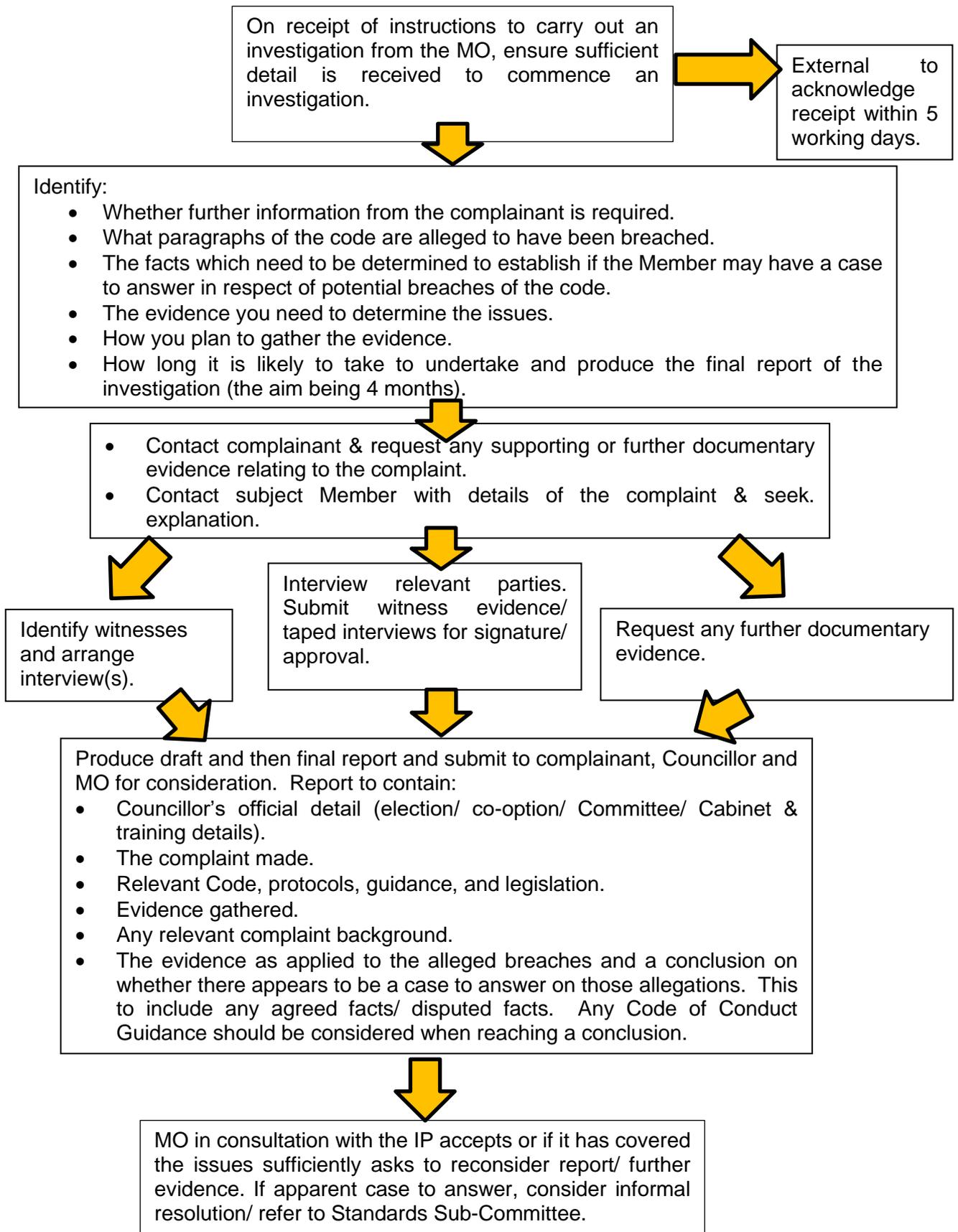
Informal resolution could either be directed at the Councillor who is the subject of the complaint, both the subject Councillor and the complainant.

Note that the Monitoring Officer and Independent Person may also decide that informal resolution may be more appropriate than referring a matter to a Sub-Committee hearing following completion of an investigation)

What are the next steps if the informal resolution does not work?

This will be considered by the Monitoring Officer and the Independent Person. This may proceed to an investigation, or direct referral to Standards Sub-Committee. However, in certain cases, the decision may be no further action.

Appendix 3
Investigation Procedure – information / instructions for Investigating Officer



Appendix 4

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>	
1. Interpretation	
“Complainant”:	means the person who referred the allegation to Monitoring Officer.
“CMH”:	means the Sub-Committee Case Management Hearing that deals with administrative and procedural matters and clarifies the issues for the Final Determination Hearing (FDH).
“FDH”:	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.
“Investigating Officer”:	means the Monitoring Officer, Deputy or Investigating Officer or their nominated representative(s).
“Independent Person/ IP”:	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.
“Legal Adviser”:	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.
“Councillor”:	means the Councillor, co-opted Councillor of North Hertfordshire District Council or a Town or Parish Councillor (within the North Hertfordshire District Council area) who is the subject of the complaint.
“Proper Officer”:	means the designated Committee Services officer or nominated representative.
2. Representation	
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.</p> <p>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.</p>
<p>3. Legal Advice</p>
<p>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.</p> <p>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.</p>
<p>4. Voting</p>
<p>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.</p> <p>4.2 Abstentions will not be permitted. The Sub-Committee's decision will record whether it was unanimous or taken by a majority.</p>
<p>5. Quorum</p>
<p>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.</p> <p>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.</p> <p>5.3. The Sub-Committee must nominate a Chair for the meeting.</p> <p>5.4. The Independent Person must be present throughout the Sub-Committee hearing.</p>
<p>6. Opening/ Setting the Scene and Preliminary Procedural Issues</p>
<p>6.1. The Members of the Sub-Committee shall determine whether the hearing will be considered in private session.</p> <p>6.2. The Chair 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.</p> <p>6.3. The Chair must ask all present to introduce themselves.</p> <p>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-</p>

<p>Committee may, however, resolve any issues (including failure to abide by resolutions from the CMH and absence of parties/ witnesses and whether to proceed).</p>
<p>7. The presentation of the Complaint and evidence of the case to answer on alleged breach of the Code of Conduct</p>
<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.⁶ (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>
<p>8. The Councillor's case</p>
<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>
<p>9. Summing Up</p>
<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>
<p>10. Consultation with the Independent Person</p>

⁶ **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 their opinion a breach has occurred. This view must be considered 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 Chair will announce the Sub-Committee's decision in the following terms:-

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 Chair 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:

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:

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 if 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, except for 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 Chair must announce the Sub-Committee's decision (in relation to a Parish / Town/ Community Councillor, a recommendation to the Parish / Town/ Community Council). The Chair 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 Chair 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 5

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 considered).
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 5

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.

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SECTION 18

PROTOCOL FOR MEMBER / OFFICER WORKING ARRANGEMENTS

(Reviewed and approved by Council 11 April 2017)

1. Introduction

- 1.1 This Protocol provides a general framework for the interaction between elected Members and officers of the Council, in order to seek to ensure that the Members and officers work together effectively and efficiently to conduct the business of the Authority.
- 1.2 In particular, this protocol aims to support the enhancement of local democracy by –
- facilitating the participation of Members and officers in the Council's policy development and decision- making processes;
 - assisting Members and those officers who support them in their role as representatives of the community within the Council and externally; and
 - clarifying arrangements for the provision of the information and support for Members and their party groups.
- 1.3 This Protocol is intended to assist Members and officers in maintaining the highest standards of integrity and propriety and ensuring that everything they do is seen by others to be done properly, fairly and where possible openly.
- 1.4 It is important therefore that any dealings with Members and officers should observe reasonable standards of mutual courtesy and respect, and that neither should seek to take unfair advantage of their position in any circumstances.
- 1.5 The Council has adopted a Councillor Code of Conduct (section 17 of the Constitution) which sets out the Conduct expected from Members. Officers are also bound to follow the Council's Employee Code of Conduct and may, in addition be subject to their own professional codes of conduct.
- 1.6 This Protocol should be read and applied in conjunction with that Code of Conduct. The principles and procedures set out in this Protocol are already, to a large extent, established and form the basis of the Council's working arrangements. The purpose of this Protocol is to provide guidance on Member/officer working arrangements particularly in the case of doubt or difficulty.
- 1.7 Failure of a Member to follow the Protocol for Member / Officer Working Arrangements may amount to a breach of the Councillor Code of Conduct and by an Officer of the Employee Code of Conduct and therefore their terms and conditions of employment.

2. Roles of Members and Officers

2.1 The respective roles of Members and officers can be summarised as follows:

Members and officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Members and to the Authority, and to carry out the Authority's work under the direction and control of the Council, the Cabinet, and relevant Committees etc. It is not the role of Members to determine the day-to-day management of the Authority's services. Mutual respect between Members and officers is essential to good local government.

2.2 Members

Members have four main areas of responsibility:

- (a) determining the policy of the Authority and giving it political leadership;
- (b) monitoring and reviewing the performance of the Authority in implementing that policy and delivering services;

- (c) representing the Authority externally;
- (d) acting as advocates on behalf of their constituents.

2.3 Members of Cabinet, Chair and Vice-Chair

Members of Cabinet and Chair and Vice-Chair of Committees, Boards, Panels etc have additional responsibilities. Because of those responsibilities, their relationships with employees may be different from, and more complex than those of Members without those responsibilities, and this is recognised in the expectations they are entitled to have. However, such Members must still respect the impartiality of officers, must not ask them to undertake work of a party-political nature, or to do anything which would put them in difficulty in the event of a change in the political composition of the Authority.

2.4 Opposition Members

As individual Members, all Members have the same rights and obligations in their relationship with officers and should be treated fairly. This principle is particularly important in the context of overview and scrutiny. However, where a political group forms an administration, either alone or in partnership with another group or groups, it is recognised that the relationship between officers, particularly those at a senior level in the organisation and the administration will differ from that with opposition groups.

2.5 Officers

The role of officers is to give advice and information to Members and to implement the policies determined by the Authority. In giving such advice to Members, and in preparing and presenting reports, it is the responsibility of the officer to express their own professional views and recommendations. Whilst an officer may report the views of individual Members on an issue, if the Member wishes to express a contrary view they should not seek to pressure the officer to make a recommendation contrary to the officer's professional view. Certain officers i.e. Head of Paid Service, Monitoring Officer, Chief Finance Officer (Section 151 Officer) have responsibilities in law over and above their obligations to the Authority and to individual Members, and Members must respect these obligations, must not obstruct officers in the discharge of these responsibilities, and must not victimise officers for discharging these responsibilities.

3. Expectations

There might be occasions when Members and Officers disagree about certain issues, however on these occasions it is expected that the standards of behaviour set out in the Protocol will still be followed.

3.1 Members can expect from officers:

- (a) A commitment to the Authority as a whole, and not to any political group;
- (b) A working partnership;
- (c) An understanding of and support for respective roles, workloads and pressures;
- (d) Timely response to enquiries and complaints;
- (e) Professional advice, not influenced by political views or preference, which does not compromise the political neutrality of officers;
- (f) Regular, up to date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold;
- (g) Awareness of and sensitivity to the political environment;
- (h) Respect, dignity and courtesy;
- (i) Training and development in order to carry out their role effectively;
- (j) Integrity, mutual support and appropriate confidentiality;
- (k) Not to be subject to bullying or to be put under undue pressure.
- (l) Not to have personal issues raised with them by officers outside the agreed procedures;
- (m) That employees will not use their relationship with Members to advance their personal interests or to influence decisions improperly;
- (n) That officers will at all times comply with the relevant professional standards, corporate policies and conditions of employment;

- (o) Support for the role of Members as the local representatives of the Authority, within any scheme of support for Members which may be approved by the Authority.

3.2 Officers can expect from Members:

- (a) A working partnership;
- (b) An understanding of and support for respective roles, workloads and pressures;
- (c) Political leadership and direction;
- (d) Respect, dignity and courtesy;
- (e) Integrity, mutual support and appropriate confidentiality;
- (f) Not to be subject to bullying or to be put under undue pressure. Members should have regard to the seniority of officers in determining what are reasonable requests, having regard to the power relationship between Members and officers, and the potential vulnerability of officers, particularly at junior levels;
- (g) That Members will not use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly;
- (h) That Members will give due consideration to advice received from officers;
- (i) That Members will not criticise individual officers in public and will instead raise any concerns or complaints with the appropriate officer (dependent on the seniority of the officer concerned – directly or their line manager) in the first instance;
- (j) That Members will have due regard to advice received from the Head of Paid Service, Chief Financial Officer and Monitoring Officer when those officers are acting pursuant to their statutory duties;
- (k) That Members will at all times comply with the relevant Code of Conduct.

3.3 Limitations on Behaviour

The distinct roles of Members and officers necessarily impose limitations upon behaviour. By way of illustration, and not as an exclusive list:

- (a) Close personal relationships between Members and officers can confuse these separate roles and get in the way of the proper discharge of the Authority's functions, not least in creating the perception in others that a particular Member or officer may secure advantageous treatment;
- (b) The need to maintain the separate roles means that there are limits to the matters on which they may seek the advice of officers, both in relation to personal matters and party political issues;
- (c) Relationships with a particular individuals or party groups should not be such as to create public suspicion that an employee favours that Member or group above others.

The issue of officer attendance and advice to political groups is specifically covered below.

- (d) Members will sometimes need to use Council Services in their private capacity, for example a planning application for their property, or a licensing application for an organisation they are involved with. In order to ensure good future working relationships Members should follow the principles of this Protocol in such interactions with officers and in any event any requirements in the Councillors' Code of Conduct (and where applicable the Planning Code of Good Practice). Members are reminded that the Code of Conduct applies to any formal or informal meeting with officers and Members where authority business such as this is discussed. Members should therefore use a third party to liaise and correspond on their behalf.

4. Member/Officer Communication

- 4.1 Members should communicate with officers at the appropriate level Routine service-related enquiries should be initiated through normal departmental enquiry/contact points. Contact and communication includes telephone, e-mail, letters and in person. Members should always identify themselves as being a Member when contacting officers. Flexible working arrangements mean that this will be especially important, as contact will often be via email or telephone. Senior officers may use briefings, e-mail or dispatch to notify Members of Ward issues. The relevant Senior officer will keep Members informed of general developments affecting the Council and/or the District via MIS. If a Member wants an officer

to undertake new or additional work (other than routine requests described below) contact should be made in the first instance with the appropriate Senior officer for the service concerned. This will be considered in the context of the Council's priorities, approved policies and resources available.

- 4.2 In communicating with Members, officers should have regard to professional standards, Corporate Policies and conditions of employment, the requirements of this Protocol and any instructions issued by their departmental management.
- 4.3 In order to keep Members informed of relevant information, it may sometimes be necessary for Members and officers to hold confidential briefings. Officers are expected to be clear as to what information is confidential, and why, and Members are expected to maintain that confidentiality.
- 4.4 When a Member wishes to discuss policy, contact should be made with the relevant Executive Member. Operational queries should be raised with the Senior officer for the Service concerned (Director or other Senior manager).
- 4.5 Members will experience a number of standardised requests for assistance from constituents and should approach such matters as per below. Officer response times will be as per the Council's published customer care standards:
 - 4.5.1. 'First Time' Service Requests or Reports of a service failure: if reporting matters for the first time, then this can be reported on line via the Council's website: <https://www.north-herts.gov.uk/>
 - 4.5.2 When dealing with specific planning applications Members should contact the Development Control case officer at the contact number set out on material produced by the Planning Service. This does not include a Member's own application, as this should be handled through a third party on a Member's behalf.
 - 4.5.3 Electoral registration issues for residents, including postal votes are handled by the Elections Team. Residents can register on line via <https://www.north-herts.gov.uk/home/elections-and-voting/register-vote>
- 4.6 If in doubt as to who to contact for such routine enquiries, Members should contact Democratic Services.

5. Officer Advice to Party Groups

- 5.1 There is no statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the Council or the relevant Committees. Officers may be properly called upon to support and contribute to such deliberations by party groups. The advice provided must be consistent with the principle at paragraph 3.1(e) above.
- 5.2 The support provided by officers can take many forms ranging from a brief meeting with an Executive Member, Chair or spokesperson prior to a Council meeting, to a presentation to a full party group meeting. This support is available to all party groups.
- 5.3 Certain points must however be clearly understood by all those participating in this type of process, Members and officers alike. In particular –
 - (a) The support provided by an Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not expected to be present at meetings or parts of meetings when matters of party business are to be discussed.
 - (b) Party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. It is essential that discussions are kept confidential and are not communicated (inside or outside the organisation), interpreted or acted upon as though they have that official status.

- (c) Similarly, where officers provide information and advice to a party group meeting in relation to a matter of Council business this cannot act as a substitute for providing all necessary information and advice to the Cabinet or relevant Committee when the matter in question is considered.
- 5.4 Special care needs to be exercised whenever officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons will not be bound by the Code of Conduct, in particular the provisions concerning the declaration of interest and confidentiality, and for this and other reasons officers may not be able to provide the same level of information and advice as they would to a meeting of Members only.
- 5.5 Officers must respect the confidentiality of any party group discussions at which they are present and should not, in particular, relay the content of any such discussion to another party group.
- 5.6 Any request for an officer to attend a meeting arranged by a party or party group, for the purpose of presenting information to the meeting (in relation to an issue or proposal affecting or involving the Council) must be made to the relevant senior officer for the service concerned, who will consult with the Chief Executive. Where it is agreed that an officer will attend for this purpose the same facility will be offered or made available to the other party groups. Any officer who so attends will do so in their official capacity, will be politically neutral, and attendance will not signify support for any particular political view, proposal or response.
- 5.7 Officer attendance at any public meeting will generally be avoided during the period between the announcement and conclusion of any local or parliamentary election (including Police and Crime Commissioner elections) affecting the area involved, and will only occur during such a period if representatives of all parties supporting candidates in the election have been invited to take part in the meeting.
- 5.8 At any public meeting organised by any party group, or by any individual Member (rather than by the Council) officers may attend only to provide information which is publicly available. No such officer attendance will take place during the 'pre-election' period referred to in paragraph 5.7.
- 5.9 Any particular difficulty or uncertainty concerning officer advice to party groups should be raised with the Chief Executive who will where appropriate, discuss with the relevant group leaders.

6. Officer/Member/Chair Relationships

- 6.1 It is clearly important that there should be a close working relationship between the Leader of the Council, Executive Member and Chair of a Committee and the senior officers of any department which reports to that Member or Committee. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officers' ability to deal impartially with other Members and other party groups or with any other individual or organisation.
- 6.2 The Leader of the Council, Executive Member or Chair will routinely be consulted as part of the process of drawing up an agenda for a forthcoming meeting. It must, however, be recognised that in some circumstances the proper conduct of business may require a particular matter to be included on the agenda. The Leader/Member/Chair is not entitled to require the removal of such an item from the agenda, unless agreed by the Leader (unless they are the requester⁵⁶) and Chief Executive⁵⁷. The relevant officer will always be fully responsible for the content of any reports submitted in their name. Any issue concerning the inclusion of any item on an agenda and the submission of any particular report that cannot be agreed between the Leader, Executive Member or Chair and the relevant senior officer should be referred to the Chief Executive as Head of Paid Service, the Monitoring Officer and/or the Chief Finance Officer.
- 6.3 In relation to any action under delegated powers, it is important to remember that the law allows for decisions relating to the discharge of any of the Council's functions which are not specifically reserved to the Council to be taken by the Cabinet or officers. Normally, wherever the authority to make a decision is delegated to an officer it is on the basis that the officer will exercise that authority in

⁵⁶ If the Leader is the requester, then this is to be agreed with the Chief Executive.

⁵⁷ This does not apply to statutory officer reports – under s114 Local Government and Finance Act 1988 & s5 Local Government and Housing Act 1989

consultation with the Cabinet Member and/or other nominated Members and a record of that decision (as per the Guidance for Decisions Made Under Delegated Authority) completed and published.

- 6.4 It must be remembered that officers within a department are accountable to their Director and that whilst officers should also seek to assist a Cabinet Member or Chair (or indeed any Member), they must not in doing so go beyond the bounds of whatever authority they have been given by their Director or other senior officer. It should also be noted that the Chief Executive has a statutory responsibility as Head of Paid Service for ensuring the proper organisation and management of the Council's staff, and has therefore an overall responsibility for the direction and management of all officers.

7. Correspondence

- 7.1 Members and officers are reminded that all written correspondence (including letters, emails and other forms of electronic communication) between them and with members of the public may be subject to information requests under the Freedom of Information Act, Environmental Information Regulations or Data Protection Act.
- 7.2 Correspondence between individual Members and an officer should not normally be copied to any other Member except where necessary for the proper conduct of business. When using email 'blind' copies of such correspondence should not be circulated.
- 7.3 Official letters on behalf of the Council should normally be sent out in the name of the appropriate officer rather than in the name of a Member. It may be appropriate in certain exceptional circumstances, for example representations to a Government Minister or correspondence with a Leader or another local authority, for a letter to be issued in the name of the Leader of the Council. Letters or e-mails (and other forms of electronic communication) which for example create obligations, confirm or deny the acceptance of any liability, or give instructions on behalf of the Council, should always be sent out by the appropriate Director or other senior officer.

8. Publicity and the Media

- 8.1 Contact with the media on issues related to the Council or to Council business is handled through, or with advice/support from the Communications Unit.
- 8.2 Any Member who approaches the media on any item involving or affecting the Council without first approaching or consulting the Council (through the Communications Unit) will be responsible for such action. Any Member who does so should make it clear that they are speaking on their own behalf and not representing or speaking for the Council.
- 8.3 Members and officers should be mindful of the prohibition on the publication by the Council of any information intending to promote or canvass support for any political party or candidate for elections. In case of doubt, advice should first be obtained from the Monitoring Officer, who will have regard to the Code of recommended practice on local authority publicity.
- 8.4 In all other respects such communications should be in accordance with the Council's Media Relations protocol.⁵⁸

9. Personal Relationships

- 9.1 No Member or officer should allow any personal connection or relationship with any other Member or officer to affect the performance of his or her official responsibilities or the taking of any action or decision by or on behalf of the Council. This includes, for example, any family relationship, membership of the same household or any business connection. Members and officers should always consider how such a relationship or connection would be likely to be regarded by anyone outside the Council, or by any other Member or officer, and avoid creating any impression of bias or unfairness.

⁵⁸ Available on the internet: <https://www.north-herts.gov.uk/home/eu/press-releases/publications-and-consultations/media-relations-protocol>

- 9.2 An officer who is personally connected or related to any Member has a Personal Interest that should notified to his or her Appropriate Officer in writing using the (Personal) Interests Register Form (on the intranet: <http://intranet.north-herts.gov.uk/home/human-resources/hr-policies/conflicts-interest>).
- 9.3 Members should take into account any personal relationship or connection with any other Member or officer, in considering the need to register or declare a Disclosable Pecuniary Interest or Other Registrable Interest whenever appropriate.

10. Involvement of Members

- 10.1 Whenever a public meeting is organised by the Council to consider a local issue affecting a particular area, all the Members of the relevant Community Forums or (if only affecting a particular Ward or Wards), those Members representing the Ward or Wards affected should, as a matter of course, be invited to attend the meeting. Similarly, wherever the Council undertakes any form of consultative exercise on a local issue, in line with the Consultation Strategy, the Community Forum /Ward Members should be notified at the outset of the exercise.
- 10.2 The relevant senior officer will keep Members informed about significant issues in their Ward or elsewhere and affecting the Council generally, including in respect of consultation with parish councils and community groups. Such updates will usually be via MIS and examples include items on national policy, County issues, technical workshops etc. These will be issues of importance over and above the routine matters and which do not contravene the law relating to confidential information.
- 10.3 When a Member raises a Ward issue with an officer, they will be kept informed of progress if they wish to be.

11. Further Guidance

- 11.1 Any Member of the Council who needs further guidance on any of the matters referred to in the Code or on any similar or related issue is advised to contact the Monitoring Officer. Any officer needing such guidance should refer initially to their manager who will consult senior management and obtain advice as necessary.

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By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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