

## **Article 9 - The East Northamptonshire Joint Standards Complaints Committee and Independent Person (Part 2 of the ENC Constitution)**

### **9.01 Terms of Reference**

- a) This joint committee, to be known as the East Northamptonshire Joint Standards Complaints Committee, will be constituted for the discharge of the duties as provided under the Localism Act 2011 section 18. It will act, under powers delegated under section 101 of the Local Government Act 1972, to implement the arrangements agreed by East Northamptonshire (as Part 9 of the Constitution) for the investigation and determination of allegations.
- b) The East Northamptonshire Joint Standards Complaint Board will have the following roles and functions in addition to the provision of Panels for the Hearing and Appeal stages of a complaint or a Dispensations Panel when necessary under Part 9:
  - i) Receive a quarterly activity report from the Monitoring Officer which includes for the preceding quarter:
    - the level of advice on the Code and Complaints procedure
    - summary outcome of any complaints determined (with appropriate written report/summary as an appendices)
    - feedback on any 'other action' taken in respect of complaints
    - details of the dispensations granted and refused by the Monitoring Officer and Dispensations Panels
  - ii) advising East Northamptonshire Council on the adoption or revision of the Members' Code of Conduct or arrangements for the review of its procedures for handling complaints against councillors
  - iii) advising, training or arranging to train Councillors on matters relating to the Members' Code of Conduct;
  - iv) granting dispensations to Councillors from requirements relating to interests set out in the Members' Code of Conduct;
  - v) provision of an appointments panel to select an Independent Person and reserve for recommendation to East Northamptonshire Council for appointment.
- c) In addition, in accordance with part 9 of the ENC Constitution the Chairman or Vice Chairman may be consulted by the Monitoring Officer when decisions are taken on:
  - Initial assessment of a complaint
  - If an Investigation Report concludes there is evidence of failure and it is proposed that other action is to be taken
  - Short listing of candidates for Independent Person

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- d) **Political Balance:** As a joint committee, membership of this committee is exempt from the political proportionality requirements of section 15 of the Local Government & Housing Act 1989

### **9.02 Composition**

- a) The joint committee shall consist of 14 members of whom 7 members shall be appointed by East Northamptonshire Council (ENC) from its Members.
- b) The remaining seven members will be elected by vote, with one vote per council from the town and parish councils within the East Northamptonshire District. Up to one nomination per council will be sought in advance of the election. Nominees must be currently serving as town or parish councillors. The seven nominees with the greatest number of votes in any election will be elected to serve on the joint committee. In the case of a tie in numbers of votes cast, membership shall be decided by drawing of lots by the Monitoring Officer
- c) All members of the joint committee shall serve for no more than two consecutive terms of four years or for a shorter period of time. Such a shorter period shall end upon them ceasing to be eligible to act as a member of that committee or them ceasing to be a District or Town or Parish Councillor.
- d) The Independent Person, as required under Section 18 of the Localism Act 2011, shall be eligible to attend all meetings and panels of the joint committee. That person will not be co-opted or have voting rights, but will be able to remain for any discussions and debate when the public and press are excluded in order to discharge the advice giving role as outlined in the Act.

### **9.03 Proceedings of the Committee**

- a) The Chairman of the Committee shall be elected by majority vote of those present at the first meeting of the Civic Year. If the elected Chairman is an ENC Councillor then an election for the Vice Chairman shall be held from the Town and Parish members. If the elected Chairman is a Town or Parish councillor then an election for the Vice Chairman shall be held from the ENC members.
- b) A meeting of the Joint Standards Complaints Committee shall not be quorate unless at least five members (including one District Councillor, and one Town or Parish Councillor) are present for its duration
- c) The meetings and proceedings of the joint committee shall be conducted in accordance with the rules set out in Part 4 of the East Northamptonshire Council Constitution.

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- d) The Committee will meet at least every quarter, with panels being convened as and when required
- e) When Hearing, Appeal or Dispensation Panels are required, the three councillors required will generally be drawn from members of this committee who serve on the same tier of council. Exceptionally, where this is not possible because of conflict of interest or other reasons such as illness, such panels will have a majority of members from the same tier. The Monitoring Officer and Deputy Monitoring Officer have delegated authority to select the members of panels on the basis of availability and experience.
- f) Each member of the joint committee shall be entitled to recover from East Northamptonshire Council any expenses he incurs in connection with the discharge of the joint committee's functions (as per the travel and expenses procedures outlined in Part 6 of the Council's Constitution). No further allowance will be payable. The expenses incurred by the joint committee shall be defrayed by East Northamptonshire Council.
- g) When serving on the JSCC, all councillors are expected to follow the Code of Conduct adopted by the East Northamptonshire Council
- h) Support for the administration of the Joint Committee will be provided by East Northamptonshire Council.

#### **9.04 Role of the Independent Person**

- a) The Localism Act 2011 provides that the Independent Person
  - must be consulted by the authority before it makes a finding as to whether a member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that member (this means on a decision to take no action where the investigation finds no evidence of breach or, where the investigation finds evidence that there has been a breach, on any local resolution of the complaint, or on any finding of breach and on any decision on action as a result of that finding);
  - may be consulted by the authority in respect of a standards complaint at any other stage; and
  - may be consulted by a member or co-opted member of the District Council or of a Parish Council against whom a complaint has been made.
- b) East Northamptonshire Council will appoint, by agreement of the majority of councillors at a Council meeting, one person to carry out the duties of an Independent Person in relation to its adopted procedure for dealing with Complaints against Councillors. It will also appoint by the same process a reserve Independent Person to act if the Independent Person is unavailable to act due to illness or holiday or other circumstance (including conflict of interest in the case of appeals).
- c) The 'call to action' of the reserve Independent Person will be made by the

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Monitoring Officer and will be reported in their Quarterly Activity Report to the Joint Standards Complaints Committee.

- d) The Independent Person (and reserve) will be offered, and expect to undertake, appropriate training for their role.
- e) The Independent Person, when acting in this role, is expected to abide by the Councillors Code of Conduct outlined in the East Northamptonshire Council Constitution and will sign an undertaking to that effect on appointment.

### **9.05 Appointment of the Independent Person**

- a) The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.
- b) The Localism Act 2011 states that a person cannot be “independent” if he/she:
  - Is, or has been within the past 5 years, a member, co-opted member or officer of the authority, OR
  - Is or has been within the past 5 years, a member, co-opted member or officer of any other local government council (except former Independent Members of Standards Committees) OR
  - Is a relative, or close friend, of a person within the paragraphs above

For this purpose, “relative” means:

- (a) the candidate’s spouse or civil partner;
  - (b) any person with whom the candidate is living as if they are spouses or civil partners;
  - (c) the candidate’s grandparent;
  - (d) any person who is a lineal descendent of the candidate’s grandparent;
  - (e) a parent, brother, sister or child of anyone in Paragraphs (a) or (b);
  - (f) the spouse or civil partner of anyone within Paragraphs (c), (d) or (e);
  - (g) any person living with a person within Paragraphs (c), (d) or (e) as if they were spouse or civil partner to that person
- c) In addition this council requires that an Independent Person should:
    - not be a member of a political party
    - be resident within the District or within 10 miles of the border of the District
  - d) The Independent Person and reserve will be appointed for a maximum period of two terms of four years.
  - e) When the appointment of the Independent Person (and reserve) is required, an advertisement will be placed on the council’s website and in Nene Valley News (or equivalent) outlining the role and seeking expressions of interest together with details of relevant experience, allowing three weeks for response.

- f) A shortlist of candidates will then be prepared by the Monitoring Officer in consultation with the Chairman and Vice Chairman of the Joint Standards Complaints Committee (JSCC). Five members of the JSCC (chaired by, and with a majority of, ENC Councillors) will interview the shortlisted candidates and select the chosen candidate and reserve candidate for recommendation to Council for appointment.

#### **9.06 Remuneration of the Independent Person**

- a) As the Independent Person is not a member of the authority or of its Committees or Sub-Committees, the remuneration of the Independent Person no longer comes within the scheme of members' allowances, and can therefore be determined without reference to the Independent Remuneration Panel.
- b) In comparison to the current Chairman of the Standards Committee, the role of Independent Person is likely to be less onerous. The key activities will be:
- being available for consultation by the Monitoring Officer at the following stages of a complaint-
  - initial assessment
  - after production of an Investigation Report where the Monitoring Officer is considering 'other action'.
  - Attendance by invitation at Hearing Panels in order to present their views (they will not be voting or co-opted members)
  - Being available for consultation by members against whom a complaint has been made.
- c) The Independent Person will be paid at 25% of the basic councillor's allowance (plus mileage) to reflect the above responsibilities. The reserve will be paid a retainer of 10% which would include:
- attendance by invitation at the quarterly meetings of the Joint Standards Complaints Committee ( for training purposes only)
  - carrying out the duties of the Independent Person for up to 4 calendar weeks in any 12 months Duties for longer periods than 4 weeks would be paid pro-rata to the allowance for the Independent Person.