



East
Northamptonshire
Council

Joint Standards Complaints Committee – 16 July 2014

Review of Standards Arrangements

Purpose of report:

This report provides details of the complaints received under the current standards arrangements, which have been in operation for two years, and the key issues that have arisen during this period. It also notes changes to the definitions of the Nolan Principles of Public Life and recommendations arising from a legal review of the Constitution. The report offers Members the opportunity to consider if they wish to make any changes to the current arrangements as a result.

Attachment(s)

Appendix A – Comparison of the previous and new definitions for the Seven Nolan Principles of Public Life

Appendix B – Current ENC Code of Conduct for Councillors

Appendix C – Summary of proposed changes to Part 9 of Constitution

1.0 Background

1.1 The Localism Act 2011 introduced new arrangements for the declaration of interests by Councillors, development of the Code of Conduct for councillors and assessment of complaints against councillors. It was initially agreed that a review of the arrangements within the East Northamptonshire Council area would be conducted after the first 12 months. This Committee agreed in June 2013 to delay the review for a further 12 months as it was felt that the new arrangements needed further time to embed before any changes were made.

2.0 Code of Conduct

2.1 Section 28 of the Localism Act requires this Council to adopt a Code of Conduct for Councillors which is consistent with the seven principles of public life (known as the Nolan principles). These principles were originally defined in 1995. This Council chose to base its Code on Conduct on the wording of these principles.

2.2 In January 2013 the Committee for Standards in Public Life 2013 published a report “Standards matter – A review of best practice in promoting good behaviour in public life” which revised the definitions of some of the principles. (See Appendix A). A comparison of the changes with the current ENC Code (Appendix B) suggests that, although the code is compatible with the spirit of the new wording of the Principles, further consideration should be given to the wording highlighted in red to see if the Code requires strengthening in any part.

2.3 Any subsequent changes to the Code would also need to be communicated to those Town and Parish Councils which have adopted the ENC Code.

3.0 Complaints Process

3.1 At the time of writing this report the council has dealt with 12 complaints about alleged breaches of the Councillor Code of Conduct since July 2012. For information these can be categorised as:

- 5 in relation to ENC Cllrs, 7 in relation to T&PC Cllrs
- 7 were made by residents, 5 by Cllrs

- Outcomes
 - 6 resulted in no further action at initial assessment stage
 - 4 in 'other action' at the initial assessment stage (Mediation, advice to the council concerned to strengthen procedures and referral to Political Party)
 - 2 referred for investigation (one was outstanding from the old system)
- 2 appeals have been made – both in respect of initial assessment decisions.

Further analysis of the duration of individual stages of the process and the number of issues that have not resulted in complaints that as a result of prior discussions with the MO/DMO will be presented at the Committee.

- 3.2 Discussions between Monitoring Officers locally and nationally have generally highlighted that the new arrangements work well for most of the time and the process is now generally more efficient with less time being spent on minor complaints. Concern is however growing that the new arrangements are insufficient to deal with serious complaints for which police action is unlikely but which nonetheless do overall damage to the reputation of councils and councillors. In particular the omission of the ability to suspend a councillor as a sanction is seen as a weakness. This is also an issue in cases of bullying where, whatever the outcome, the councillor complained about and the complainant may have to continue to work together within the same council regardless of the outcome of the standards complaint.
- 3.3 Locally a significant proportion of complaints have been made by councillors against other councillors. There is the option of referral to the local political party for other action if both councillors serve the same political party but it is not clear that this is always seen as appropriate by those involved. Members may wish to review the effectiveness of this provision.
- 3.4 One area where the initial assessment process could be improved is for no assessment on the standards complaint to be made until any parallel processes such as grievance or other investigation have been completed. There is already provision for such a delay in the case of referral to the Police but it would be useful in other cases such as where there is an internal council process in progress.
- 3.5 It is also proposed that the letter notifying the councillor that a complaint has been received could include some wording which indicates that an apology in the early stages of a complaint can often result in its withdrawal. This would have to be accompanied by wording to explain that no judgement is being made by such a statement and that the initial assessment merely looks to decide what action should be taken next. It is felt that, in some of the cases considered over the past two years, this would have resolved the matter to the satisfaction of both sides. Members are asked to consider the merits of this proposal.

4.0 Recommendations from Legal Review

- 4.1 A review of the ENC Constitution, which includes the Code of Conduct (part 5.1) and the Complaints Assessment Procedure (part 9), has been carried out by the LGSS legal team.
- 4.2 This has advised the following changes to Part 5.1:
- a) The addition of new wording to Paragraph 2.5.3 as follows:
 “You need to reconsider carefully your position before participating in any decisions or activity, especially those relating to regulatory activities such as planning or licensing. Where the decision or activity is so closely tied to your personal or professional life that your ability to make an impartial decision may be called into question, you must consider whether you need to declare, at any relevant meeting ,any new Disclosable Pecuniary Interests (DPI) or other conflict of interest or circumstance. These will be added to your Register of Interests **as soon as possible** after the meeting.”

- b) The addition of new wording to paragraph 2.5.4 as follows:
 “The law says that if you have a DPI you must not become involved in the discussions, nor must you vote in relation to such matters. If you have other interests in the matter you should also consider if it is appropriate for you to take part in the discussions or debate. **Breaches of the rules relating to Disclosable Pecuniary Interests may lead to criminal sanctions being imposed**”
- c) The addition of new wording to paragraph 2.5.5
 You must declare **within 28 days of receipt** any gifts or hospitality valued over £50 (on one occasion or from the same donor within one year) given in respect of your role as a Councillor **in your Register of Interests**.

4.3 The changes proposed for Part 9 were more numerous but are generally of a grammatical or consistency nature. A full track change version of the proposed changes can be found at Appendix C

5.0 Equality and diversity issues

5.1 There are no known negative equality and diversity issues arising from this paper.

6.0 Legal implications

6.1 Reviewing the Code will ensure continued compliance with the Localism Act following the changes in definitions of the Seven Principles of Public Life.

7.0 Risk management

7.1 Reviewing the Code and Complaints process will reduce further the low risk of legal challenge to our processes.

8.0 Financial implications

8.1 There are no known additional financial implications arising from this report.

9.0 Corporate outcomes

9.1 The work of proposed working party will contribute to the Corporate Outcomes of Effective Management and Strong Community

10.0 Constitution Changes

10.1 Changes to the Code of Conduct for Councillors will require a change to Part 5.1 of the ENC Constitution. Changes to the Complaints Assessment Procedure would require changes to Part 9. Both would require full Council approval.

11.0 Recommendations

11.1 The Committee considers whether wording of the Code of Conduct should be strengthened to reflect the revised wording of the Nolan Principles in Appendix A

11.2 The Committee considers what, if any, revisions to Parts 5.1 and 9 of the Constitution it wishes to recommend to Scrutiny Committee for consideration.

(Reasons: To ensure that the Council's Code of Conduct continues to reflect the Nolan principles and complies with the Localism Act)

Legal	Power: Localism Act 2011
	Other considerations: Constitution

Background Papers:					
Person Originating Report: Sharn Matthews, Monitoring Officer ☎ 01832 742108 ✉ smatthews@east-northamptonshire.gov.uk					
Date: 2/7/13					
CFO		MO		CX	

(Committee Report Normal Rev. 22)

Appendix A - Comparison between new and previous wording for the Seven Principles of Public Life

Principle	Previous definition	New definition
Selflessness	Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends	Holders of public office should act solely in terms of the public interest.
Integrity	Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties	Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
Objectivity	In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit	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 for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office	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 be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.	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 have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.	Holders of public office should be truthful
Leadership	Holders of public office should promote and support these principles by leadership and example.	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 Existing ENC Code of Conduct for Councillors

Code of Conduct for East Northamptonshire Councillors

This Code applies to all Councillors when they act in their role as Councillors of the Council. This Code is a requirement of the Localism Act 2011 and forms part of the Constitution of ENC which all Councillors will follow. This code is based on the seven Nolan¹ principles of public life:

1.0 Introduction

As a Councillor you are a representative of the Council, and the public and other stakeholders will form a view of East Northamptonshire Council as a result of your actions. As such you must conduct yourself in a manner which is consistent with the Council's duty to promote and maintain high standards of conduct of Councillors.

2.1 Selflessness

As a public figure, your public role as a Councillor may overlap with your personal or professional life and interests. However, as a Councillor you will serve only the public interest and will never improperly confer an advantage or disadvantage on any person. At all times you will act in accordance with the trust that the public is entitled to place in you.

2.2 Integrity and honesty

You will consider your actions carefully to avoid placing yourself in situations where your honesty and integrity may be questioned and will on all occasions avoid improper behaviour or the appearance of improper behaviour.

2.3 Objectivity (in decision making)

You will make decisions on merit, including when making appointments, awarding contracts or recommending individuals for rewards or benefits. You must approach decisions with an open mind and listen to the views of others and assess the information presented at the decision making meeting. You must then reach your own conclusions on issues and act accordingly. Failure to do so may expose the decision to challenge on the basis of pre-determination.

2.4 Accountability

Everything East Northamptonshire Council does must be able to stand the test of scrutiny by the public, the media, other stakeholders, and the courts. You are accountable to the public for your actions and the manner in which you carry your responsibilities, and will co-operate fully and honestly with any scrutiny appropriate to your particular office.

2.5 Openness

2.5.1 East Northamptonshire Council strives to maintain an atmosphere of openness throughout the organisation to promote confidence of the public, stakeholders, staff and regulators. You will be as open as possible about your actions and those of the council, and should be prepared to give reasons for those actions.

2.5.2 You will review your Register of Interests (including Disclosable Pecuniary Interests as required by the Localism Act and related regulations) at least annually to ensure ongoing accuracy

¹ The Committee on Standards in Public Life (the Nolan Committee) recommended in 1996 seven principles of conduct that should underpin the work of public authorities.

2.5.3 You need to consider carefully your position before participating in any decisions or activity, especially those relating to regulatory activities such as planning or licensing. Where the decision or activity is so closely tied to your personal or professional life that your ability to make an impartial decision may be called into question you must consider whether you need to declare, at any relevant meeting, any new Disclosable Pecuniary Interests (DPI) or other conflict of interest or circumstance. These will be added to your Register of Interests after the meeting.

2.5.4 The law says that if you have a DPI you must **not** become involved in the discussions nor must you **vote** in relation to such matters. If you have other interests in the matter you should also consider if it is appropriate for you to take part in the discussions or debate.

2.5.5 You must declare any gifts or hospitality valued over £50 (on one occasion or from the same donor within one year) given in respect of your role as a Councillor in your Register of Interests.

2.6 Leadership

You will promote and support these principles by leadership and by example, and should act in a way that secures or preserves public confidence and avoids bringing your role or the council into disrepute

3.0 Other obligations

In addition to the above principles, you will:

- a) strive to establish respectful and courteous relationships with everyone you come into contact with as Councillors. You will also respect the political impartiality and professional role(s) of the council's statutory officers and its other employees.
- b) uphold the law in relation to the policies of the council and its legal obligations
- c) not disclose or use confidential information for any purpose other than that provided for by the law.
- d) use those particular council resources provided for the undertaking of council duties in accordance with council policies or constitution and not for any other purposes.

4.0 Training

Participation in training and development activities is not a legal requirement to be a Councillor. However this council expects that you will participate, in induction and other training and development activities in relation to standards matters.

5.0 Summary

This code is intended to provide a guide and protection for councillors in carrying out their duties. However, a breach of any part of this code may result in a complaint being made. A complaint will be assessed according to the arrangements outlined in Part 9 of the Council's Constitution.



East Northamptonshire Council Constitution

Part 9: Procedure for Assessment, Investigation Determination and Appeal of Complaints against Councillors and Dispensations

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Annexes:

1. Guidelines for the Assessment of Complaints
2. Guidelines for the Conduct of Investigations
3. Guidelines for the Conduct of Hearings

1.0 Introduction

- 1.1 This procedure sets out the arrangements for the assessment, investigation, determination and appeal of allegations of misconduct by Councillors¹. It explains how we will deal with a complaint that any of the 40 East Northamptonshire Councillors or any of the approximately 350 Town and Parish Councillors in East Northamptonshire has breached, or may have failed to comply with, the code of conduct which has been adopted by the council concerned.
- 1.2 Each Council is required by the Localism Act 2011 to adopt a Code of Conduct for Councillors which is compliant with the Nolan Principles of Public Life. The codes which the councils in the East Northamptonshire district have adopted can be viewed on the East Northamptonshire Council's website. The Code for East Northamptonshire councillors can be found at Part 5.1 of this constitution.
- 1.3 The process for dealing with complaints will be the same for all Councillors regardless of the code adopted and the Councillor's political affiliations or the tier of local government they represent. No departure from this procedure will be made unless the Monitoring Officer ² has first notified the Councillor(s) against whom the allegation has been made of the proposed variation to the procedure and the reasons for that variation.
- 1.4 The Monitoring Officer will work with the Independent Person and the Joint Standards Complaints Committee (see below) to process and review complaints of a possible breach of the Code.
- 1.5 The Localism Act 2011 requires the appointment of at least one Independent Person. The Independent Person is required to be independent of links to any Councillor or council in the district. This council also wishes them to be free of any political party links and to reside in the locality. The Localism Act allows the views of the Independent Person to be sought by any Councillor in relation to complaints covered by this procedure. (It should be noted that the Act does not provide for this provision to apply to complainants but ENC have chosen to make this facility available.)
- 1.6 The Joint Standards Complaints Committee (JSCC) is composed of seven Councillors from East Northamptonshire Council and seven Councillors nominated by the Town and Parish Councils which has agreed to be bound by its decisions. The terms of reference for the JSCC can be found at Article Nine 8 of Part Two of the Council's Constitution.
- 1.7 Where this procedure makes reference to consultation with the Chairman or Vice Chairman of the JSCC, the consultation will usually be with the Councillor who represents the same tier as the Councillor(s) complained against. Exceptionally, if this person is unavailable, or has a conflict of interest, the other

¹ This procedure applies to allegations of breach of the council's code of conduct by elected and co-opted members of East Northamptonshire Council and, in respect of alleged breaches of the codes of conduct of the Town and Parish Councils in East Northamptonshire, to members of those councils and the word "Councillor" is to be taken to refer to all such persons. Under Section 28(6) and (7) of the Localism Act 2011 the Council must have in place such a procedure.

² The "Monitoring Officer" is an officer of East Northamptonshire Council who has been designated as the authority's Monitoring Officer under Section 5 of the Local Government and Housing Act 1989. The Monitoring Officer has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of councillor misconduct.

~~Councillor~~councillor will be consulted.

- 1.8 In all cases mentioned in this document the Deputy Monitoring Officer has the same responsibilities and delegated functions in respect of these procedures to act as the Monitoring Officer when the Monitoring Officer is unavailable or has a conflict of interest.
- 1.9 This procedure also sets out the arrangements for determining requests for dispensations where ~~Councillor~~councillors have an interest in a decision and would otherwise be unable to take part in the decision making process.

2 Making a Complaint

- 2.1 All complaints must be made in writing (by letter or e-mail) to:
The Monitoring Officer
East Northamptonshire Council
Cedar Drive
Thrapston
NN14 4LZ
Or via MO@east-northamptonshire.gov.uk
- 2.2 In order to ensure that all the information needed to be able to process the complaint, complainants will be asked to complete the complaint form, which can be downloaded from the authority's website ([link here](#)) or provide the equivalent information in their written complaint.
- 2.3 Complainants must provide a name and a contact address or email address, so that the Monitoring Officer can acknowledge receipt of the complaint and keep the complainant informed of progress. The Monitoring Officer will acknowledge receipt of complaints within 5 working days of receiving it and provide updates after key stages or a minimum of monthly intervals thereafter.
- 2.4 In the interests of fairness and natural justice, East Northamptonshire Council believes that ~~Councillor~~councillors who are complained about are entitled to know who has made the complaint against them and the substance of that complaint. The identity of a complainant or the details of a complaint will not be withheld **unless there are exceptional reasons for doing so**. Factors which will be taken into consideration include whether the complainant –
- would be at risk of physical harm;
 - has a serious health condition and there is a medical risk associated with disclosure of his identity, or
 - where there would be practical difficulties in proceeding with an investigation, or the interests of natural justice would be not be met, if the complainant's identity is unknown to the ~~Councillor~~councillor(s).
- 2.5 If complainants wish to keep their name and address confidential in the circumstances outlined in 2.4, then they should indicate this in the space provided on the complaint form. In such cases the Monitoring Officer will not disclose the complainant's name and address to the member complained against without the complainant's consent. If a request for confidentiality is not granted, the complainant will usually have the option of withdrawing the complaint. Exceptionally, the

Monitoring Officer, after consultation with the Independent Person and Chairman or Vice Chairman of the JSCC, may proceed with an investigation or other action and disclose the complainants' names, even if they have expressly asked the Council not to, if it is believed that the matter complained about is extremely serious.

Comment [SM1]: Remove gap between sections 2.5. and 2.6

2.6 The authority will not normally investigate anonymous complaints, unless there is an overriding public interest in doing so.

3.0 Stage 1 – Initial Assessment of the Complaint

3.1 All complaints received about ~~Councillor~~councillor conduct will be passed to the Monitoring Officer, who will take action in accordance with the Guidelines for the Assessment of Complaints (Appendix A). If it is not clear whether the complaint is a substantive allegation of misconduct, the Monitoring Officer will contact the complainant to seek further information. If the complainant alleges criminal conduct or breach of other regulation by any person, the Monitoring Officer will inform the Police or other appropriate regulatory agencies

3.2 The Monitoring Officer will inform ~~the Councillor~~councillor(s) concerned that a complaint has been received and unless the confidentiality provisions apply, provide them with a copy of the complaint letter. The ~~Councillor~~councillor(s) concerned will then have 5 working days to make a written response unless there is an overriding reason for an extension of time. In the latter circumstance the Monitoring Officer would notify the complainant of the revised timetable.

3.3 Where the Monitoring Officer requires additional information, an approach may be made to the complainant or the ~~Councillor~~councillor(s) for such information.

3.4 The Monitoring Officer will review the information provided in respect of every complaint received. In reaching the initial assessment decision, the Monitoring Officer will consider relevant case law and other guidance, including the guidelines in Appendix A. The Monitoring Officer will also consult with, and have regard to the views of, the Independent Person and the Chair or Vice Chair of the Joint Standards Complaints Committee (as outlined in paragraph 1.7) The Independent Person will be required to disclose if they have been approached by the complained against ~~Councillor~~councillor(s) and what advice they provided.

3.5 No decision is made at this stage as to whether a breach has or has not taken place. However when deciding what action to take at this stage consideration will be given to the implications if a breach of the Code were later to be proved.

3.6 The Monitoring Officer may decide to take:

a) *No further action.* ~~The Complainant and Councillor(s) complained against will be provided with a written summary of the decision but n~~No further action will be taken.

Comment [SM2]: Covered by para 3.7

b) *Take other/informal action.* In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member choosing to offer an apology, or other remedial action by the authority. Where the member of the authority makes a reasonable offer of local resolution, but the complainant is not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation. Where other/informal action is agreed the Monitoring Officer will arrange for the required action to be taken. Once the action is completed, the Monitoring Officer will inform the complainant, ~~Councillor~~councillor(s) complained against, and the JSCC (~~plus and~~ Town or Parish Council if relevant).

- c) *start a formal investigation*, leading to the production of an investigation report. (see Section 4)
- d) Where a complaint alleges a non or inappropriate declaration of a Disclosable Pecuniary Interest~~s~~ the Monitoring Officer will notify the Police. No further action will be taken under this procedure until the outcome of the Police notification is known. If no Police action is to be taken then the ~~other~~ three options above will be considered in accordance with this procedure.

3.7 ~~A~~The decision on the next steps will normally be taken within 20 working days of receipt of the complaint. The Monitoring Officer, after taking a decision, will normally inform the complainant, relevant ~~Councillor~~councillor(s) and if appropriate the Town or Parish Council of the decision and the reasons for that decision via a written summary. The summary will include the main points considered, the conclusions reached and the reasons for the decision and will be available for public inspection for a year. No formal publication (on the council's website or in a newspaper) of the outcome will take place unless requested by the ~~Councillor~~councillor(s) affected.

3.8 Exceptionally, in relation to the circumstances in where the complainants details have been withheld (see paragraph 2.4), the Monitoring Officer may decide that the ~~Councillor~~councillor(s) complained against should not receive the full written summary if it is considered this would be against the public interest or would prejudice any future investigation. In such circumstances an appropriately redacted version will be provided.

4.0 Stage 2 - Investigation

4.1 The Monitoring Officer, after deciding that a complaint merits formal investigation, will appoint an Investigating Officer, who may be another senior officer of the authority, ~~a~~ senior officer of another authority or an external investigator. The function of the Investigating Officer is to ensure, as far as possible, that all the information which is relevant to the allegation is identified and presented. The Investigator' report will indicate whether there is a case to answer that the ~~Councillor~~councillor(s) has failed to comply with the Council's code of conduct.

4.2 The Investigating Officer may, with the approval of the Monitoring Officer, appoint other people to assist in conducting the investigation. The Investigating Officer will speak to both the complainant and the ~~Councillor~~councillor(s) complained about to understand their relative perspective on the complaint and to identify which people they need to interview and documents they need access to. (See Appendix B for more detail on the conduct of investigations)

4.3 Usually information which the Investigating ~~Officer~~Officer obtains in the course of the investigation will not be released to individuals or organisations except where it is necessary to allow the complaint to be dealt with properly.

4.4 In exceptional cases (under the circumstances outlined in paragraph 2.4), where it is appropriate to keep the identity of the complainant confidential or disclosure of details of the complaint to the ~~Councillor~~councillor(s) might prejudice the investigation, the Monitoring Officer can advise the Investigating Officer to withhold details until the investigation has progressed sufficiently.

- 4.5 As soon as reasonably practical, and usually within three months of appointment, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to the complainant and to the ~~Councillor~~councillor(s) concerned, to give them both an opportunity to identify any matter in that draft report which they disagree with or which they consider requires more consideration. Having received and taken account of any comments which have been made on the draft report, the Investigating Officer will send their final report to the Monitoring Officer. Investigating Officers may be asked to reconsider their report if the Monitoring Officer is not satisfied that an investigation has been conducted properly.
- 4.6 Once satisfied that the investigation has been completed properly, the Monitoring Officer will ask the ~~Councillor~~councillor(s) concerned to give their response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention ~~at the hearing~~. The Monitoring Officer will then consult the Independent Person and Chair or Vice Chair of the JSCC as to their views as to the next step.
- 4.7 *If the Investigating Officer concludes that there is no case to answer of a failure to comply with the Code of Conduct* and the Monitoring Officer agrees that no further action is required, the Monitoring Officer will write accordingly to the complainant and the ~~Councillor~~councillor(s) concerned (and to the Town or Parish Council, where the complaint relates to a Town or Parish ~~Councillor~~councillor). The letter will include a copy of the Investigating Officer's final report
- 4.8 *If the Investigating Officer concludes that there is a case to answer of a failure to comply with the Code of Conduct, the Monitoring Officer will then decide between the following two actions:*
- a) *Other action* - The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, the Monitoring Officer will consult the Independent Person and Chairman or Vice Chairman of the JSCC. Such resolution may include the ~~Councillor~~councillor(s) choosing to agree that their conduct was unacceptable and offering an apology, and/or other remedial action by the council such as training or changes to council procedures. Where other action is agreed the Monitoring Officer will arrange for the required action to be taken and, once completed, the Monitoring Officer will inform the complainant, the ~~Councillor~~councillor(s) complained against, and the JSCC (plus and Town or Parish Council if relevant) that the complaint has been dealt with.
- b) *Referral to a hearing* - If the Monitoring Officer considers that ~~informal~~legal resolution is not appropriate the Investigating Officer's report will be submitted to a Hearings Panel which will conduct a hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

5.0 Stage 3 – Hearing

- 5.1 The Monitoring Officer will convene a Hearing Panel from the appropriate tier of ~~Councillor~~councillors on the JSCC. The Monitoring Officer, in consultation with the Chairman of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted. The business of such meetings will usually be conducted in confidence due to the personal nature of the information being considered.

(Appendix C details the arrangements for a Hearing Panel).

- 5.2 The Independent Person will also be present at the Hearing ~~Panel~~meeting and will give their view on the merits of the case presented. The Independent Person will be required to disclose if they have been approached by the complainant against ~~Councillor~~councillor(s) or the complainant and if so what advice they provided.
- 5.3 It is intended that hearings should be conducted in a formal manner but the attendance of legally qualified representative advisors of the complainant and complainant against ~~Councillor~~councillor(s) is not encouraged. Accordingly no assistance will be given towards the cost of any such legally qualified representatives. The Hearing Panel will act in an inquisitorial manner, rather than an adversarial manner, seeking the truth in relation to the conduct of the ~~Councillor~~councillor(s) on the balance of the information available to it, and will be able to commission further investigation or information where it needs to do so in order to come to a decision.
- 5.4 At the hearing the Investigating Officer will present the report, call such witnesses as considered necessary and make representations to substantiate the case that the ~~Councillor~~councillor(s) have failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask the complainant to attend and give evidence to the Hearing Panel. The ~~Councillor~~councillor(s) will then have an opportunity to give their evidence, to call witnesses and to make representations to the Hearing Panel as to why they consider that they did not breach the Code of Conduct.
- 5.5 Where the Monitoring Officer or the Investigating Officer arranges for someone to attend for interview or as a witness at a Hearing, they may pay that person a sum to cover any reasonable costs incurred.
- 5.6 The Hearing Panel may conclude that the ~~Councillor~~councillor(s) did not breach the Code of Conduct, and so dismiss the complaint. No formal publication (on the council's website or in a newspaper) of the outcome will take place unless requested by the ~~Councillor~~councillor(s) affected.
- 5.7 If the Hearing Panel concludes that the ~~Councillor~~councillor(s) did breach the Code of Conduct, the Chair will inform them of this finding. The Hearing Panel will then give the ~~Councillor~~councillor(s) a ~~final~~ opportunity to make representations to the Panel. The Panel will then consult the Independent Person. Finally the Panel will decide what action, if any, to take in respect of the matter.
- 5.8 If a breach is found to have occurred, the Hearing Panel will choose from one or more of the following list of actions. These actions will be implemented in case of ~~Councillor~~councillors from those councils who have delegated to the JSCC such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. On all other cases, the Hearing Panel recommendation will be forwarded to the council by the Monitoring Officer, with a recommendation for appropriate action.
- Take no further action
 - Recommend to the relevant council that the ~~Councillor~~councillor(s) be censured for their breach of the Code of Conduct
 - Recommend an apology to be made by the Member to the complainant (and/or others)

- Publish its findings in respect of the member's conduct. (Advice will be sought as to the most effective place of publication to attract the attention of the relevant community). If this is on a council website, the publication ~~on the website~~ will be removed after 12 months.
- Recommend to the member's Group Leader (or in the case of un-grouped members, recommend to the relevant Council) that the member be removed from any or all Committees or Sub-Committees of the Council.
- Instruct the Monitoring Officer to arrange training for the member.
- Recommend to the relevant Council the removal from some or all outside appointments to which the member has been appointed or nominated by the relevant council.
- Withdraw some or all facilities provided to the member by the Council, (including access to buildings) provided this does not prevent the ~~Councillor~~councillor(s) carrying out the member role.

It should be noted that the Hearing Panel has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances

- 5.9 At the end of the hearing, the Chairman will re-state the decision of the Hearing Panel as to whether the member was a breach of the Code of Conduct and any sanction which the Hearing Panel has decided is appropriate. Within 5 working days of the decision being made by the Hearing Panel, the Monitoring Officer will arrange for a formal decision notice to be prepared in consultation with the Chairman of the Hearings Panel, and send a copy to the complainant, the ~~Councillor~~councillor(s) complained against (and to the Town or Parish Council if relevant). The outcome will also be reported to the JSCC at the next meeting and recorded in the minutes.

6.0 Stage 4 - Appeal

- 6.1 An appeal may be made where the complainant or ~~Councillor~~councillor(s) complained about feels that the process outlined in this procedure has not been followed, the sanction applied is considered inappropriate or that significant new evidence is available which has not been considered during the previous process. Any such appeal should be made in writing (by letter or e-mail) to the Monitoring Officer within 20 working days of the receipt of the notification of the relevant decision.
- 6.2 If an appeal is made the Monitoring Officer will notify the complainant, ~~Councillor~~councillor(s) (and Town or Parish Council if appropriate). The Appeal Panel which will consist of three ~~Councillor~~councillors, normally drawn from the appropriate tier of ~~Councillor~~councillors on the JSCC who have not previously been involved in the matter. (In exceptional circumstances it may not be possible to find three ~~Councillor~~councillors from the same tier who have no previous connection to the complainant or ~~Councillor~~councillor(s) concerned. In these circumstances consideration will be given to an Appeal Panel having only two ~~Councillor~~councillors from the same tier). The reserve Independent Person will also be present at the ~~Hearing meeting~~Appeal Panel (to ensure a fresh perspective).
- 6.3 The business of such meetings will usually be conducted in confidence due to the personal nature of the information being considered. Every endeavour will be made to hold the Appeal Panel within 20 working days of the appeal notification being received.
- 6.4 The Appeal Panel will be presented with all the information previously considered for

the original decision, together with any additional representations received from the complainant or ~~Councillor~~councillor(s) complained against.

6.5 The Appeal Panel will either:

- (i) confirm the original decision and ask that the appropriate action be taken or
- (ii) disagree with the original decision and decide that an alternative action (from those available to the original decision makers) should be implemented.

6.6 At the end of the hearing, the Chairman will explain why a particular decision has been made by the Appeal Panel. Within 5 working days of the decision being made by the Appeal Panel, the Monitoring Officer will arrange for a formal decision notice to be prepared in consultation with the Chairman of the Appeal Panel, and send a copy to the complainant, the ~~Councillor~~councillor(s) complained against, (and to the Town or Parish Council if relevant). The outcome will also be reported to the JSCC at the next meeting.

7.0 Granting of Dispensations

7.1 The Localism Act provides that dispensations will be able to be granted in the following circumstances –

- a) That so many members of the decision-making body have Disclosable Pecuniary Interests in a matter that it would “impede the transaction of the business”. In practice this means that the decision-making body would be inquorate ~~as a result if the dispensation was not granted;~~
- b) That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter.
- c) That the authority considers that the dispensation is in the interests of persons living in the authority’s area.
- d) That the ~~authority~~relevant council considers that it is otherwise appropriate to grant a dispensation.

7.2 All requests for such dispensations for East Northamptonshire ~~Councillor~~councillors should normally be submitted in writing (by letter or e-mail) to the Monitoring Officer at least 2 days in advance of the relevant meeting. Under delegated authority the Monitoring Officer may agree dispensations on the grounds of (a) and (b) in paragraph 7.1 as they are objective in determination and may be required at short notice. A Dispensations Panel of three ~~Councillor~~councillors, with Members from the appropriate tier of councils will be convened to determine dispensations under grounds (c) and (d).

7.3 The Panel will consult with the Independent Person before making its determination. Any grant of a dispensation will specify how long it lasts for, up to a maximum of four years.

8.0 Assistance to the Monitoring Officer and Investigating Officer

8.1 The Monitoring Officer may arrange for all or any of the Monitoring Officer’s functions under this procedure to be undertaken by any other person or persons. Any such delegations should be reported to the next meeting of the JSCC

8.2 The Monitoring Officer and Investigating Officer may, in conducting the investigation

[into a complaint](#), obtain expert or other advice from any person who, in their opinion is particularly qualified to assist. Their name and experience of such persons will be recorded in the appropriate Hearing or Appeal Panel minutes

9.0 Confidentiality

9.1 No members or officers serving the JSCC shall disclose any information which they have obtained in the course of an investigation or in pursuance of this Procedure except in the circumstances set out in Paragraph 9.2 below. This also applies to the Independent Person.

9.2 The circumstances referred to above are:

- i. the disclosure is made for the purposes of enabling the Monitoring Officer or the Investigating Officer to conduct the investigation or otherwise to carry out their functions
- ii. the person(s) to whom the information relates has consented to the disclosure;
- iii. the disclosure is made in pursuance of a statutory requirement for disclosure;
- iv. the information has previously been placed in the public domain
- v. the disclosure is for the purpose of criminal proceedings and the information in question was not obtained as a result of personal enquiries of the person subject to the criminal proceedings.

10.0 Revision of these arrangements

10.1 Amendment of these arrangements may only be made by agreement of East Northamptonshire Council by resolution at a Council meeting [in accordance with Part 2 of the Constitution](#).

10.2 The Monitoring Officer will review these arrangements ~~after the initial~~ [every 12 months](#) ~~2 years of any changes~~ (to ensure effectiveness) and present to council proposals for any necessary changes to ensure the smooth and effective management of complaints. ~~Otherwise the procedure will be reviewed after five years following the last change~~

Local Guidelines for the Assessment of Complaints about ~~Councillor~~councillor Conduct

1. **Preliminary steps:** The Monitoring Officer will ~~ensure that~~ ensure that that:-

- (a) the complaint is against one or more named East Northamptonshire ~~Councillor~~councillor, or Member of a Parish or Town Council in East Northamptonshire
- (b) the named councillor was in office at the time of the alleged conduct and a Code of Conduct was in force at the time
- (c) the complaint submitted sufficient information and specified how the Code of Conduct is considered to have been breached.
- (d) the complainant's contact details have been provided or, if the complaint is anonymous, that it raises such significant concerns that further consideration is warranted.

The complaint will not be pursued if it fails one or more of these tests.

2. **Summary from the Monitoring Officer:** To assist the Independent Person and Chairman/Vice Chairman of the Joint Standards Complaints Committee (JSCC), the Monitoring Officer will provide a short written report setting out:

- The paragraphs of the code of conduct which are alleged to have been breached
- Key aspects of the complaint (for lengthy or complex complaints)
- Any relevant further information, including, where relevant:
 - The code of Ceonduct in force at the time of the activity which has given rise to the complaint
 - declaration of acceptance of any documents which contain the code of Ceonduct e.g. Constitution/standing orders
 - minutes of meetings relevant to the complaint
 - copy of the relevant entry in councillor's Register of Interests
 - details from Companies House or the Land Registry that maybe appropriate
 - whether any Members of the Board-JSCC or relevant officers are likely to be conflicted out
 - any written representation(s) received from the complained against councillor(s)
 - if the complaint has already been the subject of an investigation or other action relating to the code of conduct, or investigated by other regulatory authorities
 - any relevant matters about the health or circumstances of the relevant parties – to note any relevant points such as resignation, death or serious illness (which could influence a decision to proceed with an investigation)

3 **Criteria to be followed:** Complaints about ~~Councillor~~councillor conduct will be:-

- taken seriously
- dealt with in a way that seeks to ensure fairness for both the complainant and the ~~Councillor~~councillor(s) complained about
- treated on their merits, and

- considered with regard to proportionality, and the cost and time of an investigation and possible hearing.

The Monitoring Officer, Independent Person and Chairman/Vice Chairman of the JSCC will consider the following issues in deciding what action should be taken:-

(a) How long ago did the alleged conduct take place? If there is a lengthy delay in making the complaint, the Monitoring Officer may, having regard to the nature of the complaint, take the view that no further action is required. The Monitoring Officer will not entertain a complaint that is more than a year old unless the evidence of the breach has only become available within the past year.

(b) Is the complaint too trivial to warrant further action? If the answer is Yes, the Monitoring Officer is likely to decide that no further action will be taken.

(c) Does the complaint appear to be simply malicious, politically motivated, vexatious, or tit-for-tat? If the answer is Yes, the Monitoring Officer is likely to decide that further action is not warranted.

~~(e)~~(d) Where complaints are received from one councillor who is of the same party as the ~~Councillor~~councillor(s) complained about and on the same Council, the complaint will be passed to the relevant Group Leader or local party branch for resolution.

Comment [a3]: To be considered by JSCC

~~(d)~~(e) Are there other factors which could influence the decision such as –

- Incorrect advice given to the councillor
- Exceptional circumstances?

4.0 Complaints which do not raise serious issues: Wherever possible the Monitoring Officer will seek informal resolution for complaints considered to be less serious, rather than refer them for investigation. Examples of other action are conciliation, training, and improved procedures/protocols. Consistent with their duty to uphold standards of conduct, the Monitoring Officer will seek:

- the simplest and most cost-effective way of resolving the issue
- to help the Council (or the Town or Parish Council) to work more effectively
- to avoid similar complaints in the future.

Annexe 2 Conduct of Investigations

1.0 Initial response of the ~~Councillor~~councillor(s)

The Investigating Officer will write to ask the ~~Councillor~~councillor(s) complained about, requesting asking for a reply within 10 working days of their communication,

- (i) whether the ~~Councillor~~councillor admits or denies the breach of the code of conduct ~~or local protocol~~ which is the subject of the complaint;
- (ii) to list any documents which the ~~Councillor~~councillor(s) want to be taken into account in the investigation, and where possible to provide copies of them, or say where the original documents may be inspected;
- (iii) to provide the name, address and telephone number (or other appropriate contact details) of any person or organisation whom the ~~Councillor~~councillor(s) wants to be interviewed as part of the investigation, and
- (iv) to provide any information which the ~~Councillor~~councillor(s) wants to be obtained from that person or organisation.
- (v) Any other information that the ~~Councillor~~councillor(s) believes relevant to the investigation

2.0 Conduct of the Investigation

2.1 Purpose

The purpose of the Investigating Officer's enquiries is to enable the preparation of a report which will provide the Monitoring Officer with sufficient information to determine whether the ~~Councillor~~councillor(s) have a case to answer of breach of the code of conduct ~~or local protocol~~ and, if so, whether action should be taken in accordance with paragraphs 5.8 of Part 9 of the Constitution. The report of the investigation will explain the essential elements of the case and may be used to inform the action recommended by a Hearing Panel.

2.2 Termination of the Investigation

The Investigating Officer may conclude the investigation at any point if satisfied that sufficient information has been obtained to enable a report to be prepared. The investigation is regarded as completed when the Monitoring Officer receives the final report and accepts that no further investigation is necessary. Any decision to defer an investigation must be made by the Monitoring Officer in consultation with the Independent Person.

2.3 Additional Matters/References back to the Monitoring Officer

If, in the course of the investigation, the Investigating Officer

- becomes aware of any other matter which appears to indicate a potential breach of the code of conduct ~~or local protocol or any other legislation~~ by the ~~Councillor~~councillor(s) other than the complaint which is currently being investigated, or

- believes - as a result of new evidence or information - the matter is materially more, or less, serious, **and** that it would not have been referred for investigation if the Monitoring Officer had been aware of the information or evidence, or
- believes that it is no longer appropriate to continue with the investigation because the ~~Councillor~~councillor complained of has died, or is seriously ill or has resigned from the Council, or from the Parish or Town Council

the Investigating Officer will immediately report the matter(s) to the Monitoring Officer.

2.4 Production of documents, information and explanations

The Investigating Officer will make enquiries of anyone reasonably believed to have relevant information, and request anyone to provide any document, information or explanation, necessary to carry out the investigation.

2.5 Interviews

- The Investigating Officer may ask anyone reasonably believed to have relevant information to attend an interview or to provide relevant documents. It should be noted that officers or councillors from those councils which have delegated their responsibilities for the determination of Standards Issues to the JSCC are expected to co-operate with any requests from the Investigation Officer. Where a councillor or officer refuses to co-operate in these circumstances further action may be considered, including the completion of the investigation report without their input.
- Anyone interviewed may be accompanied, at their own expense, by a friend or legally qualified representative.
- The Investigating Officer will produce a written note of the material points of interviews, provide two copies of that note to the person interviewed and ask them to return one copy signed as a correct record of the interview, with any corrections or amendments they feel are necessary. Non response will be treated as agreement to the content.

2.6 Costs

Where it is appropriate to facilitate the conduct of the enquiries, the Investigating Officer may, when authorised by the Monitoring Officer, pay anyone who provides documents, information, advice or explanation within a professional capacity in response to a request, a reasonable fee or allowance.

3 Report

3.1 When the Investigating Officer is satisfied that sufficient information has been obtained for the purpose, or that as much information has been gathered as reasonably capable of being obtained, a draft report will be prepared, setting out:

- the details of the allegation;
- the ~~Councillor~~councillor(s)' initial response to the allegation (if any);
- relevant information and explanations obtained in the course of the investigation;

- (iv) a chronology and list of any relevant documents;
- (v) a list of interviewees and organisations from whom information has been sought;
- (vi) a note of anyone or any organisation that failed to co-operate with the investigation;
- (vii) a statement of draft findings of fact, and
- (viii) a recommendation as to whether there is case to answer

AND/OR

- (ix) any other matters arising out of the investigation. This could be the need for a review or reconsideration of the decision which was the subject of the breach of the Code of Conduct a recommendation for rectifying any deficiency in the Council's decision-making procedures or for training to prevent or deter any further breach of the code of conduct.

- 3.2 The Investigating Officer will issue the draft report to the ~~Councillor~~councillor and the complainant, asking for their comments within 10 working days. At this stage the report is confidential.
- 3.3 After 10 working days (or such extended period as the investigating Officer allows after consulting the Monitoring Officer), the Investigating Officer will reconsider the draft report in the light of the comments received and produce a final report which includes the matters in Paragraph 3.1
- 3.4 The Investigating Officer will send the final report to the Monitoring Officer, together with a list of all background documents including any notes of interviews which have been relied upon in preparing the report, and copies of any documents held that can conveniently be copied, that have been relied on in preparing the report. These papers will be held for one year after the final decision on the complaint.

Conduct of Hearings

1.0 Arranging the Hearing

1.1 The Hearing must take place within 30 working days of the date on which the investigation is completed or the date the Monitoring Officer received the Investigating Officer's report, ~~but at least 10 working days after the report was sent to the Councillor(s) complained about.~~

Comment [a4]: Duplicates 1.2 below

~~1.2~~ The Monitoring Officer will notify the ~~Councillor~~councillor(s) complained against at least 10 working days before the date of the Hearing Panel meeting, of the date, time and place of the meeting and will provide a copy of the Investigating Officer's final report and ~~the~~is procedure for the Conduct of ~~the~~Hearing. The Monitoring Officer will have due regard for the availability of the complainant and councillor(s) complained against and any good reason why they may not be available on the date proposed.

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1.3 Where the Investigating Officer's report finds that the ~~Councillor~~councillor(s) have a case to answer that there may have been a breach of the code of conduct ~~or local protocol has occurred~~, the Monitoring Officer will ask the ~~Councillor~~councillor(s) to:

- provide a written statement in response to the report, within 10 working days of receiving it,
- state whether the ~~Councillor~~councillor(s) want their response to be sent to the Hearing Panel at the same time as the report.
- identify in the written statement any matter(s) in the report which the ~~Councillor~~councillor(s) proposes to dispute at the Hearing Panel meeting, so that any witnesses or documents necessary to evidence the disputed matter(s) can be invited to attend the meeting,

1.4 The Investigating Officer, in securing the attendance of persons to give evidence to the Sub-Committee, may pay their reasonable fees or allowances as appropriate, as authorised by the Monitoring Officer.:-

2 Committee Agenda and Reports

2.1 The following papers will be sent out to the Hearing Panel, complainant and councillor(s) complained against at least 5 clear days before the date of the Hearing.

- The agenda for the meeting of the Hearing Panel;
- a copy of the Monitoring Officer's covering report
- a copy of the Investigating Officer's report
- a copy of any written statement in response to the report received from the ~~Councillor~~councillor(s)

The provision of any such papers may be conditional upon an appropriate undertaking of confidentiality until such time as the report is agreed to be available to the press and public.

2.2 In determining whether the public and the press will be excluded from the meeting, the provisions of Schedule 12A of the Local Government Act 1972 However for the purposes of consultation by the Hearing Panel, the Independent Person will not be excluded along with the press or public if the exclusion of the latter is resolved.

2.3 Background papers: Upon request, any member of the Hearing Panel and the Councillor~~councillor~~(s) may have access to any background documents that have referenced by the Investigating Officer in the report at any reasonable time between the issue of the agenda and the time of the meeting.

2.4 Where the Monitoring Officer considers that the Investigating Officer's report and/or the Councillor~~councillor~~(s)' written statement in response is likely to disclose "exempt information"³, and in consequence that it is likely that the Hearing Panel will, during consideration of these papers, not be open to the public, copies of the agenda or background papers will not be provided to the press or public, or any councillor other than the members of the Hearing Panel, complainant and the complained against Councillor~~councillor~~(s), in advance of the meeting. These papers may also not be inspected by the press or public in advance of the meeting.

3 Procedure at the Hearing

3.1 Attendance of the Councillor~~councillor~~(s) complained against

- The Councillor~~councillor~~(s) may arrange to be accompanied at the meeting by a friend or legally qualified representative but will pay any necessary expenses.
- If the Councillor~~councillor~~(s) are not present at the start of the meeting, the Hearing Panel will decide whether to adjourn to enable the Councillor~~councillor~~(s) to attend, or to proceed in the absence of the Councillor~~councillor~~(s). Where the Hearing Panel proceeds in the absence of the Councillor~~councillor~~(s), the procedure for the meeting will be adapted as necessary, giving any representative of the Councillor~~councillor~~(s) who is present such rights as would otherwise be accorded to the Councillor~~councillor~~(s). The minutes will record the reason for proceeding in the absence of the Councillor~~councillor~~(s).

3.2 The order of business at the meeting will be

- (i) Quorum. The Monitoring Officer or their representative will confirm that the Hearing Panel is quorate (i.e. three members of the JSCC from the appropriate tier are present)
- (ii) Election of a Chairman for the Hearing Panel
- (iii) The Chairman will introduce the Hearing Panel, Monitoring Officer (or representative), the Investigating Officer and the Councillor~~councillor~~(s) and any representative(s) of the Councillor~~councillor~~(s), and explain how the Hearing Panel will be run
- (iv) disclosures of interest by all relevant persons;
- (v) representations from the Investigating Officer and/or the Councillor~~councillor~~(s) as to reasons why the Hearing Panel should exclude the press and public and determination by the Hearing Panel as to whether to exclude the press and public. (Where the Hearing Panel decides that it will not exclude press and public, copies of the agenda and reports will be provided at this point to any members of the press and public who are present);
- (vi) preliminary procedural issues to be resolved, if any;

³ Exempt information" is defined in Schedule 12A to the Local Government Act 1972, as amended by sections 3 and 4 of the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 and 2004 respectively.

- (vii) noting of significant disagreements about the facts, if any;
- (vii) Presentation by the Investigating Officer of the report of the investigation. The Investigating Officer will at this stage address only the issue of whether the ~~Councillor~~councillor(s) have a case to answer that they breached of the code of conduct ~~or local protocol~~. The Investigating Officer may introduce any witnesses required to substantiate any matter contained in that report which the ~~Councillor~~councillor(s) have disputed in their written statement in response. Members of the Hearing Panel may question the Investigating Officer and any witness on their evidence. There will be no cross-examination by the ~~Councillor~~councillor(s), but the ~~Councillor~~councillor(s) may request the Chairman of the Hearing Panel to direct appropriate questions to the Investigating Officer or to any witness they have introduced;
- (viii) Presentation by the ~~Councillor~~councillor(s). The ~~Councillor~~councillor(s) (or representative(s)) will at this stage address only the issue of whether the actions have breached the code of conduct ~~or local protocol~~. The ~~Councillor~~councillor(s) (or representative(s)) may introduce witnesses required to substantiate any matter contained in the written statement in response. Members of the Hearing Panel may question the ~~Councillor~~councillor(s) and any witness on their evidence. There will be no cross-examination by the Investigating Officer, but ~~that Officer they~~ may request the Chairman to direct appropriate questions to the ~~Councillor~~councillor or to any witness they have introduced.
- (ix) Where the ~~Councillor~~councillor seeks to dispute any matter in the Investigating Officer's report and ~~no~~ notice of intention to dispute in the written statement had been given, the Investigating Officer will draw this to the attention of the Hearing Panel, which may then decide:
- to adjourn the meeting to enable the Investigating Officer to investigate and report on the dispute and/or to arrange for appropriate witnesses to attend as to the disputed information; or
 - to admit the dispute, but invite the Investigating Officer to respond thereto, recalling any witness as necessary; or
 - any other matters arising out of the investigation. This could be the need for a review or reconsideration of the decision which was the subject of the breach of the code, a recommendation for rectifying any deficiency in the Council's decision-making procedures or for training to prevent or deter any breach of the code of conduct. Where the complaint relates to a Parish or Town ~~Councillor~~councillor, such matters would be for recommendation by the Hearing Panel to the Parish or Town Council.
- (x) At the conclusion of the presentation by the ~~Councillor~~councillor, the Chairman will ask the Investigating Officer whether there was any matter raised during the course of the presentation which was not raised in the ~~Councillor~~councillor's written statement in response. The Investigating Officer may then respond to any new matter, or may request the Hearing Panel to adjourn to enable that Officer to investigate and report on the new matter and /or to secure the attendance of witnesses as to the new matter (but the Hearing Panel will not adjourn on more than one occasion under these provisions);
- (xi) The Hearing Panel is required to come to a decision as to whether the councillor(s) acted in breach of the code of conduct or local protocol. The members have to

satisfy themselves that they have sufficient information upon which to take that decision, and they may question the Investigating Officer, the ~~Councillor~~councillor(s) and any witness in order to obtain sufficient information to enable them to come to a decision on this issue;

- (xii) at the conclusion of the Investigating Officer and ~~Councillor~~councillor's presentations and any questions from the members of the Hearing Panel, members of the Hearing Panel will then hear of the views of the Independent Person before considering whether the member has failed to comply with or acted in breach of the code of conduct ~~or local protocol~~. At any stage in their consideration they may return to ask any further questions of the Investigating Officer or the ~~Councillor~~councillor(s) or to seek further advice from the Independent Person or council legal adviser;
- (xiii) the Hearing Panel may seek further advice at any time. Such advice will on all occasions be given in the presence of the Investigating Officer and the ~~Councillor~~councillor(s);
- (xiv) at the conclusion of their consideration, the Chairman will announce the Hearing Panel findings of fact and advise the ~~Councillor~~councillor(s) of the decision as to whether the ~~Councillor~~councillor has acted in breach of the code of conduct, and the reasons for that decision;
- (xv) if the Hearing Panel concludes that the ~~Councillor~~councillor has acted in breach of the Code of Conduct ~~or local protocol~~, it will then hear representations from the Independent Person, Investigating Officer and then the ~~Councillor~~councillor(s) as to whether the Hearing Panel should take any action against the ~~Councillor~~councillor and what form any action should take. Members of the Panel may ask questions of the Investigating Officer and the ~~Councillor~~councillor and seek advice in order to satisfy themselves that they have the information upon which to take a proper decision;
- (xvi) the Hearing Panel will then consider whether to take any action against the ~~Councillor~~councillor(s) and what form such action should take (as outlined in Paragraph 5.8 of the Complaints Procedure). The Chairman will advise the Investigating Officer and the ~~Councillor~~councillor(s) of its decision on whether to take any action against the ~~Councillor~~councillor(s) and what action it has decided to take and the reasons why;
- (xvii) the Hearing Panel will then consider whether there are any recommendations which it should make arising from its consideration of the allegation. For example, for reviewing or reconsidering any decision which was the subject of the breach of the code of conduct ~~or local protocol~~, for rectifying any deficiency in the relevant Council's decision-making procedures or for preventing or deterring any future breach of the code.

4. Reporting the Decision

4.1 As soon as practicable after the Hearing Panel has completed its consideration and decision in respect of the allegation, the Monitoring Officer will:

- (i) send the ~~Councillor~~councillor(s) a written notice of the finding of the Hearing Panel, and the reasons for it; the statement will include a statement of any rights of appeal against that decision;

- (ii) send a written report of the Panel decision to the next convenient meeting of the JSCC
- (iii) where the complaint relates to a member of a Parish or Town Council, send a written notice of the decision to the Clerk to the relevant Parish or Town Council;
- (iv) send a copy of the decision to the complainant which gave rise to the investigation.