

# CODE OF CONDUCT FOR MEMBERS

Adopted by Council on 22<sup>nd</sup> October 2020

## Purpose

The Council has a legal duty to promote and maintain high standards of conduct by members of the authority and is determined to provide excellent local government for the people of the District. It has adopted a Code of Conduct for Members, in line with its obligations under section 27(2) of the Localism Act 2011.

The purpose of this Code of Conduct is to assist member in modelling the behaviour that is expected of them, to provide a personal check and balance, and to set out the type of conduct against which appropriate action may be taken.

It is also to protect members, the public, fellow members, council officers and the reputation of local government. It sets out the conduct expected of all members and a minimum set of obligations relating to conduct. The overarching aim is to create and maintain public confidence in the role of member and local government.

**NB: It is the individual responsibility of each member to comply with this Code. Failure to do so may result in a sanction being applied by the Council.**

**Failure to take appropriate action in respect of a Disclosable Pecuniary Interest may result in a criminal conviction and an unlimited fine and /or disqualification from office for a period of up to 5 years.**

## Part One - Application of the Code

1. This Code applies to all members of the Council including co-opted members and appointed members (hereinafter referred to as Members).
- 1.1 Members must comply with this Code whenever they:-
  - (a) conduct business of Stroud District Council; or
  - (b) act, claim to act or give the impression they are acting as a representative of Stroud District Council; or
  - (c) act as a representative of Stroud District Council and references to their official capacity are construed accordingly.
- 1.2 **Interpretation:** If members refer to themselves as councillor, the Code will apply to them. The Code applies to all forms of member communication and interaction and applies in conversation, in writing, or in use of electronic media, including the use of Facebook, blogs and Twitter for example. If they refer to their role as councillor in any way or any comments they make are clearly related to their official role then the Code will apply to those comments.
- 1.3 Even if a member does not refer to their role as councillor, their public comments may have the effect of bringing their office or authority into disrepute and could therefore breach paragraph 3.2 of the Code.

## Part Two - General Obligations

2. Members must behave according to the highest standards of personal conduct in everything they do in their capacity as a member. In particular they must observe the following principles of conduct, some of which are set out in law. All members of the Council shall aspire to uphold and promote the following principles:

**Selflessness** - members should act only in the public interest and should never improperly confer an advantage or disadvantage on any person.

**Honesty and Integrity** – members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

**Objectivity** – members should make decisions impartially and on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

**Accountability** – members should be accountable to the public for their actions and the manner in which they carry out their responsibilities and should cooperate fully and honestly with any scrutiny appropriate to their particular office.

**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 there are clear and lawful reasons for doing so.

**Leadership** – members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

**Respect for others** – members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers and its other employees.

It is important that Members uphold and promote these principles, a failure to do so may, be a breach of this Code. Those matters which may be specific breaches of the Code are set out in the next section.

## **Part Three - Requirements of the Code**

### **3.1 Members must**

- (a) Not use their position as a member to influence, or attempt or purport to influence, any decision or business of the Council in which they have an interest (an interest is defined in sections 4.2, 4.3 and 4.4 of Part 4 below) and they shall comply with the requirements of this Code in relation to interests;
- (b) Not use or attempt to use their position as a member improperly to confer on or secure for themselves or any other person, an advantage or disadvantage; and
- (c) When using or authorising the use by others of the resources of their authority:
  - (i) act in accordance with the Council's reasonable requirements; and
  - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
  - (iii) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

### **3.2 Not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute;**

3.3 Carry out all their duties and responsibilities paying due regard to the Public Sector Equality Duty and will seek to:

- (i) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- (iii) Not do anything which may cause the Council to breach the Equality Act 2010

3.4 Show respect and consideration for others;

3.5 Not use bullying behaviour or harass any person; and not intimidate or attempt to intimidate any person or any person who is likely to be;

- (i) a complainant,
- (ii) a witness, or
- (iii) involved in the administration of any investigation or proceedings in relation to an allegation that a member has failed to comply with the Code;

Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. The 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 not always be obvious or noticed by others.

The Equality Act 2010 defines harassment as 'unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual'. The relevant protected characteristics are age, disability, gender reassignment, race, religion or belief, sex, and sexual orientation.

3.6(a) Not disclose information given to the Council in confidence by anyone, or information acquired by the Council or the member which the member believes, or ought reasonably to be aware, is of a confidential nature, except where -

- (i) the member has the consent of a person authorised to give consent;

- (ii) they are required by law to do so;
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is reasonable and in the public interest and made in good faith and in compliance with the reasonable requirements of the Council
- (b) Prevent another person from gaining access to information to which that person is entitled by law.
- 3.7 Not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.
- 3.8 Comply with any formal investigation under the Code and not seek to misuse the Code process, for example, by making allegations against another member for the purposes of political gain or on a trivial or malicious basis.
- 3.9 Undertake any training considered by the Council to be reasonably necessary to enable the member to undertake their duties.
- 3.10 (a) When reaching decisions on any matter have regard to any relevant advice provided to them by -
- (i) the Council's chief finance officer; or
  - (ii) the Council's Monitoring Officer,
- where that officer is acting pursuant to his or her statutory duties and
- (b) Give reasons for all decisions they make in the course of their work as a member in accordance with any reasonable requirements of the Council.

## **Part Four - Interests**

### **4.1 General**

- (a) An interest to which this Code applies is either a disclosable pecuniary interest (DPI) or if not, an "Other Interest". These are defined at sections 4.2 and 4.3 below. A member should first ascertain if the interest is a DPI. If it is not then the member should look at section 4.3 to see if it is any other interest.
- (b) Members will not be considered to have an interest where it arises from an interest of a body or person other than themselves and they were not aware of that body's or person's interest.

## 4.2 Definition of a Disclosable Pecuniary Interest (DPI)

- (a) A DPI is any of the interests described below whether it is the Member's or the interest of their spouse, civil partner, or person who they live with as if they were their spouse or civil partner (referred to as "Partner" below)
- (i) **Employment:** any employment or office held, or trade, profession or vocation carried on, by the member or their Partner for profit or gain.
  - (ii) **Sponsorship:** any payment or financial benefit towards the Member's election expenses or expenses as a member received within the last 12 months, excluding any from the Council.
  - (iii) **Contracts:** any current contract between the Council and them, or their Partner, or anybody in which they or their Partner are a business partner, director, or shareholder.
  - (iv) **Land:** any land which is in the Council's area which they or their Partner have a right to occupy or receive the income from, including a licence to occupy land for more than a month.
  - (v) **Corporate tenancies:** any tenancy between the Council and a body in which the member or their Partner are a business partner, director, or shareholder.
  - (vi) **Securities:**
    - any beneficial interest in any shares or other securities of any description in a body, held by the member or their Partner, if the body has a place of business or land in the Council's area, and:
    - the total value of the securities held is over £25,000, or
    - the member or their Partner hold more than one hundredth of the total issued share capital of the body, or
    - if the body has more than one class of shares, the member or their Partner hold more one hundredth of the issued share capital of that class

Note: the descriptions of DPI's above are summaries of the definitions in the regulations.

- (b) A failure to disclose a DPI, providing information regarding a DPI which is false or misleading, or taking part in the business of the Council when one has such an interest, are criminal offences in most circumstances, as set out in the Localism Act 2011. They will also be breaches of this Code.

#### 4.3 Definition of “Other Interest”

- (a) A member has an “Other Interest” where a decision on the matter might reasonably be regarded as significantly advantaging or disadvantaging them or, their Partner to a greater extent than the majority of other council tax, business rate payers or inhabitants of your ward. In interpreting and applying this part of the Code, it is imperative that members always act in a manner which is consistent with the key principles set out in the Code at Part 2: General Obligations.
- (b) Exceptions – members do not have any Other Interest in respect of any business of the Council concerning:
  - (i) Housing, where they are a tenant of the Council provided that those functions do not relate particularly to their own tenancy or lease;
  - (ii) School meals or school transport and travelling expenses, where they are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
  - (iii) Statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
  - (iv) An allowance, payment or indemnity given to members;
  - (v) Any ceremonial honour given to members; or
  - (vi) Setting council tax or a precept under the Local Government Finance Act 1992.

#### 4.4 Disclosure of interests at meetings

- (a) Where the member attends a meeting of the Council or any of its bodies, or of anybody where they are a representative of the Council which considers any business in which they or their Partner have an interest, the member must disclose to that meeting the existence and nature of that interest either
  - (i) when invited to do so at or near the commencement of the meeting; or
  - (ii) at the commencement of the consideration of that business; or (if later)
  - (iii) as soon as the interest becomes apparent.
- (b) Where a member has an interest but, by virtue of paragraph 4.6 it is a Sensitive Interest, they must indicate to the meeting that they have an interest, but need not disclose the sensitive information to the meeting.

#### 4.5 Other Actions to be Undertaken by Members with an Interest

- (a) Subject to paragraph 4.5 (b), in support of the general requirement of this Code that a member shall not influence, or attempt or purport to influence, any decision or business of the Council in which they have an interest there are the following additional requirements:
  - (i) The member must not participate in any discussion or consideration of that matter at any meeting of the Council or any of its bodies, or of any body where they are a representative of the Council as they may have a fiduciary duty to that body;
  - (ii) The Member shall withdraw from the meeting for the whole time there is a discussion or consideration of the matter; and
  - (iii) The Member shall not vote on the matter.
- (b) Exceptions – if the interest is solely an Other Interest (as defined in paragraph 4.3) which arises:
  - (i) Only in connection with the Member's appointment as a representative of the Council on an outside body; or
  - (ii) As a result of the member's or their Partner's membership of any other body in which the member or their Partner do not hold a position of general control or management

the member may speak on the matter and stay in the meeting room but is prohibited from voting on the matter.

#### 4.6 Sensitive Interests

- (a) A Sensitive Interest is an interest that the member with the interest, and the Council's Monitoring Officer, consider that disclosure of the details of which could lead to that member or a person connected with that member being subject to violence or intimidation.
- (b) Copies of the Council's Register of Members' Interests that are made available for inspection and any published version of the Register, must not include details of the interest but will state that the Member has an interest the details of which are withheld under the Localism Act 2011.
- (c) A member with a Sensitive Interest, when declaring such an interest at a meeting, need not disclose details of the interest but merely the fact that they have a Sensitive Interest in the matter concerned.
- (d) A member with a Sensitive Interest is subject to all the other provisions of this Code in relation to that interest, including those which prevent members with an interest influencing, or attempting or purporting to influence, any decision or business of the Council in which they have an interest.

#### **4.7 Dispensations**

- (a) The Monitoring Officer may grant a dispensation allowing a Member with an interest to
  - (i) participate, or participate further, in any discussion of the matter, or
  - (ii) participate in any vote, or further vote, taken on the matter at a meeting where the discussion or meeting are in the course of the Council's business.
- (b) The Monitoring Officer may only grant a dispensation if, after having had regard to all relevant circumstances they
  - (i) consider that without the dispensation the number of persons prohibited from participating by section 31(4) of the Localism Act or this Code in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business, or
  - (ii) consider that 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, or
  - (iii) consider that granting the dispensation is in the interests of persons living in the authority's area, or
  - (iv) consider that it is otherwise appropriate to grant a dispensation.
- (c) A dispensation under this Code must specify the period and matters for which it has effect, and the period specified may not exceed four years.

#### **4.8 Registration of members' DPI's**

- (a) Members must, within 28 days of either this Code being adopted by Council; or their election or appointment to office (whichever is later) register in the Council's Register of Members' Interests details of their disclosable pecuniary interests (DPI's) as defined in section 4.2.
- (b) Registration shall be satisfied by providing to the Monitoring Officer a fully completed form provided by the Council for this purpose.
- (c) Members must, within 28 days of becoming aware of any new DPI or change to any such interest already registered, register details of that new interest or change by providing written notification with sufficient details of the change to the Monitoring Officer to properly update the Register.
- (d) Where a member has declared a DPI at a meeting which is not in the Council's Register of Member's Interests, and in respect of which no notice has already been given to the Monitoring Officer, the member shall,

within 28 days of making the declaration, provide sufficient details of the interest for the Monitoring Officer to properly update the Register.

## **ARRANGEMENTS FOR DEALING WITH COMPLAINTS UNDER THE CODE OF CONDUCT ABOUT DISTRICT AND TOWN & PARISH COUNCILLORS**

Most councillors conduct themselves appropriately and in accordance with the Code of Conduct. Councillors have both individual and collective responsibility to maintain these standards, support expected behaviour and challenge behaviour which falls below expectations.

The Localism Act places a general duty on the Council to ensure that high standards of conduct are maintained and demonstrated to the public. An authority must have an effective, fair, impartial, and transparent complaints and investigation procedure to enable it to make decisions on allegations which both councillors and the public can have confidence. Sanctions should be imposed in a consistent way and only where there is a genuine breach.

This procedure applies when a complaint is received that a member of Stroud District Council or a town / parish councillor has or may have failed to comply with the Code of Conduct for Members ('the Code'). The District Council will review its Code each year and regularly seek, where possible, the views of the public, community organisations and the town and parish councils. The Code will be readily accessible to both councillors and the public and will be placed in a prominent position on the District Councils website and available in its premises.

### 1. General

The person making the complaint will be referred to as "the complainant" and the person against whom the complaint is made will be referred to as the "subject member".

1.2 The Monitoring Officer is the officer of the Council who is responsible for administering the system of complaints about member misconduct and as part of that role may nominate another officer of suitable experience and seniority to carry out any of the functions listed in this procedure.

1.2.1 The Monitoring Officer will provide advice, support and management of investigations and adjudications on alleged breaches to town and parish councils within Stroud District. However, the Monitoring Officer cannot provide advice to town and parish councils in relation to matters outside of the Code, e.g. decision making not involving a breach of the Code and meeting procedure and etiquette.

- 1.2.2 The Monitoring Officer will usually appoint a deputy to act when he or she is unavailable or has an actual or potential conflict of interest. If there is no deputy or the deputy is unavailable, he or she may ask a monitoring officer from a different authority to undertake the investigation.
- 1.3 The Council appoints Independent Persons from outside the council to assist the Monitoring Officer and Standards Panel in considering complaints. The Independent Persons currently appointed by the District Council are John Acton and Phyllida Pyper.
- 1.4 No member or officer of Stroud District Council or any town or parish council will participate in any stage of the arrangements if he or she has, or may have, any conflict of interest in the matter.

## **2. Making a complaint**

Complaints should be made in writing either by post or e-mail

[monitoring.officer@stroud.gov.uk](mailto:monitoring.officer@stroud.gov.uk) or:

The Monitoring Officer,  
Stroud District Council  
Ebley Mill  
Stroud  
GL5 4UB

- 2.1 Complaints about councillors may be made by anyone, but complaints about the conduct of a town or parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances. The Monitoring Officer may require the town or parish council to seek to resolve the complaint itself in the first instance.
- 2.2 An oral complaint will be accepted where the complainant is unable to write due to a physical or mental disability or there is a language barrier. Where an oral complaint is received it will be transcribed and sent to the complainant for their approval.
- 2.3 Anonymous complaints will only be accepted in exceptional circumstances. Further information regarding confidentiality and anonymous complaints is set out below.
- 2.4 A complaint must provide substantiated information and should outline what form of resolution the complainant is seeking. Further information regarding the range of sanctions available is set out in paragraph 9 below.
- 2.5 If the complaint identifies criminal conduct or breach of other regulations by any person, the Monitoring Officer is authorised to report this to the Police or

other prosecuting or regulatory authority, in addition to any action taken pursuant to the Code. In the case of alleged criminal conduct the complaint may be held in abeyance pending the outcome of any criminal investigation to ensure that no criminal investigation is prejudiced.

- 2.6 If a complainant wishes their identity to be withheld, they should state this and provide full reasons why they believe their request is justified when submitting the complaint. Any request for confidentiality will be considered by the Monitoring Officer at the initial assessment stage of these Arrangements. In reaching his/her decision the Monitoring Officer may also consult with the Independent Person.
- 2.7 As a matter of fairness and natural justice the subject member will usually be told who has complained about them and receive details of the complaint. However, in exceptional circumstances, the Monitoring Officer may withhold the complainant's identity if they are satisfied that the complainant has reasonable grounds for believing that they or any witness relevant to the complaint may be at risk of physical harm, or his or her employment may be jeopardised if their identity is disclosed, or where there are medical risks (supported by medical evidence) associated with the Complainant's identity being disclosed.
- 2.8 If the Monitoring Officer decides to refuse a request by a complainant for confidentiality, they will offer the complainant the option to withdraw the complaint, rather than proceed with his or her identity being disclosed. The Monitoring Officer will balance whether the public interest in taking action on a complaint will outweigh the complainant's wish to have his or her identity withheld from the subject member.
- 2.9 The Monitoring Officer may discontinue a complaint if they consider it appropriate to do so where the subject member ceases to be a councillor for any reason. Where a complaint is discontinued the Monitoring Officer will write to the complainant setting out the reasons for their decision.
- 2.10 If an anonymous complaint is received it will be considered by the Monitoring Officer at the initial assessment stage of these Arrangements. In reaching his / her decision the Monitoring Officer may also consult with the Independent Person.
- 2.11 The principles of fairness and natural justice referred to in paragraph 2.7 will also be applied to anonymous complaints and such complaints will only be accepted if they include documentary or photographic evidence indicating an exceptionally serious or significant matter.

- 2.12 The Monitoring Officer will acknowledge receipt of the complaint within 10 working days of all required information being provided. The complainant will be given details about how the complaint will be dealt with and provided with a copy of these Arrangements. At the same time, the Monitoring Officer will write to the subject member and copy in their Group Leader and / or Whip if applicable (and in the case of a complaint about a town or parish council member to the Clerk) with a copy of the complaint and the name of the complainant, (if anonymity has not been requested and accepted as valid by the Monitoring Officer).
- 2.13 The subject member may, within 10 working days of being provided with a copy of the complaint, make written representations to the Monitoring Officer which must be taken into account when deciding how the complaint should be dealt with. Representations received after this time may be taken into account at the discretion of the Monitoring Officer but will not be considered after the Monitoring Officer has issued the initial assessment of the complaint.
- 2.14 A decision regarding whether the complaint merits formal investigation or another course of action will normally be taken within a maximum of 20 working days of either receipt of representations from the subject member or where no representations are submitted 20 working days of the expiry of the period mentioned in paragraph 2.12 above. The complainant and the subject member will be informed should there be a delay in completing any stage of the process.

### **3. Stage 1 – Procedure for Initial Assessment of Complaint**

- 3.1 The complaint will be automatically rejected if:
- The complaint is not against one or more named member of Stroud District Council or any town or parish council within Stroud District; or
- The complaint is against a current member of Stroud District Council or any town or Parish Council within Stroud District but the subject member was not acting in their capacity as a member of that council at the time of the alleged failure to comply with the Code. (The Monitoring Officer will consider all of the circumstances before reaching a conclusion as to the status of the member at the time of the alleged breach of the Code)
- 3.1.1 Where a complaint is rejected on any of the above grounds, the Monitoring Officer will write to the complainant explaining why their complaint cannot be dealt with under this procedure.

- 3.2 The Monitoring Officer may request further information from either the complainant, the subject member or any other persons the Monitoring Officer considers appropriate before reaching a decision.
- 3.3 Where a complaint is by an officer or a member which would be more appropriately be dealt with informally under the Local Resolution Procedure (LRP) To be drafted), the Monitoring Officer will refer the matter under that procedure and may, but will not have to, consult the Independent Person if necessary.
- 3.4 In all other cases, the Monitoring Officer will consider the complaint and, consult with the Council's Independent Person before reaching a decision (initial assessment) as to whether the complaint merits investigation, or another course of action. Where the complaint relates to a town or parish council member, the Monitoring Officer may also seek the views of the clerk of the town or parish council before deciding whether the complaint merits formal investigation or other action.
- 3.5 If the complaint has not been rejected on either of the grounds in 3.1 the Monitoring Officer will then go on to apply the following criteria in deciding whether a complaint should be accepted for investigation, dealt with informally, or rejected:
- Unless a pattern of behaviour is established, a substantially similar allegation has previously been made by the complainant to the Monitoring Officer (unless sufficient new evidence is provided), or the complaint has been the subject of an investigation by another regulatory authority;
  - The complaint is about something that happened so long ago that those involved are unlikely to remember it clearly enough to provide credible evidence, or where the lapse of time means there would be little benefit or point in taking action now;
  - The allegation is anonymous
  - The complaint is of an interpersonal nature that would more properly be dealt with by referring the matter to the members Group Leader for informal resolution
  - The allegation discloses a potential breach of the Code of Conduct, but the complaint is not serious enough to merit any action and
  - The resources needed to investigate and determine the complaint are wholly disproportionate to the allegations or

- In all the circumstances there is no overriding public benefit in carrying out an investigation.
- The complaint appears to be malicious, vexatious, politically motivated or tit for tat;
- The complaint suggests that there is a wider problem throughout the Authority;

3.6 After consulting with the Independent Person the Monitoring Officer will then give his/her decision on how the complaint will be dealt with. The Monitoring Officer may in exceptional circumstances refer the question of how to proceed to the Chairperson of the Audit and Standards Committee.

3.7 If the Monitoring Officer decides that no further action is appropriate a decision notice will be sent to the complainant and the subject member. The decision notice will summarise the allegation, give the decision of the Monitoring Officer and the reasons for their decision

#### **4. Stage 2 - Informal Resolution**

4.1 In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Informal resolution may be appropriate for example where: -

- There is a breach of the Code but this is minor, trivial or technical in nature
- It is apparent that the Subject member is relatively inexperienced as a member
- The member has admitted making an error which would not warrant a more serious sanction and has taken action to address this e.g. withdrawing comments.
- The member has apologised
- Training or conciliation would be a more appropriate response.

4.2 Types of informal resolution might include:

An explanation by the subject member to the complainant of the circumstances surrounding the complaint;

An apology from the subject member;

An agreement from the subject member to attend relevant training or to take part in a mentoring process;

Offering to engage in a process of mediation or conciliation between the subject member and the complainant; or

Any other action capable of resolving the complaint.

- 4.3 Where the Monitoring Officer seeks to resolve the complaint informally he or she will provide the subject member with a reasonable timescale within which to attempt to resolve the complaint (usually this will be 10 working days) and provide the subject member with the contact details for an Independent Person who will be available to the subject member to give them advice on the severity of the complaint and what form of resolution they would consider appropriate. (Providing such guidance will not prevent the Independent Person from giving a view to the Standards Panel.)
- 4.4 Before deciding upon a course of action the subject member may seek guidance from a Group Whip, Leader of the Group, the Independent Person, and/or the Monitoring Officer. The Monitoring officer may also seek the complainant's views to ascertain what form of informal resolution they would find acceptable, particularly if the form of resolution they have specified in their complaint is not possible.
- 4.5 At the end of the 10 working day period referred to at paragraph 4.3 above the Monitoring Officer will, in consultation with the Independent Person, seek to establish whether the subject member has resolved the complaint to the Complainant's satisfaction.
- 4.6 Where it has been possible to agree a form of resolution between the subject member and the complainant there will be no further action taken in respect of the complaint and the Monitoring Officer will notify both the complainant and the subject member of this decision.
- 4.7 Where it has not been possible to agree a form of resolution between the subject member and the complainant, the Monitoring Officer will decide if the complaint merits formal investigation. Where the subject member makes a reasonable offer of local resolution, but it is rejected by the complainant, the Monitoring Officer will take account of this in his or her decision.

## **5. Stage 3 – Formal Investigation**

- 5.1 Where the Monitoring Officer, in consultation with the Independent Person, decides that a complaint merits investigation he/she will appoint an Investigating Officer who may be a Council officer, an officer from another Council, or an external investigator. However, if the facts and evident are self-sufficient, the Monitoring Officer may dispense with a formal investigation and present the facts him / herself.

- 5.2 The Investigating Officer will follow guidance issued by the Monitoring Officer on the investigation of complaints. The guidance will follow the principles of proportionality and the cost effective use of council resources and shall be interpreted in line with these principles. The Investigating Officer should aim to complete their investigation within a maximum of 1 month of their appointment.
- 5.3 At the end of their investigation, the Investigating Officer will produce a draft report and send copies to the complainant and subject member for comments on matters of fact. The Investigating Officer will take any such comments received during a period to be specified by the Investigating Officer into account before issuing their final report to the Monitoring Officer.

## **6. Investigating Officer finding of no failure to comply with the Code of Conduct**

- 6.1 Where the Investigating Officer's report finds that the subject member has not failed to comply with the Code, the Monitoring Officer, in consultation with the Independent Person, will review the Investigating Officer's report and if satisfied, will confirm the finding of no failure to comply with the Code.
- 6.2 The Monitoring Officer will write to the complainant and the subject member (and to the clerk of the town or parish council, where the complaint relates to a town or parish council member), with a copy of the decision and the Investigating Officer's report.
- 6.3 If the Monitoring Officer is not satisfied that the investigation has been conducted thoroughly, the Investigating Officer may be asked to reconsider the report and the conclusions.

## **7. Investigating Officer finding of sufficient evidence of failure to comply with the Code of Conduct**

- 7.1 Where the Investigating Officer's report finds that the Subject member has failed to comply with the Code, the Monitoring Officer will review the Investigating Officer's report and will then, having consulted the Independent Person, either send the matter for hearing before the Standards Panel or seek informal resolution in accordance with paragraph 7.2 below.
- 7.2 Informal Resolution - If the Monitoring Officer believes that the matter can reasonably be resolved without the need for a hearing, for example because informal resolution has not yet been considered, they will consult with the Independent Person and the complainant and seek to agree a fair resolution.

The types of resolution available are as set out in paragraph 4.2 of these Arrangements.

- 7.2 If the subject member and the complainant accept the suggested resolution, the Monitoring Officer will report the outcome to the Standards Panel and the clerk to the town or parish Council (if appropriate) for information but will take no further action.
- 7.3 If the complainant or the subject member refuses informal resolution in principle or to engage with the agreed outcome, the Monitoring Officer will refer the matter for a hearing without further reference to the complainant or the subject member.

## **8. Stage 4 - Hearing**

Where, in the opinion of the Monitoring Officer, informal resolution is not appropriate or the complainant and/or subject member refuses to accept informal resolution, then the Monitoring Officer will report the Investigating Officer's findings to the Standards Panel which will conduct a hearing before deciding whether the Member has failed to comply with the Code and, if so, what action (if any) to take in respect of the Member. The Standards Panel will be constituted in accordance with council Standing Orders and will adopt whatever process it considers appropriate.

## **9. Action available to the Standards Panel**

Where the Standards Panel finds that a subject member has failed to comply with the Code, it will publish a decision notice on its website (in the case of a town or parish council the Standards Panel will provide a decision notice to be published on its website) of its findings in respect of the Subject member's conduct setting out the following:

- A brief statement of facts
- The provisions of the code engaged by the allegations
- The view of the Independent Person
- The reasoning of the decision-maker
- Any sanction applied.

and it may -

- Recommend to the relevant council that the member should be censured;
- Require the member to provide an apology
- Request the member remove any social media content which led to the complaint

Recommend to the subject member's Group Leader (or in the case of ungrouped members recommend to Council) that he/she be removed from any or all committees or sub committees of the Council;  
Instruct the Monitoring Officer (or recommend to the town or parish council) to arrange training for the Member;  
Recommend to Council (or recommend to the town or parish council) that the subject member be removed from all outside appointments to which they have been appointed or nominated by the Council (or by the town or parish council);  
Withdraw (or recommend to the town or parish council that it withdraws) facilities provided to the subject member by the council such as a computer, website and/or e-mail and internet access; or  
Place such restrictions on the Subject member's access to staff, buildings or parts of buildings which may be reasonable in the circumstances.

## **10. Appeals**

There is no right of appeal against the substantive decision of the Monitoring Officer or of the Standards Panel

## **11. Withdrawal of a Complaint**

In the event that a complainant withdraws a complaint at any time prior to a decision having been made by the Standards Panel, the Monitoring Officer may, following consultation with the Independent Person, decide that no further steps be taken in respect of that complaint.

11.1 In taking such a decision the Monitoring Officer will take into account whether there has been any intimidation or attempt to intimidate any person who is or is likely to be:  
a complainant,  
a witness, or  
involved in the administration of any investigation or proceedings, in relation to the allegation that the subject member has failed to comply with the Council's Code.

## **12. Revision of these Arrangements**

In individual cases the Monitoring Officer may, in consultation with the Chairperson of Audit & Standards Committee, revise these Arrangements, as he or she considers appropriate, to enable the process to be dealt with efficiently. Any such revisions are to be reported to the next meeting of the Audit & Standards Committee.

## **13. Review of these Arrangements**

These Arrangements were last reviewed on the 22<sup>nd</sup> October 2020 and shall be reviewed every year thereafter or earlier where there is a change in law or where circumstances warrant an earlier review. The Monitoring Officer will

seek to meet regularly with political group leaders or group whips to discuss standards issues.