

additional papers 1

# Standards Committee

Wed 13 Oct  
2010  
7.00 pm

Committee Room 2  
Town Hall  
Redditch



[www.redditchbc.gov.uk](http://www.redditchbc.gov.uk)

# Access to Information - Your Rights

---

The Local Government (Access to Information) Act 1985 widened the rights of press and public to attend Local Authority meetings and to see certain documents. Recently the Freedom of Information Act 2000, has further broadened these rights, and limited exemptions under the 1985 Act.

Your main rights are set out below:-

- Automatic right to attend all Council and Committee meetings unless the business would disclose confidential or “exempt” information.
- Automatic right to inspect agenda and public reports at least five days before the date of the meeting.
- Automatic right to inspect minutes of the Council and its Committees (or summaries of business undertaken in private) for up to six years following a meeting.
- Automatic right to inspect lists of background papers used in the preparation of public reports.
- Access, upon request, to the background papers on which reports are based for a period of up to four years from the date of the meeting.
- Access to a public register stating the names and addresses and electoral areas of all Councillors with details of the membership of all Committees etc.
- A reasonable number of copies of agenda and reports relating to items to be considered in public must be made available to the public attending meetings of the Council and its Committees etc.
- Access to a list specifying those powers which the Council has delegated to its Officers indicating also the titles of the Officers concerned.
- Access to a summary of the rights of the public to attend meetings of the Council and its Committees etc. and to inspect and copy documents.
- In addition, the public now has a right to be present when the Council determines “Key Decisions” unless the business would disclose confidential or “exempt” information.
- Unless otherwise stated, all items of business before the Executive Committee are Key Decisions.
- (Copies of Agenda Lists are published in advance of the meetings on the Council’s Website:  
[www.redditchbc.gov.uk](http://www.redditchbc.gov.uk)

---

**If you have any queries on this Agenda or any of the decisions taken or wish to exercise any of the above rights of access to information, please contact  
Ivor Westmore  
Committee Support Services**

**Town Hall, Walter Stranz Square, Redditch, B98 8AH  
Tel: (01527) 64252 (Extn. 3269) Fax: (01527) 65216  
e.mail: [ivor.westmore@redditchbc.gov.uk](mailto:ivor.westmore@redditchbc.gov.uk) Minicom: 595528**

# Welcome to today's meeting.

## Guidance for the Public

---

### **Agenda Papers**

The **Agenda List** at the front of the Agenda summarises the issues to be discussed and is followed by the Officers' full supporting **Reports**.

### **Chair**

The Chair is responsible for the proper conduct of the meeting. Generally to one side of the Chair is the Committee Support Officer who gives advice on the proper conduct of the meeting and ensures that the debate and the decisions are properly recorded. On the Chair's other side are the relevant Council Officers. The Councillors ("Members") of the Committee occupy the remaining seats around the table.

### **Running Order**

Items will normally be taken in the order printed but, in particular circumstances, the Chair may agree to vary the order.

**Refreshments** : tea, coffee and water are normally available at meetings - please serve yourself.

### **Decisions**

Decisions at the meeting will be taken by the **Councillors** who are the democratically elected representatives. They are advised by **Officers** who are paid professionals and do not have a vote.

### **Members of the Public**

Members of the public may, by prior arrangement, speak at meetings of the Council or its Committees. Specific procedures exist for Appeals Hearings or for meetings involving Licence or Planning Applications. For further information on this point, please speak to the Committee Support Officer.

### **Special Arrangements**

If you have any particular needs, please contact the Committee Support Officer.

Infra-red devices for the hearing impaired are available on request at the meeting. Other facilities may require prior arrangement.

### **Further Information**

If you require any further information, please contact the Committee Support Officer (see foot of page opposite).

### **Fire/ Emergency instructions**

**If the alarm is sounded, please leave the building by the nearest available exit – these are clearly indicated within all the Committee Rooms.**

**If you discover a fire, inform a member of staff or operate the nearest alarm call point (wall mounted red rectangular box). In the event of the fire alarm sounding, leave the building immediately following the fire exit signs. Officers have been appointed with responsibility to ensure that all visitors are escorted from the building.**

**Do Not stop to collect personal belongings.**

**Do Not use lifts.**

**Do Not re-enter the building until told to do so.**

**The emergency Assembly Area is on Walter Stranz Square.**

# Declaration of Interests: Guidance for Councillors

---

DO I HAVE A "PERSONAL INTEREST" ?

- Where the item relates or is likely to affect your **registered interests** (what you have declared on the formal Register of Interests)

**OR**

- Where a decision in relation to the item might reasonably be regarded as affecting **your own** well-being or financial position, or that of your **family**, or your **close associates** more than most other people affected by the issue,

you have a personal interest.

WHAT MUST I DO? **Declare the existence, and nature, of your interest and stay**

- The declaration must relate to specific business being decided - a general scattergun approach is not needed
- **Exception** - where interest arises only because of your membership of another **public body**, there is no need to declare unless you **speak** on the matter.
- You **can vote** on the matter.

IS IT A "PREJUDICIAL INTEREST" ?

In general only if:-

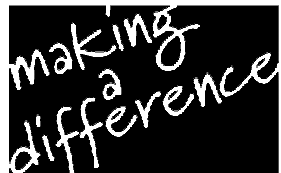
- It is a personal interest **and**
- The item affects your **financial position** (or conveys other benefits), or the position of your **family, close associates** or bodies through which you have a **registered interest** (or relates to the exercise of **regulatory functions** in relation to these groups)

**and**

- A member of public, with knowledge of the relevant facts, would reasonably believe the interest was likely to **prejudice** your judgement of the public interest.

WHAT MUST I DO? **Declare and Withdraw**

BUT you may make representations to the meeting before withdrawing, **if** the public have similar rights (such as the right to speak at Planning Committee).



# Standards

## Committee

13th October 2010

7.00 pm

Town Hall

---

<p><b>4. Monitoring Officer's Report</b></p> <p>(Pages 14 - 19)</p> <p>Monitoring Officer</p>	<p>To receive a report from the Monitoring Officer on any matters of relevance to the Committee.</p> <p>(Report attached)</p> <p><b>(No Specific Ward Relevance)</b></p>
<p><b>5. Local Assessment of Complaints</b></p> <p>(Pages 20 - 35)</p> <p>Monitoring Officer</p>	<p>To consider changes to the local Assessment of Complaints procedure.</p> <p>(Report attached)</p> <p><b>(No Specific Ward Relevance)</b></p>

---



**REDDITCH BOROUGH COUNCIL****STANDARDS  
COMMITTEE**

13th October 2010

**MONITORING OFFICER'S REPORT**

Relevant Portfolio Holder	Councillor Michael Braley, Portfolio Holder for Corporate Management
Relevant Head of Service	Claire Felton, Monitoring Officer
Non-Key Decision	

**1. SUMMARY OF PROPOSALS**

This is the second report of the Monitoring Officer. It was agreed at the last meeting that a report of this nature would be presented to each meeting of the Standards Committee to advise the Committee on a number of items.

**2. RECOMMENDATIONS**

**The Committee is asked to RESOLVE that**

**the report of the Monitoring Officer be noted and commented upon as appropriate.**

**3. BACKGROUND****Member Training**

- 3.1 There has been no general Member training on the Code of Conduct at Redditch this current municipal year, although a session was held in Bromsgrove in early June to which it had been hoped to invite Redditch Members. New Members elected in May 2010 did receive training on the Code of Conduct as part of their overall induction process.
- 3.2 It is anticipated that further training and advice will be made available to all Members on the Code of Conduct in due course.

**Standards for England Regime**

- 3.3 Members will be aware of the Government's announcement of its intention "to abolish the Standards Board regime". Further information in this regard, including a possible timeframe for introduction of the legislation required to implement the changes and the closure of SfE, are detailed in Standards for England's *Bulletin* No. 48, a copy which can be found at agenda item 8 (Publications). The *Bulletin* also details SfE's revised business plan for 2010 and 2011 in the light of the proposed changes, together with updates relating to monitoring returns, SfE's acceptance of complaints and the

**REDDITCH BOROUGH COUNCIL**

**STANDARDS  
COMMITTEE**

**13th October 2010**

---

reappointment of independent members on the Standards Committee. Also attached at Item 8 is the latest press release from the Department for Communities and Local Government outlining the measures which are intended to replace the present Standards regime.

- 3.4 Until the changes are introduced the local standards framework remains in place and standards committees and monitoring officers have an obligation to keep the current system operating. Officers will keep the Committee informed of any developments in this regard as and when they arise.

**Member Investigations**

- 3.5 Members are advised that the investigation into complaint reference 01/2010, has been completed and the report referred to the subject Member for comment. The report was subsequently considered by a meeting of a Consideration Sub-Committee on 20th September at which it was determined that the matter should be considered locally and that the Hearing and the information considered at the hearing should all be in the public domain. The Pre-Hearing process is ongoing and a date for the Hearing established shortly.
- 3.6 An Investigating Officer was appointed for complaint references 02/2010 and 03/2010, the investigations are ongoing and reports will be finalised in due course.
- 3.7 The Committee is asked to note that the details of only those complaints which have already been assessed by the relevant Assessment Sub-Committee are included in this report. Any complaints or other matters (for example, matters referred back to the Assessment Sub-Committee by the Monitoring Officer under Regulation 16 of the Standards Committee (England) Regulation 2008) which are currently awaiting assessment, or for which Assessment Sub-Committee decisions are in the process of being issued, are not included as the Subject Members concerned will not be aware that a complaint has been made against them until after the assessment stage.

**4. KEY ISSUES**

None



**REDDITCH BOROUGH COUNCIL**

**STANDARDS  
COMMITTEE**

13th October 2010

---

**5. FINANCIAL IMPLICATIONS**

None

**6. LEGAL IMPLICATIONS**

The Local Government Act 2000 introduced primary legislation to enable the implementation of a Members' Code of Conduct, and this was amended by the Local Government and Public Involvement in Health Act 2007 insofar as it related to the application of the Members' Code of Conduct to their private lives. Further details have been provided by the Local Authorities (Model Code of Conduct) Order 2007 and the Relevant Authorities (General Principles) Order 2001. The local assessment regime was introduced by the LGPIHA 2007, and further expanded in the Standards Committee (England) Regulations 2008 which also set out the rules and procedures governing the investigation and determination of complaints.

**7. POLICY IMPLICATIONS**

None

**8. COUNCIL OBJECTIVES**

This item does not link directly with any Council objectives

**9. RISK MANAGEMENT INCLUDING HEALTH & SAFETY  
CONSIDERATIONS**

The main risks associated with the details included in this report are:

- Risk of challenge to Council decisions; and
- Risk of complaints about elected Members.

**10. CUSTOMER IMPLICATIONS**

None

**11. EQUALITIES AND DIVERSITY IMPLICATIONS**

None

REDDITCH BOROUGH COUNCIL**STANDARDS  
COMMITTEE**

13th October 2010

**12. VALUE FOR MONEY IMPLICATIONS, PROCUREMENT AND ASSET MANAGEMENT**

None

**13. CLIMATE CHANGE, CARBON IMPLICATIONS AND BIODIVERSITY**

None

**14. HUMAN RESOURCES IMPLICATIONS**

None

**15. GOVERNANCE/PERFORMANCE MANAGEMENT IMPLICATIONS**

None

**16. COMMUNITY SAFETY IMPLICATIONS INCLUDING SECTION 17 OF CRIME AND DISORDER ACT 1998**

None

**17. HEALTH INEQUALITIES IMPLICATIONS**

None

**18. LESSONS LEARNT**

None

**19. COMMUNITY AND STAKEHOLDER ENGAGEMENT**

None

**20. OTHERS CONSULTED ON THE REPORT**

Portfolio Holder	No
Chief Executive	No
Executive Director (S151 Officer)	No

**REDDITCH BOROUGH COUNCIL****STANDARDS  
COMMITTEE****13th October 2010**

Executive Director – Leisure, Cultural, Environmental and Community Services	No
Executive Director – Planning & Regeneration, Regulatory and Housing Services	No
Director of Policy, Performance and Partnerships	No
Head of Service	Yes
Head of Resources	No
Head of Legal, Equalities & Democratic Services	Yes
Corporate Procurement Team	No

**21. WARDS AFFECTED**

All Wards

**22. APPENDICES**

None

**23. BACKGROUND PAPERS**

None

**AUTHOR OF REPORT**

Name: Claire Felton  
 E Mail: [claire.felton@redditchbc.gov.uk](mailto:claire.felton@redditchbc.gov.uk)  
 Tel: (01527) 64252 (Extn. 3210)



**REDDITCH BOROUGH COUNCIL**

**STANDARDS COMMITTEE**

13th October 2010

**LOCAL ASSESSMENT OF COMPLAINTS**

Relevant Portfolio Holder	Councillor Michael Braley
Relevant Head of Service	Claire Felton
Non-Key Decision	

**1. SUMMARY OF PROPOSALS**

To invite the Standards Committee to consider amending the Procedure for the Local Assessment and Investigation of Complaints that Councillors have breached the Code of Conduct, adopted on 10 July 2008, as highlighted in the document at Appendix 1.

**2. RECOMMENDATIONS**

**The Committee is asked to RESOLVE that**

**the proposed amendments to the Procedure for the Local Assessment and Investigation of Complaints that Councillors have breached the Code of Conduct as set out at Appendix 1, be adopted.**

**3. BACKGROUND**

3.1 The Local Government and Public Involvement in Health Act 2007 made changes to the legislation governing the conduct of Members (Part III of the Local Government Act 2000). The changes meant that complaints against Members of Redditch Borough Council or Feckenham Parish Council would be referred to Redditch Borough Council's Standards Committee, rather than the Standards Board for England. These changes came into effect on the 8th of May 2008.

3.2 On 10 July 2008 a procedure for the Local Assessment and Investigation of complaints against members was adopted and since then a number of complaints against members have been received and processed in accordance with its provisions.

**4. KEY ISSUES**

**Notification of Complaint to Subject Member**

4.1 At present, the procedure provides that, on receipt of a complaint against a Member but before the Standards Sub-Committee has met to assess it and

**REDDITCH BOROUGH COUNCIL**

**STANDARDS COMMITTEE**

13th October 2010

---

decide whether or not it is a valid complaint that engages the Code of Conduct, the Monitoring Officer may notify the member complained against (“the subject Member”) that a complaint has been received, without full disclosure of the complaint.

- 4.2 Only the Standards Committee has the power, under Section 57C(2) of the Local Government Act 2000 (as amended) to provide a written summary of the allegation to the subject member, which means that until the Assessment Sub Committee has met, the subject Member has an indication only of the complaint and not full details.
- 4.3 Assessment Sub-committees are private meetings so that until they have made a decision that a complaint is valid, there is no publication of any information about a complaint having been received.
- 4.4 An Assessment Sub-Committee can decide that no potential breach of the Code of Conduct is made out and that no further action is required, in which case a Member will have been unnecessarily concerned about a pending “complaint” when in fact the Sub-Committee decides that the matter referred to them does not constitute a valid complaint.
- 4.5 **The proposed change** is that the a Member will only be advised that a complaint has been received and will be investigated *after* the Assessment Sub-Committee has met to decide whether or not a valid complaint has been made out, when the details of the complaint can be fully disclosed to the subject Member [the Decision either way must be notified to both the Complainant and the subject Member].

**Reference of Allegation to the Monitoring Officer for Investigation**

- 4.6 When a complaint is referred to the Monitoring Officer for investigation, s/he writes to the subject Member, the Complainant and the Standards Committee to include the following information: That the allegation has been referred for investigation; the identity of the person making it; the sections of the Code which appear to be relevant; the procedure to be followed and the identity of the Investigating Officer [See Para 3 (b) of the adopted procedure, as attached at Appendix 1].
- 4.7 In this same letter, under the current procedure, the Monitoring Officer also asks for an “initial response” to the complaint from the Member and for the Member and complainant to supply to the Investigating Officer details of documents, persons and/or information to be included in the investigation by the Investigating Officer.

**REDDITCH BOROUGH COUNCIL**

**STANDARDS COMMITTEE**

13th October 2010

---

4.8 When the Investigating Officer commences the investigation and first writes to the subject member and complainant, s/he will ask for the same information so that there is duplication in the process which makes it confusing for the parties. Also, the role of the Monitoring Officer as Manager of the process is drawn into the detail of an investigation in a way that she considers inappropriate.

4.9 **The proposed change** is that the Monitoring Officer's letter will provide the listed information only to the subject Member and Complainant (and Standards Committee) and leave the questions regarding suggested evidence and lines of inquiry to be asked by the Investigating Officer.

5. **FINANCIAL IMPLICATIONS**

None

6. **LEGAL IMPLICATIONS**

There are no legal implications to adoption of these procedural changes.

7. **POLICY IMPLICATIONS**

None

8. **COUNCIL OBJECTIVES**

None

9. **RISK MANAGEMENT INCLUDING HEALTH & SAFETY CONSIDERATIONS**

None

10. **CUSTOMER IMPLICATIONS**

Improved procedures will improve the experience of a member of the public who is a complainant.

11. **EQUALITIES AND DIVERSITY IMPLICATIONS**

None

**REDDITCH BOROUGH COUNCIL**

**STANDARDS COMMITTEE**

13th October 2010

---

**12. VALUE FOR MONEY IMPLICATIONS, PROCUREMENT AND ASSET MANAGEMENT**

None

**13. CLIMATE CHANGE, CARBON IMPLICATIONS AND BIODIVERSITY**

None

**14. HUMAN RESOURCES IMPLICATIONS**

None

**15. GOVERNANCE/PERFORMANCE MANAGEMENT IMPLICATIONS**

Adoption of the proposed amendments will address difficulties experienced in the application of the current procedures to the processing of complaints

**16. COMMUNITY SAFETY IMPLICATIONS INCLUDING SECTION 17 OF CRIME AND DISORDER ACT 1998**

None

**17. HEALTH INEQUALITIES IMPLICATIONS**

None

**18. LESSONS LEARNT**

These changes have been put forward as a result of member/officer concerns regarding the application of the current adopted procedure, with a view to improving the working of the procedure for both Members complained against and Officers applying the procedure.

**19. COMMUNITY AND STAKEHOLDER ENGAGEMENT**

None.



**REDDITCH BOROUGH COUNCIL****STANDARDS COMMITTEE**

13th October 2010

**20. OTHERS CONSULTED ON THE REPORT**

Portfolio Holder	No
Chief Executive	No
Executive Director (S151 Officer)	No
Executive Director – Leisure, Cultural, Environmental and Community Services	No
Executive Director – Planning & Regeneration, Regulatory and Housing Services	No
Director of Policy, Performance and Partnerships	No
Head of Service	Yes
Head of Resources	No
Head of Legal, Equalities & Democratic Services	Yes
Corporate Procurement Team	No

**21. WARDS AFFECTED**

No specific Ward relevance.

**22. APPENDICES**

Appendix 1 - Procedure for the Local Assessment and Investigation of Complaints that Councillors have breached the Code of Conduct.

**23. BACKGROUND PAPERS**

Local Government Act 2000

**24. Local Government and Public Involvement of Health Act 2007  
Standards Committee (England) Regulations 2008**

**REDDITCH BOROUGH COUNCIL**

**STANDARDS COMMITTEE**

**13th October 2010**

---

**AUTHOR OF REPORT**

Name: Clare Flanagan  
E Mail: [clare.flanagan@redditchbc.gov.uk](mailto:clare.flanagan@redditchbc.gov.uk)  
Tel: 01527 64252 X 3176

**REDDITCH BOROUGH COUNCIL  
STANDARDS COMMITTEE****Procedure for Local Assessment and Investigation of Complaints that Councillors have breached the Code of Conduct****Introduction and Summary**

This procedure applies only in respect of alleged failures to comply with Redditch Borough and Feckenham Parish Councils' Code of Conduct for Members. This procedure will be followed for the local assessment and investigation of such allegations in respect of Councillors (which means elected Borough and Parish Councillors, Independent Members and voting co-opted members of the Council's Committees). No departure will be made from this procedure unless the Monitoring Officer or the Committee consider it justified through exceptional circumstances.

Written complaints are sent to the Monitoring Officer, who will refer them to the Assessment Sub-Committee. Where the Assessment Sub-Committee receives an allegation that a Councillor has failed to comply with the Council's Code of Conduct for Members it will decide to:

- take no action on the allegation; or
- refer it to the Standards Board for England; or
- refer it to the Monitoring Officer for investigation.

If the Monitoring Officer receives a referral from the Assessment Sub-Committee for investigation, s/he will arrange for an Investigating Officer to investigate the allegation and to report the matter to the Committee:

- Where the Investigating Officer considers after investigation that the Councillor has not acted in breach of the Council's Code of Conduct for Members, the Committee must meet to decide whether to accept that finding or to proceed to a formal hearing.
- Where the Investigating Officer considers that there has been a failure to comply with the Code of Conduct for Members, or where the Committee decides to hold a full hearing, there will then be a formal hearing to determine whether a breach of the Council's Code of Conduct has occurred and whether any action should be taken in consequence.

In this process, 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 to the Committee, to enable the Committee to come to an informed decision as to whether the Councillor has failed to comply with the Council's Code of Conduct for Members, and upon any consequential action. The Committee acts in an inquisitorial, rather than an adversarial manner, seeking the truth in relation to the conduct of the Councillor on the balance of the information available to it, and may commission further investigation or information if it needs to do so in order to come to a decision.

### 1. Interpretation

- (a) "The Committee" refers to the Council's Standards Committee or to any Sub-Committee thereof to which it or the Council has delegated the conduct of the assessment or hearing, unless the context indicates that it refers only to the Standards Committee itself.
- (b) "Councillor" means the member or co-opted member of the Council who is the subject of the allegation being considered by the Committee, and unless stated otherwise it also includes the Councillor's representative.
- (c) "Investigating Officer" means the person appointed by the Monitoring Officer to undertake a local investigation (which may include the Monitoring Officer, and his or her representative).
- (d) "The Matter" is the subject matter of the Investigating Officer's report.

### 2. Allegations and Local Assessment

#### (a) Publication of address to which written allegations are to be sent

The Monitoring Officer shall as soon as practicable publish details on the Council's website of the address to which written allegations that a Councillor has failed to comply with the Code of Conduct shall be sent. The address shall be that of the Monitoring Officer unless the Committee determines otherwise. The Monitoring Officer shall take reasonable steps to ensure that the published details continue to be brought to the attention of the public and that any changes to those details are promptly published.

#### (b) Action by Monitoring Officer on receipt of written allegation

Upon receipt by him/her of a written allegation with sufficient detail that a Councillor has failed to comply with the Code of Conduct the Monitoring Officer shall:-

- ~~(i) notify the Councillor that an allegation has been received (which will include the content of the complaint unless the Monitoring Officer considers that it would be contrary to the public interest or would prejudice the consideration of the allegation to do so); and~~

ensure as far as reasonably practicable that within 20 days of such receipt the allegation is considered by the Committee.

#### (c) Consideration of the allegation by the Committee and action on it

The Committee (in practice, the Assessment Sub-Committee) shall then consider the allegation and make one of the following decisions regarding it:-

- (i) to take no action on it, in which case the Committee shall direct that the Monitoring Officer shall give written notice of that decision and the reasons for it to the person who made the application and no further action shall be taken unless that person requests,

pursuant to Section 57B of the Local Government Act 2000, that the Committee review that decision and the Committee (in practice, the Review Sub-Committee) will reconsider the allegation within three months of receipt of the request;

- (ii) to refer the allegation to the Standards Board for England through the Monitoring Officer;
- (iii) to refer the allegation to the Monitoring Officer for investigation, in which case consideration of the allegation shall proceed in accordance with the following paragraphs of this Procedure;
- (iv) in deciding to take no action, it may direct that the Monitoring Officer pursue other action short of formal investigation.

***The Decision Notice of the Sub-Committee Decision must be given to the relevant parties***

### 3. Reference of Allegation to the Monitoring Officer for Investigation

#### (a) Appointment of Investigating Officer

Upon the reference to him/her of the allegation by the Committee for investigation, the Monitoring Officer will appoint an Investigating Officer in respect of the allegation and instruct him/her to conduct an investigation of the allegation and to report to the Committee. The Investigating Officer may be an officer of the Council, an officer of another local authority, or an external person.

#### (b) Notification to the Councillor

Except where (having first consulted the Committee) s/he considers that it would be contrary to the public interest or would prejudice the ability of the Investigating Officer to investigate the allegation, the Monitoring Officer will then notify in writing the Councillor against whom the allegation is made:

- (i) that the allegation has been referred to him/her for local investigation and determination by the Committee;
- (ii) the identity of the person making the allegation (unless identification of the complainant might prejudice the investigation or put the complainant at risk);
- (iii) of the conduct which is the subject of the allegation;
- (iv) of the section(s) of the Code of Conduct which appear to him/her to be relevant to the allegation;
- (v) of the procedure which will be followed in respect of the allegation, and
- (vi) of the identity of the Investigating Officer.

(c) **Notification to the Committee**

At the same time as notifying the Councillor, the Monitoring Officer will notify each member of the Committee in writing of the matters set out in paragraphs 3(b)(i)-(iv) above.

(d) **Notification to the Person who made the Allegation**

At the same time as notifying the Councillor, the Monitoring Officer will notify the person who made the allegation in writing of the matters set out in paragraphs 3(b)(i)-(iv) and (vi) above.

#### 4. **Conduct of Investigation**

(e)

(a) **Initial Response of the Councillor**

~~In notifying the Councillor of receipt of the allegation the Monitoring Officer shall request the Councillor to respond to the Investigating Officer in writing within 14 days of notification as follows:~~

***On Appointment, the Investigating Officer shall write to the to the Councillor and request that s/he respond*** in writing within 14 days, as follows:

- (i) advising the Investigating Officer whether the Councillor admits or denies the breach of the Code of Conduct which is the subject of the allegation;
- (ii) listing any documents which the Councillor would wish the Investigating Officer to take into account in any investigation of the allegation, where possible providing copies of these documents, and informing the Investigating Officer of where the original documents may be inspected.
- (iii) providing the Investigating Officer with the name, address and telephone number (or other appropriate contact details) of a person or organisation whom the Councillor would wish the Investigating Officer to interview in the course of any investigation of the allegation, and
- (iv) providing the Investigating Officer with any information which the Councillor would wish the Investigating Officer to seek from any person or organisation.

(f)

(b) **Supporting Information from the Person who made the Allegation**

~~In notifying the person who made the allegation as above the Monitoring Officer will request the person to respond to the Investigating Officer within 14 days.~~

***The Investigating Officer shall also write to the*** person who made the allegation ***and request the person to respond, within 14 days as follows:***

- (i) listing any documents which the person would wish the Investigating Officer to take into account in any investigation of the allegation, where possible providing copies of these documents, and informing the Investigating Officer of where the original documents may be inspected;
- (ii) providing the Investigating Officer with the name, address and telephone number (or other appropriate contact details) of a person or organisation whom the person would wish the Investigating Officer to interview in the course of any investigation of the allegation, and
- (iii) providing the Investigating Officer with any information which the person would wish the Investigating Officer to seek from any person or organisation.

#### ~~4. Conduct of Investigation~~

~~(a)~~

#### **(c) Purpose of the Investigation**

The purpose of the Investigating Officer's investigation is to enable him/her to prepare and present to the Committee a report which would provide the Committee with sufficient information to determine whether the Councillor has failed to comply with the Code of Conduct and, where there has been failure to comply with the Code of Conduct, what, if any, action should be taken in respect of the Councillor or in consequence of the failure.

~~(b)~~

#### **(d) Termination of the Investigation**

The Investigating Officer may terminate his/her investigation at any point, where he/she is satisfied that he/she has sufficient information to enable him/her to report to the Committee and to enable the Committee to come to a considered decision on the allegation.

~~(c)~~

#### **(e) Additional Matters**

Where, in the course of his/her investigation, the Investigating Officer becomes aware of any other matter which appears to him/her to indicate a failure to comply with the Code of Conduct by the Councillor other than the failure which he/she is currently investigating, the Investigating Officer shall report the matter to the Monitoring Officer who will provide the Councillor with details of the matter in the form set out in paragraphs 3(b)(iii) and (v) above and invite the Councillor to provide a statement as to why the additional matter does not constitute a breach of the Code of Conduct. The Monitoring Officer will then determine whether to report the additional matter to the Committee;

~~(d)~~

**(f)** Following notification to the Councillor, the Investigating Officer will identify an initial list of persons to be interviewed, organisations from whom information is to be sought and documents to be inspected as part of the investigation. Where the Councillor has provided

the Investigating Officer with the information requested in accordance with paragraphs 3(e)(ii) and (iii) above, the Investigating Officer shall include in this list each document, person and organisation referred to in that response, unless he/she is of the opinion that the inclusion of that document, person or organisation would unreasonably delay the completion of the investigation rather than to contribute to the accuracy of the Investigating Officer's final report. The Investigating Officer may supplement or amend this list at any stage of the investigation.

~~(e)~~

**(g) Production of Documents, Information and Explanations**

- (i) In the course of the investigation, the Investigating Officer and any person authorised on his/her behalf may make such enquiries of any person or organisation, and request any person or organisation to provide any document or information which is in his/its possession or control, or provide any explanation, as he/she thinks necessary for the purposes of carrying out the investigation.
- (ii) In the course of the investigation, the Investigating Officer and any person authorised on his/her behalf may require any authority of which the Councillor is a member to provide any document which is in his/its possession or control which he/she thinks necessary for the purposes of carrying out the investigation.

~~(f)~~

**(h) Interviews**

- (i) **Requesting Attendance**  
In the course of the Investigation the Investigating Officer may request any person to attend and appear before him or otherwise provide any information, document or explanation for the purpose of paragraph 4(e), as he/she thinks necessary for the purposes of carrying out the investigation.
- (ii) **Representation**  
The Councillor who appears before the Investigating Officer may arrange to be accompanied at their own expense by a solicitor or friend.
- (iii) **Notes of Interviews**  
Where practicable, following the interview the Investigating Officer shall produce a written note of the material points of the interview, 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 such corrections or amendments as they may feel necessary for that purpose.

~~(g)~~

**(i) Reference back to the Standards Board**

At any point in the course of the investigation, if the Investigating Officer is of the opinion



- (i) that the seriousness of the matters which he/she is investigating, including any additional matters identified under paragraph 4(c) above, is such that they may merit the application of a sanction beyond the powers of the Committee, or
- (ii) that the nature of the allegations is such that it would be inappropriate for the Committee to determine the matter, he/she may, after consulting the Monitoring Officer, suspend his/her investigation and the Monitoring Officer shall refer the allegation to the Standards Board for England. Where the Monitoring Officer refers the allegation to the Standards Board for England, he/she shall ensure that the Councillor concerned, the person who made the complaint and the members of the Committee are informed of such reference. Where the Standards Board for England decline to investigate the allegation the Monitoring Officer shall instruct the Investigating Officer to resume his investigation.

**5. The Draft Report**

- (a) When the Investigating Officer is satisfied that he/she has sufficient information to meet the requirement set out in paragraph 4(a), or has obtained as much information as is likely to be reasonably capable of being obtained, he/she shall prepare a draft report setting out:
- (i) the details of the allegation;
  - (ii) the relevant provisions of statute and of the Code of Conduct;
  - (iii) the Councillor's initial response to notification of the allegation (if any);
  - (iv) the relevant information, advice and explanations which he/she has obtained in the course of the investigation;
  - (v) a list of any documents relevant to the matter;
  - (vi) a list of those persons whom he/she has interviewed and those organisations from whom he/she has sought information;
  - (vii) a note of any person or organisation who has failed to co-operate with the investigation and the manner in which they have failed to co-operate;
  - (viii) a statement of his/her draft findings of fact;
  - (ix) his/her conclusion as to whether the Councillor has or has not failed to comply with the Code of Conduct, and
  - (x) any recommendations the Investigating Officer is minded to make for reviewing or reconsidering any decision which has the subject of failure to comply with the Code of Conduct for rectifying any deficiency in the Council's decision-making procedures or for preventing or deterring any failure to comply with the Code of Conduct or to remedy the position of any person who may have suffered detriment or injustice as a result of the failure.
- (b) The draft report should also state that the report does not necessarily represent the Investigating Officer's final finding, and that the Investigating Officer will present a final report to the Committee once he/she has considered any comments received on the draft report.
- (c) The Investigating Officer shall then send a copy of his/her draft report in confidence to the Councillor and the person making the allegation, and request that they send any comments to him/her within 14 days.
- (d) The Investigating Officer may send a copy of, or relevant extracts from his/her draft report in confidence to any person on whose evidence he/she has relied in compiling the draft report, and request that they send any comments to him/her within 14 days.

**6. The Final Report**

- (a) After the expiry of that period (or such extended period as the Investigating Officer may allow), the Investigating Officer shall reconsider and amend his/her draft report in the light of any comments received, and produce and send to the Monitoring Officer his final report. The final report should state that the report represents the Investigating Officer's final findings and will be presented to the Committee, and should have appended to it copies of any documents which the Investigating Officer has relied on in reaching his/her conclusions, such as background documents or notes of telephone conversations, letters, and notes of interviews with witnesses;
- (b) The Monitoring Officer shall then send a copy of the final report to the Councillor, advising that:
- (i) where the final report concludes that there has not been a failure to comply with the Code of Conduct, he/she will refer the report to the Committee (in practice, the Assessment Sub-Committee) for consideration; or
  - (ii) where the final report concludes that there has been a failure by the Councillor to comply with the Code of Conduct, he/she will refer the report to the Committee (in practice, the Hearings Sub-Committee) for a formal hearing.
- (c) The Monitoring Officer shall ensure that, when the agenda for the Committee is sent out to members of the Committee, including the final report, the agenda and the report are also sent to the person who made the complaint, together with a note explaining the circumstances under which the Committee may conduct a hearing into the allegations, and the procedure for these events.
- (d) Where the Committee considers the report in accordance with paragraph 6(b)(i) or (ii) above, it shall make one of the following findings:
- (i) That it accepts the Investigating Officer's finding that the Councillor has not failed to comply with the Code of Conduct as set out in the allegation; or
  - (ii) That the matter should be considered at a hearing of the Committee conducted in accordance with the authority's adopted Procedure for Local Determination Hearings or
  - (iii) That the matter should be referred to the Standards Board.
- (e) Where the Committee finds as set out in paragraph 6(d)(i) above (no failure to comply with the Code of Conduct) the Monitoring Officer shall, as soon as practicable thereafter, send a written notice of that finding and the reasons on which it was based, together with a copy of the Investigating Officer's report to:
- (i) The Councillor;
  - (ii) The Committee, if the finding was made by a Sub-Committee of the Committee;

(iii) The Standards Committee of any other local authority (other than a Parish or Town Council) of which the Councillor is also a member; and

(iv) The person who made the allegation,

and shall ask the Councillor whether he objects to the publication of a notice of the finding in at least one local newspaper, and arrange for the publication of such a notice unless the Councillor so objects.

(f) Where the Committee finds as set out in paragraph 6(d)(ii) above (that the matter should be considered at a full hearing) or the Investigating Officer's report contains a finding that the Councillor did fail to comply with the Code of Conduct, the Monitoring Officer shall arrange for the matter to be considered at such a hearing in accordance with the Council's adopted Procedure for Local Determination Hearings, subject to the following variations:

(i) The hearing shall be conducted no sooner than 14 days, and no later than 3 months, from the date on which the Monitoring Officer received the report of the Investigating Officer;

(ii) The Monitoring Officer will not conduct Pre-Hearing enquiries of the Councillor, and

(iii) The Investigating Officer shall be responsible for presenting the report to the Committee and introducing any witnesses whom he considers that the Committee should hear in order to be able to give the matter proper consideration.