

RECORD OF DECISION MADE UNDER DELEGATED AUTHORITY

***PART 1 – PUBLIC DOCUMENT**

Any interest to declare/ or conflict and any dispensation granted n/a

SERVICE DIRECTORATE: LEGAL & COMMUNITY

1. DECISION TAKEN

To approve the updated Councillor Complaints Handling Procedure (Appendix A – amendments as per tracking)

2. DECISION TAKER

Jeanette Thompson, Service Director, Legal & Community in consultation with the Chair and Vice Chair of Standards Committee (and having consulted the Independent and Reserve Independent Persons).

3. DATE DECISION TAKEN:

25 June 2024

4. REASON FOR DECISION

4.1 To update following a review and further to local experience for the reasons set out under table 8.2.

5. ALTERNATIVE OPTIONS CONSIDERED

5.1. To retain the current version. However, given the Local Government & Social Care Ombudsman Code and feedback in relations to some complaints during 2023-24, that was not considered appropriate.

6. CONSULTATION (INCLUDING THE EFFECT ON STAKEHOLDERS, PARTNERS, AND THE PUBLIC)

6.1 The subject was discussed by the Standards Committee on 27 March 2024 under the Standards Matters report numbered 6, [item note 46] [CLICK HERE for page](#). The Chair, Vice Chair, Independent Persons, and Deputy Monitoring Officer also considered drafts that included the representations made and The Local Government & Social Care Ombudsman Code, website, and Local Government Association Guidance on Member Model Code of Conduct Complaints Handling, before the version attached was approved.

6.2 Local Councils were also contacted in April, after the Standards Committee meeting, regarding the change of reference from Chairman to Chair. Those that responded supported the amendment.

7. FORWARD PLAN

7.1 This decision is not a key Executive decision and has therefore not been referred to in the Forward Plan.

8. BACKGROUND/ RELEVANT CONSIDERATIONS

8.1. See 8.3-8.5 of the Standards Matters report 27 March 2024 [[CLICK HERE](#)]. Also see public participation representations made at the meeting.

8.2. These and the above documents/ websites mentioned in 6.1 were considered and the amendments made as considered by the consultees appropriate, as per the table below¹:

Relevant page/ section	Proposed change by whom raised and subject	Proposal accepted/ not accepted and reasons
General	Local Government & Social Care ('LGO') Complaints Handling Code 2024 considered	Does not specifically apply to Standards Complaints and largely relevant in terms of service provision ² . Self-Assessment document completed. Compliant in terms of themes/ approach in so far as relevant. Amended new Appendix 2 to apply LGO guidance for principles for apology in
General	Member of the public: Removing gender bias language in documents.	This is with reference to 'Chairman' as opposed Chair. Post Standards Committee meeting, local council's consulted and of the responses received, they were supportive of the recommendation: Amended.
1.2 & Appendix 1	To make it clearer that the Code and investigations only applies to those acting as a Councillor.	Compliance with the provisions of section 27 Localism Act 2011. Amended to remove 'appears to be acting'
3, 5.3 & Appendix 1	Monitoring Officer: Complaints flowchart – Appendix 1	Updated to make it clearer regarding the jurisdictional Stage 1 and merits/ public Interest Stage 2.
5.3.1-5.3.4 [also 5.11]	Monitoring Officer / Independent Person: Initial assessment decisions	Amended to provide explanation under each heading. Deleted old section 5.11 as this explanation now provided under relevant sections, and Appendix 2 informal resolution.
Renumbered 5.11	Monitoring Officer/ Independent Person: What review process is in place if a regulatory body pursues or does not pursue a complaint when it has been referred under the Complaints Handling Procedure.	May consider the complaint under the Complaints Handling Procedure – e.g. if something was referred to the Police for a breach of a DPI. There may be an 'informative; / recommendations vs enforcement by them to the Monitoring Officer. Equally there may be a separate potential breach of the Code that needs to be considered – and the Procedure has been updated to reflect the ability to do so, under the criteria. Amended previous 5.12 –

¹ note minor typographical/ sentence, grammar or concise language changes are not highlighted in the table; however, can be seen as tracked changes on the Procedure

² <https://www.lgo.org.uk/information-centre/information-for-organisations-we-investigate/complaint-handling-code/complaint-handling-code?chapter=2>

		renumbered 5.11.
Various	<p>Member of the public: Notifications to Clerks and or Parishes: Insert the following after each reference to notification of Parishes in the Complaints Handling Procedure. “For the avoidance of doubt, if both the Clerk and Chair are conflicted, notification will be provided to an unconflicted party at the Parish Council.</p>	<p>General point accepted – in terms of the following: where there is a perceived conflict, that is accepted by the Monitoring Officer, another nominated Clerk and or Councillor will need to be nominated for such notification. Amendments made to relevant sections 5.7, 5.9, 7.2 & 8.2.</p>
6.8	<p>Member of the public: “Errors will be corrected”, suggest that “all errors” will be corrected in associated decision letters/ informal resolution.</p>	<p>The Procedure refers to Stage 3 Investigations. It indicates that they will be corrected. If this is a slight error in letters for informal resolution earlier, nor disputes over interpretation of evidence/ opinion, then it would not be proportionate or appropriate to ‘correct’ or reissue, accepting that this response does not relate to errors in the actual outcome of the decision itself, which should be corrected. No amendment, as none deemed necessary.</p>
	<p>Member of the public: The policy is silent on “Incidental findings” If during the course of their consideration of any complaint, officers become aware of an apparent breach of the code, they shall consider that and include that in their investigation reports or decision notices. The Complaints Handling Procedure be amended to clarify that where an investigation reveals an apparent breach not specifically mentioned in the complaint, it will form part of any deliberations and report.</p>	<p>That is potentially the very basis of consideration as part of an investigation. This would not potentially apply to assessment stage as no finding of breach occurs, just potential. In terms of an investigation, note, where this relates to a new allegation, raised during the course of the investigation, however, that would only be possible if the Councillor was provided the opportunity to comment and respond to that, as per the LGO’s decision in the Teignbridge case 2023. No amendment, as none deemed necessary.</p>
	<p>Member of the public: Transparent framework for decision making on investigation route and sanctions No current policy Sanctions under Informal Action Proposed that Appendix B be added to the Complaints Handling Procedure for Matters Relating to Councillors Code of Conduct. Similarly, appropriate references to that Appendix be made in the document itself.</p>	<p>The Procedure in place is in line with S28(6) and (7) of the Localism Act 2011. Additional guidance is obtained from the LGA’s Guidance to complaint handling and specific reference will be made to that in relation to informal resolution (when to seek, when not appropriate, who is subject to it, who should be informed etc. Amendment to include a guidance on informal action Appendix 2.</p>

Apologies	Member of the public: Apologies will be dealt with in accordance with the protocol.	<p>The Procedure incorporates an informal resolution mechanism designed to address concerns efficiently and empathetically, including the provision of apologies where appropriate. This approach is guided by principles of fairness and practicality, aiming to resolve disputes swiftly and maintain a constructive dialogue. Introducing a 'too' formalised mechanism for a complainant to dispute the content or acceptance of apologies could potentially lead to prolonged disputes and may not align with the overarching goal of reconciliation and resolution. It would also be inconsistent with the LGA guidance on complaint handling.</p> <p>The Monitoring Officer and Independent Person are well-placed to ensure that any apology offered is sincere and appropriate to the situation; that said, Amendment as per additional guidance has been included in new Appendix 2, based on the LGA guidance to complaint handling and LGO regarding principles underlying an apology/ and appropriate timescales for apologies.</p>
8.3	Monitoring Officer: Informal resolution – after investigation.	Amended to make reference to Appendix 2 and adding timescales.
Parish Councils referral of complaints	<p>Member of the public: The Complaints Handling Procedure be amended so the following is added after each reference to Parish Councils in the policy.</p> <p>“Where a Parish Council refers a complaint, it shall receive the same information and notifications as any other initiator of a complaint”.</p>	<p>The Procedure recognises that the Complaint Handling is a confidential process and subject to Data Protection considerations.</p> <p>In the case of complaints to Monitoring Officer, the information is likely to be made up of a combination of personal data of a complainant, subject member, third parties (inextricably linked) and non-personal data. This classification of personal data has been confirmed in the Information Commissioners Office 'ICO'/ First Tier tribunal decisions: Herefordshire Council v ICO FS50782482; & Herefordshire Council v ICO FS50794892.</p> <p>If a complaint is referred to the Parish and then on to the Monitoring Officer, that does not of itself make the Parish Council the complainant, therefore it is not accepted that they attain that status simply because they have referred. Where individuals or many Councillors have complained about another this</p>

		<p>may, however, be appropriate.</p> <p>The Procedure recognises that the local Council has a role to play in complaints; and the relevant officer and Councillors will receive information. Where there is a perceived conflict that is accepted by the Monitoring Officer, another nominated Clerk and or Councillor will need to be nominated for such notification.</p> <p>No amendment made as not considered to be appropriate.</p>
Guidance for Sanctions & Pathway for consideration of complaint	Member of the public: proposal that certain guidance should be included in terms of possible sanctions and pathways for dealing with a complaint, as this would increase transparency.	Amendments made to 9.1 and sanctions principles, following a Sub-Committee finding of breach, set out in the LGA guidance to complaint handling on the model code ('reasonable, proportionate and relevant the behaviour..'). Link to LGA guidance provided.

9. LEGAL IMPLICATIONS

- 9.1. There was a specific delegation from the Standards Committee meeting of 27 March 2024 under the Standards Matters report numbered 6, [item note 46] [CLICK HERE for page](#) for the Monitoring Officer to consider and amend the Procedure.
- 9.2. Additionally the Service Director: Legal & Community has delegations under section 14.6.9(a): (v). *To authorise changes to the Governance Policies/ Protocols/ Codes or Guidance (as the case may be) that fall within the remit of the Monitoring Officer and/ or Legal Services (and are not already covered by 14.6.9 to reflect decisions of the Council / Committees and the Cabinet, or minor ones relating to changes of fact and law, or if required for practical purposes, in order to ensure the proper administration of the Council, subject to regular notification to all Members of such changes.*

10. FINANCIAL IMPLICATIONS

- 10.1. None.

11. RISK IMPLICATIONS

- 11.1 Good Risk Management supports and enhances the decision-making process, increasing the likelihood of the Council meeting its objectives and enabling it to respond quickly and effectively to change. When taking decisions, risks and opportunities must be considered.
- 11.2 Keeping Policies and procedures up to date is effective risk management.

12. EQUALITIES IMPLICATIONS

- 12.1 The Public Sector Equality Duty seeks Public Authorities to have due regard to encourage persons those who share a protected characteristic to participate in public life or other activities where participation is usually low. Otherwise none identified.

13. SOCIAL VALUE IMPLICATIONS

13.1 In respect of procurement or contract, not relevant.

14. ENVIRONMENTAL IMPLICATIONS

14.1 None identified.

15. HUMAN RESOURCE IMPLICATIONS

15.1 None identified.

16. BACKGROUND PAPERS

16.1 None.

17. APPENDICES

17.1 Appendix A – Complaints Handling Procedure showing tracked amendments [for MIS this will be placed Appendix link will be provided only: <https://www.north-herts.gov.uk/delegated-decisions-2024>]

NOTIFICATION DATE

28 June 2024

Councillor Consultees:

Signature of Chair of Standards Committee consulted, Cllr Alistair Willoughby.



Date24.6.24

Signature of Vice Chair of Standards Committee consulted, Cllr Ian Albert:



Date...24.6.24.....

Decision taker:

Signature of Service Director: Legal & Community ...



**Call-in does not apply to NON-EXECUTIVE DECISIONS.
This decision is Non-Executive.**



Complaints Handling Procedure for matters relating to the Councillors' Code of Conduct

1. Introduction

- 1.1 These Procedures are “arrangements” and set out how a formal complaint against a Councillor can be made and will be handled. This covers complaints that an elected or co-opted Councillor of North Hertfordshire District Council (*or of a Parish/ Town or Community Council within the North Hertfordshire area*) has failed to comply with that authority’s Councillors’ Code of Conduct. This does not cover complaints against North Hertfordshire District Council or local Councils as a whole, nor employees of such Councils. Note that in respect of the latter¹, North Hertfordshire District Council has no legal remit to consider such complaints.
- 1.2 Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a Councillor or co-opted Councillor of North Hertfordshire District Council (*or of a Parish/ Town or Community Council within the authority’s area*), who are acting ~~as~~ a Councillor, has failed to comply with the applicable Councillor’s Code of Conduct, so that they can be, considered, investigated if appropriate and decisions made on such allegations. Any complaint will be assessed against the criteria set out in the flow chart under **Stage 1** and **Stage 2** (Appendix 1), and where this is a complaint against a local Councillor (Parish, Town, or Community Councillor) *you are strongly encouraged to try to resolve this locally in the first instance.*

Deleted: or appear to be acting

2. The Code of Conduct

- 2.1 North Hertfordshire District Council has adopted a Code of Conduct for Councillors, which can be found in Section 17 of the Council’s Constitution [[CLICK HERE](#)].
- 2.2 Each Parish / Town or Community Council is also required to adopt a Code of Conduct. These should be available on the Parish / Town or Community Council’s website and/or by request to the relevant council’s Clerk.

Deleted: Parish

3. Making a complaint

- 3.1 If you wish to make a complaint, the ‘[Complaining about a Councillor](#)’ page provides details as to how you can do so and what information you should provide. **Please note that the complaint must relate to a Councillor’s role. They should still be a Councillor. This is not the correct process to use if you are unhappy with a Council decision (which would, at District level, be the [Comments, Compliments](#)**

Deleted: ,

Deleted: t

Deleted: and t

¹ The Councils or their employee(s)



[and Complaints Policy](#). At Town, Parish and Community Council, would be their local policy).

The information you should provide in writing in the complaint is:

- 3.1.1 which Councillor you are complaining about and the name of the Council of which they are a member;
- 3.1.2 their alleged misconduct and dates; and
- 3.1.3 how you consider their alleged misconduct breaches the relevant authority's Councillor Code of Conduct.

*PLEASE NOTE that, while you may disapprove of the way you believe a Councillor has acted, there are a number of issues that would preclude further action, as set out in **Stages 1-2 – jurisdictional, then merits and the public interests considered**, – see also APPENDIX 1.*

Complaints can be made by eform:

[Making a complaint about a Councillor](#)

Or in writing to:

The Monitoring Officer, North Hertfordshire District Council, District Council Offices, Gernon Road, Letchworth Garden City SG6 3JF

- 3.2 The Monitoring Officer is a senior North Hertfordshire District Council officer responsible for overseeing the administration of the Council's complaints handling arrangements against District and [Parish, Town and Community](#) Councillors. Under this Procedure, however, reference to the Monitoring Officer during the assessment or investigation is deemed to include a Deputy Monitoring Officer, including an external one who may undertake any of the steps set out in this process. Complaints may be referred to an external Deputy Monitoring Officer to consider if further action is warranted. Circumstances in which a referral to an external Deputy Monitoring Officer or Investigator might arise include when:

- 3.2.1 The complaint comes from a senior officer of the Council, such as the Managing Director, Chief Finance Officer or the Monitoring Officer and it would be inappropriate for the Monitoring Officer or an internal Deputy to investigate.
- 3.2.2 The complaint is about a high-profile Councillor such as the Leader, or an Executive Member of North Hertfordshire District Council and it would be inappropriate for the Monitoring Officer or an internal Deputy to investigate.
- 3.2.3 There are other complaints that the Monitoring Officer considers would not be appropriate for them to investigate (such as when there is a cross complaint

Deleted: as it will not be in the

Deleted: to pursue some complaints that the Council cannot legally or should not deal with

Deleted: local

against a senior officer, or the Monitoring Officer and Deputies are all witnesses to the alleged behaviour).

3.3 Once a complaint with the information detailed under 3.1 has been received by North Hertfordshire District Council, the matter will become a formal complaint.

Deleted: be considered to be

3.4 A complainant will need to provide their name and a contact address, preferably also with an email address and telephone number, so that North Hertfordshire District Council can acknowledge receipt of the complaint and keep a complainant informed of its progress. It is possible to keep a complainant's name and locality confidential, if this is requested, although it is likely to hamper and, ultimately, prevent any effective assessment or investigation. It is also in the interests of transparency and fairness, that a Councillor accused of misconduct, generally has a right to know who has made the allegations. A complainant can ask for their name and contact to remain confidential on the complaint form, with an explanation for the request. The Monitoring Officer may agree to such a request where they consider that provision of contact details is likely to result in intimidation or violence. If the Monitoring Officer agrees to the request they will not provide the complainant's name and contact details to the Councillor without the complainant's prior consent. Exceptions to this will be if this is referred to the Police, or if other regulatory bodies (for example the auditors or external fraud investigators). In these circumstances a request for confidentiality would be a matter for those bodies to consider.

3.5 North Hertfordshire District Council does not normally consider/ investigate anonymous complaints, unless there is sufficient information and then there is a clear public interest in doing so. In any event, North Hertfordshire District Council's ability to do would be severely limited, as it is impossible in such situations to request further information from a complainant or provide confirmation of any decision.

Deleted: ,

3.6 Where a repeat or similar complaint has been made (which has not been upheld), no further action will be undertaken, and consideration given to the Council's unreasonable customer arrangements where such complaints continue to be made.

3.7 The Complaints Handling Procedure Flowchart at Appendix 1 includes the aspects of the complaint and assessment criteria that the Monitoring Officer considers before deciding whether to consider the complaint (**Stage 1-2**) and assess the complaint (**Stage 3**). A Councillor would not normally be notified of a complaint if the assessment criteria have not been met under Stage 1, although they may be informed after that a complaint had been received and was not proceeding further.

Deleted: takes into account

4. Who is the Independent Person?

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

Deleted: 4

- 4.2 The Procedural arrangements must include at least one appointed Independent Person. North Hertfordshire District Council has an Independent Person whose views will be sought on all formal allegations (as part of the assessment of the complaint – before any investigation), as well as seeking their views (as it legally must) at any other stage during an investigation or determination of a formal complaint. North Hertfordshire District Council also currently has two Reserve Independent Persons who can be contacted by a Councillor who is subject to a formal complaint for procedural advice only, or who may be involved at other stages if the Independent Person is unable to participate. This will be set out in any formal letter to the complainant and Councillor confirming that a complaint has been received.
- 4.3 References to the Independent Person in this document include the Independent Person and the Reserve Independent Persons, unless otherwise stated.

5. How will my formal complaint be handled?

5.1 The complaint will normally be acknowledged within 5 working days through the contact information provided by the complainant.

5.2 The Monitoring Officer will review every complaint received and will consult the Independent Person. The following Stages will be applied. If it is a Parish, Town, or Community Councillor complaint, then as per Appendix 1, confirmation will be sought from the complainant that they have tried to resolve this issue at local level. As a first step, the complainant will be expected to seek a local resolution unless this is impractical or unreasonable for either party to do so. This does not prevent a formal complaint being progressed later, to the District Council, if this is unsuccessful, but local resolution is quicker. The formal process through the District Council can take in excess of 6 months from receipt of a formal complaint to conclude.

5.3 Where a Parish, Town, or Community Councillor complaint cannot be resolved locally or where it relates to a North Hertfordshire District Council Councillor, then an assessment will be undertaken and the tests under Appendix 1 (Stage 1) will be considered. Stage 1 and Stage 2 have been described by the Committee on Standards in Public Life as the 1 'can we' - jurisdictional, 2 'should we' – initial merits and the public interest stages. Stage 1 is the jurisdictional one i.e. can the Council deal with this complaint. If any of those factors listed under Stage 1 are not met, then the complaint cannot proceed and the complainant will be informed that no further action will be taken. Stage 2 would then only apply if the jurisdictional tests at Stage 1 have been met. At Stage 2 the initial merits and the public interest of the complaint will be considered, as per the criteria, summarised in Appendix 1, Stage 3 signifies an assessment decision taken, which can be one of the following:

5.3.1 no further action;

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

Deleted: referred to

Deleted: at a later date

Deleted:

Deleted: e first step

Deleted: it encourages

Deleted: a

Deleted: localised resolution (as this

Deleted:

Deleted:)

Deleted: -2

Deleted: and at

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

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

5.3.2 informal resolution,

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

However, if the Councillor subject to the complaint fails to agree to the informal resolution, the Monitoring Officer can deal with the complaint in another way, including an investigation and/ or direct referral to the Standards Committee. Where the Councillor makes a reasonable offer of informal resolution, but the complainant is not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint merits any further action

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

5.3.3 investigation;

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

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

5.3.4 referral to the Standards Sub-Committee.

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

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

Deleted: action (including mediation or training or suggested apology);

Deleted: f
further

The Monitoring Officer does not have to take the steps in 5.3.1 to 5.3.4 in the order in which they are listed.

5.4 This assessment decision will normally be taken within 28 working days of receipt of the formal complaint, [any further information requested or clarifications](#), and considered in accordance with the Assessment Criteria in Appendix 1.

5.5 Where the Monitoring Officer requires additional information [to](#) come to a decision, they will request this information.

Deleted: in order to

5.6 Where the complaint has moved to **Stage 2**, a copy of the complaint and any relevant documentation will be forwarded to the Councillor for consideration and comment. The Councillor will be given 14 calendar days to respond unless there are reasons to extend this deadline, for example for holidays, sick leave, a criminal or a whistleblowing investigation. The Councillor is expected to co-operate with the Monitoring Officer and not to attempt to interfere with impede/obstruct any part of the process, or intimidate any person involved in this process. Failure to co-operate can be a breach of the Code, in addition to the original complaint.

5.7 If the complaint relates to a Parish/ Town or Community Councillor, see 5.2 above; and is then considered under **Stages 1 and then Stage 2**, the Monitoring Officer may also seek the views of the relevant Clerk, in confidence, before coming to an assessment decision under **Stage 3**. Such views would again be expected within 14 calendar days (unless there are reasons to extend the deadline on grounds such as those at 5.6 above). [Note if there is an alleged conflict by a complainant regarding the involvement of a Clerk, and this is accepted by the Monitoring Officer, or there would appear to be one, then another Clerk or Council contact will be sought as the contact for relevant information.](#)

Deleted: -

5.8 [There will be an initial consultation with the Independent Person at Stage 1 and if this has progressed to Stage 2, a further consultation, following receipt of the Councillor's response \(and any Clerk's response\), and/or the deadline has expired for such comments and none has been forthcoming.](#) This consultation may result in the request for further information from any relevant party, and further consultation will take place. Following this the Monitoring Officer will make one of the assessment decisions set out under 5.3. above (**Stage 3**). [Some of the criteria under Stage 2 are subjective and account will be taken by the Monitoring Officer and the Independent Person of the public interest – namely in a fair, balanced, and proportionate approach to the complaint made.](#)

Deleted: Once

Deleted: has been received

Deleted: , the Monitoring Officer will consult the Independent Person...

5.9 When the Monitoring Officer has taken a decision, they will inform the complainant and the Councillor (and in cases involving a Parish/ Town or Community Councillor) the Clerk (or [Chair](#) as may be appropriate) of the decision and the reasons for that decision. These will remain confidential. [Note that if both the Clerk and Chair have a perceived](#)

Deleted: Chairman

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

- 5.10 Complainants should note that this will be the assessment decision as to whether there appears to be a case to answer and whether to investigate or consider alternative action. Where there is to be an investigation, a complainant's co-operation will be required, including, if necessary, at any hearing, which is likely to be held in public. The complainant would be expected to attend such a hearing and provide their evidence/ and or answer questions relating to the complaint.

- 5.11 [If the complaint identifies potential criminal conduct or breach of other regulation, the Monitoring Officer is likely to refer it to the Police or other regulatory agency/ies. If the complaint relates to an alleged Disclosable Pecuniary Interest offence², it will be dealt with under an agreed Protocol with Hertfordshire Constabulary. The Police \(and finally the Director of Public Prosecutions\) will be the relevant body that determines whether further action should be taken on such a complaint. The Council cannot influence any decisions taken by the Police or other regulatory body, would have no role in their decision, and would not wish to prejudice such bodies' consideration or enquiries other than to co-operate with them. \[In this situation any further action on the complaint by the Council will cease, pending the outcome of the referral. Once that has been concluded, the Monitoring Officer may consider the complaint further with the Independent Person, even if the regulatory body has decided on no further action.\]\(#\)](#)

Please note that where a complainant wishes to withdraw the complaint the Monitoring Officer is unlikely to take further action on the matter, [apart from](#) a referral to Police/ regulatory body/ies - where a withdrawal of a complaint would be for them to consider. If the complainant wishes to withdraw the complaint during the investigation, then this will be considered by the Monitoring Officer in consultation with the Independent Person as to whether the investigation will continue. The decision to terminate an investigation will, for example, depend on the nature of the allegations and the parties involved.

- 5.12 Similarly, if the Councillor subject to a complaint ceases to be a Councillor during this assessment or a later stage of the Complaints Handling Procedure, the Monitoring Officer, in consultation with the Independent Person may decide to terminate *or suspend* any further steps for up to 14 months from the date on which they cease to be a Councillor. This is because the Complaints Handling Procedure only applies to elected and co-opted Councillors. Further action *may be taken* on the complaint during that 14-month period if the Councillor is re-elected / or is co-opted back to the Council during that period. This decision will be taken by the Monitoring Officer in consultation

Deleted: <#>Where the Monitoring Officer seeks to resolve the complaint informally, without the need for a formal investigation (as per 5.3.2) they will consult the Independent Person on such action. Informal resolution may involve the Councillor acknowledging that their conduct was unacceptable and offering an apology, or other remedial action. Where the Councillor makes a reasonable offer of informal resolution, but the complainant is not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint merits any further action. Equally, if a Councillor refuses to engage with such an informal approach (for example by not apologising, or attending training), the Monitoring Officer may reconsider the decision and decide whether to refer the complaint for investigation, or directly to the Standards Sub-Committee for the original complaint and (and failure to co-operate) to be determined.¶

Deleted: with the exception of

² Under s34 Localism Act 2011

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

- 5.13 If a Councillor has been subject to a finding of the Standards Sub-Committee and sanctions have been imposed under 9.1. or by Council and the Councillor has failed, without reasonable excuse, to comply with a sanction, then the Monitoring Officer will refer this directly back to the Standards Sub-Committee ('direct referral') for determination.
- 5.14 There is no further right of internal review or appeal by a complainant following a decision on the preliminary assessment not to investigate (unless new evidence is then submitted within a reasonable time following such a decision. This would, in any event, be subject again to the Assessment Criteria in Appendix 1).
- 5.15 Brief and anonymised versions of the complaints and any outcomes are reported through to the Standards Committee and Full Council.

6. How is an investigation conducted?

- 6.1. The Council has adopted a procedure for the investigation of conduct complaints, which is attached as Appendix 3 to these arrangements.
- 6.2. If the Monitoring Officer decides that a complaint merits investigation, they may appoint an Investigating Officer, who may be a Deputy Monitoring Officer, another senior North Hertfordshire District Council officer, an officer of another authority or an external investigator. This Officer's purpose is to conduct an objective investigation on the merits of the complaint and whether there appears to be a case to answer that will be presented to the Standards Sub-Committee. The Officer is not there to represent the complainant or the Councillor and there is no difference in the status of the report prepared by an Investigating Officer and that of the Monitoring Officer.
- 6.3 Any investigation stage³ should be completed within 4 months, and parties must co-operate to ensure that this deadline can be met (unless there are extenuating circumstances to justify extending this). Any failure by the Councillor complained of to co-operate or attempt to interfere with impede OR obstruct any part of the process, or any person involved in the process, may, as previously indicated, be considered a separate potential breach of the Code of Conduct, notwithstanding the original complaint. Equally should a complainant attempt to interfere with impede/obstruct any part of the process, or intimidate any person involved in the process, the Monitoring Officer reserves the right to terminate the investigation. Any such decision will be taken in consultation with the Independent Person.

Deleted: 2

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

Deleted: witnesses

- 6.4 The Investigating Officer or Monitoring Officer will decide whether they need to interview a complainant to understand the nature of the complaint, any events surrounding it and consider what documents need to be seen, and any other party who needs to be interviewed. Such interviews may be by telephone, virtual platform (e.g. Teams or Zoom) or in person and are likely to be recorded and that record used/ produced as part of the witness evidence, together with any other relevant evidence that has been produced. If any witness(es) to the alleged breaches of the Code have been identified, the Monitoring Officer/ Investigating Officer will decide whether to interview those witnesses. Again, these interview arrangements may be by telephone, virtual platform or in person and will be recorded/ used as part of witness evidence. This is to prevent disagreements as to what has or has not been said at interview. Any witnesses must be identified by the complainant at this stage of the Procedure, as late witnesses will generally not be accepted after the investigation has been concluded.
- 6.5 The Investigating Officer or Monitoring Officer will provide the Councillor with a further copy of the complaint. If a further linked complaint or expanded complaint has been received between the initial assessment decision and investigation, and includes further allegations, this will be provided to the Councillor and made clear whether this will be investigated. The Councillor will be asked to provide their explanation of events, and to identify what documents they need to see and the name(s) of any witnesses they believe should be interviewed. The Councillor and any of their witnesses relevant to the alleged breaches, are likely to be interviewed on the same basis as under 6.4. Any witnesses must be identified at this stage of the Procedure as late witnesses will generally not be accepted after the investigation has been concluded. The Councillor is expected to co-operate with any investigation. As noted at 5.6, failure to co-operate can be a breach of the code, in addition to the original complaint.
- 6.6 At the end of their investigation, the Investigating Officer or Monitoring Officer will produce a draft report (“the Investigation Report”) and will send copies of that draft report, in confidence, to the complainant, to the Councillor concerned and to the Monitoring Officer where they were not the investigating officer, so that there is an opportunity to identify any inaccuracies and any matter in that draft report of dispute or which the parties believe require more consideration. Similarly, the Independent Person will also see a copy of the report for comment. Relevant parties will be given 21 calendar days to respond. The complainant / Councillor will be expected to raise any issues with the draft report at this stage.
- 6.7 Where an Investigating Officer has been appointed and if the Monitoring Officer and Independent Person are not satisfied from the draft report that the investigation has covered the issues sufficiently the Monitoring Officer may ask the Investigating Officer to reconsider their draft.
- 6.8 Equally, parties are encouraged to acknowledge or accept any findings at the draft report stage, so that the issues can be narrowed to those that remain in dispute. It is possible that parties will disagree with the findings / reasons on whether there is a case

to answer in the report. Comments and issues will be considered by the Monitoring Officer/ Investigating Officer; errors will be corrected; however, this does not mean the report findings will be changed. A summary of these comments from the complainant/ Councillor are likely to be included in the final report.

- 6.9 Having received and considered any comments made on the draft Investigation Report, it will then be finalised. Where an Investigating Officer has been appointed, the Investigating Officer will send their final report (again in confidence) to the complainant, the Councillor and to the Monitoring Officer and the Independent Person. Note that this report will remain confidential until the Monitoring Officer determines otherwise or in any hearing, the Standards Sub-Committee determines that this matter shall be heard in public⁴.
- 6.10 The Monitoring Officer, in consultation with the Independent Person, will review any final report and may decide that there remains no case to answer or further action is required, as set out below.

7. What happens if the Investigating Officer, or Monitoring Officer, concludes that there is no evidence of a failure to comply with the Code of Conduct?

7.1 Where an Investigating Officer has been appointed by the Monitoring Officer to [investigate](#), the Monitoring Officer will review the Investigating Officer's final report in consultation with the Independent Person.

Deleted: conduct an investigation

7.2 If the Monitoring Officer is satisfied that the Investigating Officer's report is sufficient and there is no apparent case to answer of a potential failure to comply with the Code, the Monitoring Officer will write to the parties (*and to the Clerk, if the complaint relates to a Parish/Town or Community Councillor, or [Chair](#) as may be appropriate – see [conflicts situation and notice at 5.9](#)*), to notify them that they are satisfied that no further action is required. The report shall remain confidential and, other than to those parties who have received a report, it shall not be disclosed further by the Council or by them. An anonymised summary of the complaint and outcome will, however, be reported through to Standards Committee and Full Council during the year.

Deleted: Chairman

8. What happens if the Investigating Officer or Monitoring Officer concludes in the report that there is evidence of a failure to comply with the Code of Conduct?

8.1. As noted at 6.10, where an Investigating Officer has been appointed by the Monitoring Officer to [investigate](#), the Monitoring Officer will review the Investigating Officer's final report in consultation with the Independent Person.

Deleted: conduct an investigation

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

8.2. If the Monitoring Officer is satisfied that the Investigating Officer's report is sufficient and there is an apparent case to answer of a potential failure to comply with the Code, the Monitoring Officer will write to the parties (*and to the Clerk, if the complaint relates to a Parish/Town or Community Councillor, or Chair as may be appropriate – see conflicts situation and notice at 5.9*), to notify them that the matter will proceed to a hearing before the Standards Sub-Committee or, in consultation with the Independent Person, that the scope for an informal resolution will be considered.

Deleted: Chairman

Deleted: Alternative remedy

Informal resolution

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

Deleted: Alternative remedy

Deleted: the provisions of 5.11. of this Procedure, at any point in ...

Deleted: .

Deleted: the Independent Person and the

Deleted: or

Deleted: alternative remedy

Deleted: may re-open the issue and

Hearings

8.4. The Councillor will be expected to attend, unless there is a reasonable excuse for not doing so – as notified to the Monitoring Officer in advance of any hearing. Any request by the Councillor not to attend, must include the reasons for it, together with any evidence to support such a request to the Monitoring Officer, and as soon as practicably possible in advance of the hearing.

8.5. Normal Committee rules apply as to whether the Sub-Committee meets in public or private with the presumption that any hearings will be in public in North Hertfordshire District Council offices.

8.6. In all but straightforward cases there will be a preliminary administrative hearing of the Standards Sub-Committee, to case-manage the preparation and arrangements for the hearing called a **Case Management Hearing** – (“CMH”), followed by a **Final Determination Hearing** (“FDH”). The Membership of the sub-Committee for those hearings may or may not be the same.

CMH

- 8.7. The CMH should be arranged between 35 - 42 calendar days after the report has been sent to the parties.
- 8.8. The CMH will deal with administrative issues, such as fixing a date for the final hearing/ length of the hearing/ final evidence or representations that may be presented at the FDH.
- 8.9. As part of the investigation, the Councillor will have been asked and should have informed the Investigating Officer of any witnesses that the Councillor wishes to rely on / and evidence obtained as part of the Investigation. However, if this has not taken place the Councillor will be expected within 14 calendar days prior to the CMH to notify the monitoring officer:
- 8.9.1 the areas of the Investigating Officer's report that the Councillor disputes (and the factual reasons for doing so), including evidence from current witnesses that are relevant to the matter of dispute; and
- 8.9.2 whether they will be represented at the final hearing (and details of that representative).
- 8.10 If the Councillor fails to confirm the above information by a date specified prior to the CMH or fails to attend the hearing without reasonable explanation, then this may be considered a further potential breach of the Code of Conduct (for failure to co-operate). ~~If the Councillor fails (with or without excuse) to attend, the CMH may take place in the absence of Councillor.~~ Where the Councillor attends they may be represented or accompanied during the hearing by a solicitor, counsel or, with the permission of the Sub-Committee, another person.
- 8.11 The Councillors of the Sub-Committee, Independent Person, Investigating Officer, Monitoring Officer, or Legal Adviser may ask questions of the Councillor and of the complainant.
- 8.12 The Sub-Committee may take legal advice from its Legal Adviser or seek the opinion of the Independent Person at any time during the CMH and may retire to deliberate in private before it comes to a decision. The Legal Adviser will retire with the Members of the Committee and the substance of any legal advice provided when the Sub-Committee retires, will be shared with the Member and the Investigating Officer if they are present when the Members return to the hearing. The Independent Person will not retire with the Sub-Committee. If the Sub-Committee requires the opinion of the Independent Person on CMH matters, this should be requested prior to retiring to consider the decision/ or in any event before the decision is taken. **Note:** as the CMH is an administrative hearing and not the determination of the complaint, such opinion *may* rather than *must* be sought prior to the decision being made.
- 8.13 Other than in exceptional circumstances, the date of the FDH must be fixed at the CMH, within 35-42 calendar days of the CMH.

Deleted: In the event that

Deleted: has to

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

FDH

8.15 The Council has agreed a procedure for the FDH for the complaint, which is attached as Appendix [4](#).

Deleted: 3

8.16 At the FDH, the Investigating Officer or the Monitoring Officer (or nominated representative) will present their report, call such witnesses as they consider necessary and make representations to substantiate their conclusion that there is a case to answer that the Councillor has failed to comply with the Code of Conduct. The Standards Sub-Committee may set out a timetable for the hearing.

8.17 At the FDH, the Councillor will not be able to challenge evidence from a witness that has been contained/ reflected in the Investigation Report, unless the Councillor has indicated by the specified date prior to the CMH that a particular witness' evidence is disputed and why. Subject to that indication, the Monitoring Officer/ Investigating Officer will be expected to request the attendance of that witness at the hearing. If the Councillor has not indicated by a specified date that a witness' evidence is disputed, the Monitoring Officer is unlikely to request that witness' attendance at the FDH.

8.18 The complainant should be prepared to attend and give evidence to the Sub-Committee. The Councillor will then have an opportunity to ask any relevant questions of the Investigating Officer or witnesses produced at the hearing through the [Chair](#), give their evidence, call witnesses and to make representations to the Sub-Committee as to why they consider that they have not failed to comply with the Code of Conduct. The Members of the Sub-Committee, Independent Person, Investigating Officer, Monitoring Officer, or Legal Adviser may ask questions of any of the witnesses present (including the Councillor and complainant). The [Chair](#) of the Sub-Committee [can](#) halt any questions that they believe are irrelevant, repetitive, or haranguing in nature.

Deleted: Chairman

Deleted: Chairman

Deleted: has the ability to

8.19 The Sub-Committee may take legal advice from its Legal Adviser at any time during the FDH and may retire to deliberate in private before it comes to its decision. The Legal Adviser will retire with the Members of the Sub-Committee and the substance of any legal advice given to the Members in private session will be confirmed when the meeting reconvenes in public session. The Independent Person will not retire with the Sub-Committee. The Sub-Committee should request the views of the Independent Person prior to retiring to consider the decision/ or in any event before the decision is taken on whether there has been a breach of the Code of Conduct. Please note that in accordance with section 28(7) of the Localism Act 2011 the views of the Independent Person are to be sought, and [considered](#), by the Sub-Committee before it makes its decision on an allegation that it has decided to investigate.

Deleted: taken into account

8.20 The Sub-Committee, with the benefit of any views from the Independent Person, may conclude that the Councillor *did not* fail to comply with the Code of Conduct, and

dismiss the complaint. In these circumstances, the case is at an end and the Sub-Committee closes the hearing.

- 8.21 If the Sub-Committee concludes that the Councillor *did* fail to comply with the Code of Conduct, the Chair will inform the Councillor of this finding and of the reasons for it. The Sub-Committee will then consider what action, if any, it should take [because of](#) the Councillor's failure to comply with the Code of Conduct. In doing this, the Sub-Committee will give the Councillor an opportunity to make representations to it and will seek the view of the Independent Person on any sanction, but will then decide what action, if any, to take in respect of the matter. The Sub-Committee may retire in private session to deliberate on what, if any, sanctions will be applied. The Legal Adviser will retire with the Members of the Sub-Committee and the substance of any legal advice given to the Members in private session will be confirmed when the meeting reconvenes in public session. The Independent Person will not retire with the Sub-Committee

Deleted: as a result of

9. What action can the Standards Sub-Committee take where a Councillor has failed to comply with the Code of Conduct?

- 9.1 The Council has delegated to the Sub-Committee such of its powers to take action in respect of individual Councillors as may be necessary to promote and maintain high standards of conduct. The Sub Committee will impose sanctions (or a combination of sanctions) commensurate with the nature and gravity of the breach of the Code of Conduct and confirm their reasons for doing so. [When deciding the type and nature of any sanction, the Sub-Committee will try to ensure that it is reasonable, proportionate, and relevant to the behaviour concerned and consider the matters set out in the relevant Guidance⁵.](#) Accordingly the sanctions available to the Sub-Committee are to:-

Deleted:

- 9.1.1 Publish its findings in respect of the Councillor's conduct (e.g. in a local newspaper, in print or on-line or both). Any decision will be published on the Council's website in any event;
- 9.1.2 Report its findings to Council (*or the Parish/ Town/ Community Council*) for information;
- 9.1.3 Report its findings and recommend to Council (*or the Parish/ Town/ Community Council*) that the Councillor be issued with a formal censure or be reprimanded;
- 9.1.4 Recommend to the Councillor's Group Leader or Deputy (or in the case of ungrouped Councillors, recommend to Council or to Committees) that the

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

Councillor be removed from any or all Committees or Sub-Committees of the Council;

9.1.5 Recommend to the Leader of the Council that the Councillor be removed from the Cabinet, or removed from particular Executive Member responsibilities;

9.1.6 Instruct the Monitoring Officer to arrange (or recommend that the Parish /Town / Community Council should arrange) training for the Councillor;

9.1.7 Recommend to Council (*or the Parish/ Town/ Community Council*) that the Councillor be removed from all outside appointments to which they have been appointed or nominated by the authority;

9.1.8 Recommend to Council (or the Parish/ Town/ Community Council) that it withdraws facilities provided to the Councillor by the Council, such as a computer, website and/or email;

9.1.9 Recommend to Council (or the Parish / Town/ Community Council) that the Councillor be excluded from the Council's Offices or other premises, **except for** meeting rooms (real or virtual) as necessary for attending Council, Committee and Sub-Committee meetings; or

Deleted: with the exception of

9.1.10 Take no further action.

9.2 The Sub-Committee has no power to suspend or disqualify the Councillor or to withdraw Councillors' basic or special responsibility allowances or any other payment made to the Councillor that they are entitled to under legislation.

What happens at the end of the hearing?

9.3 At the end of the hearing, the Chair will state the decision of the Standards Sub-Committee with a summary of the reasons as to **whether** the Councillor failed to comply with the Code of Conduct and, if the Councillor did fail to comply, any actions which the Sub-Committee resolves to take.

Deleted: whether or not

9.4 As soon as reasonably practicable thereafter (and in any event within 7 working days), a formal decision notice will be prepared by the Legal Adviser in consultation with the Sub-Committee, and send a copy to the complainant, the Councillor (*and to the Parish Council or **Chair** as may be appropriate*) by the Monitoring Officer, and make that decision notice available for public inspection and available on the Council's website.

Deleted: Chairman

9.5 There is no further right of internal review or appeal following the determination hearing by either the Councillor or complainant. Either party may seek independent advice and apply for Judicial Review of the decision or may consider making a complaint to the Local Government Ombudsman (LGO), although there is limited remit for the LGO to consider complaints and cannot revisit any decision taken.



10. Revision of these arrangements

Subject to the Council's Constitution, the full Standards Committee may amend these arrangements, and has delegated to a Chair of the Sub-Committee the right to depart from these arrangements where they consider that it is expedient to do so to secure the effective and fair consideration of any matter, having taken the advice of the legal advisor / or Monitoring Officer into consideration. Minor amendments may be made by the Monitoring Officer in consultation with the Independent Person, Chair or Vice Chair of the Standards Committee under delegated authority.

Deleted: in order to

Appendix 1 Complaints Handling Procedure Flowchart & Assessment Criteria

[Appendix 2 Informal Resolution](#)

Appendix [3](#) North Hertfordshire District Council Investigation Procedure – information/Instructions for Investigating Officer

Deleted: 2

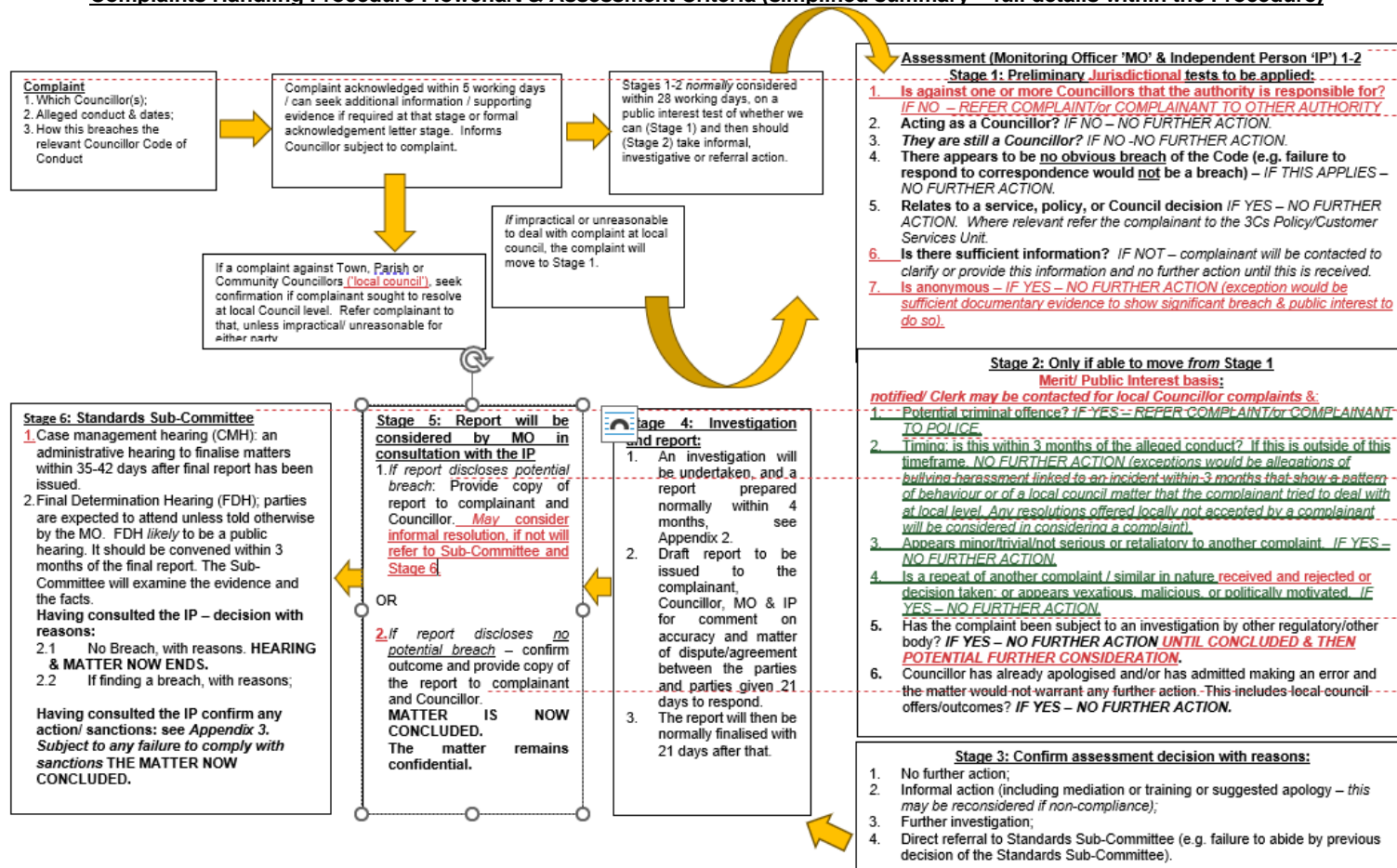
Appendix [4](#) The Final Determination Hearing (FDR) Procedure for Standards Sub-Committee

Deleted: 3

Appendix [5](#) Independent Person and Reserve Independent Persons Role Description

Deleted: 4

Appendix 1
Complaints Handling Procedure Flowchart & Assessment Criteria (simplified summary – full details within the Procedure)



Appendix 2 INFORMAL RESOLUTION

What is it?

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

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

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

Training

Training may be in anything considered appropriate, such as:

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

Apology

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

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

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

Mediation or reconciliation

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

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

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

Examples when appropriate?

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

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

When would informal resolution not be appropriate?

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

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

Who can be the subject of informal resolution?

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

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

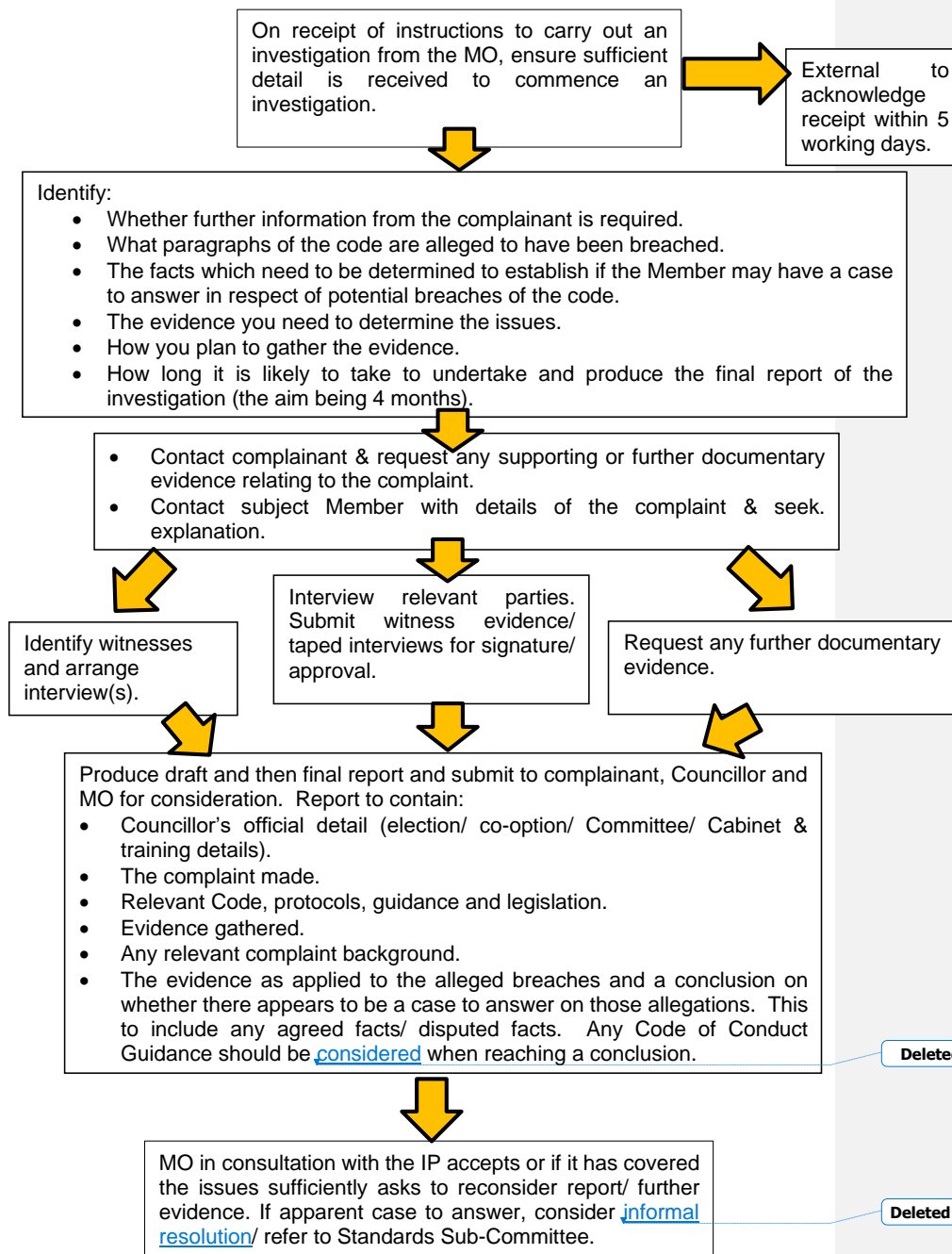
What are the next steps if the informal resolution does not work?

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

Appendix 3

Deleted: 2

Investigation Procedure – information / instructions for Investigating Officer



THE FINAL DETERMINATION HEARING (FDR) PROCEDURE FOR THE STANDARDS SUB-COMMITTEE

<p>The Standards Sub-Committee (“the Sub-Committee”) must have an efficient and effective hearing process. This will assist Members of the Sub-Committee to deal with all the issues that need to be resolved in a way that is fair to the Councillor subject to the allegation, any complainant and witnesses involved. This procedure sets out a consistent approach for all concerned.</p>	
<p>1. Interpretation</p>	
<p>“Complainant”:</p>	<p>means the person who referred the allegation to Monitoring Officer.</p>
<p>“CMH”:</p>	<p>means the Sub-Committee Case Management Hearing that deals with administrative and procedural matters and clarifies the issues for the Final Determination Hearing (FDH).</p>
<p>“FDH”:</p>	<p>means Sub-Committee Final Determining Hearing that hears evidence; decides if a Councillor has breached the Code of Conduct; and, if so, the sanction to be imposed.</p>
<p>“Investigating Officer”:</p>	<p>means the Monitoring Officer, Deputy or Investigating Officer or their nominated representative(s).</p>
<p>“Independent Person/ IP”:</p>	<p>means Independent Person and Reserve Independent Persons appointed by the Council under the Localism Act 2011, whose views must be sought by the authority before it takes a decision on an allegation which it has decided to investigate under section 28(7) of the Localism Act 2011, and whose views can be sought by the authority at any other stage, or by a Councillor (<i>or a Councillor or co-opted Councillor of a Town, Parish or Community Council</i>) against whom an allegation has been made.</p>
<p>“Legal Adviser”:</p>	<p>means the officer responsible for providing legal advice to the Sub-Committee. This may be the Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.</p>
<p>“Councillor”:</p>	<p>means the Councillor, co-opted Councillor of North Hertfordshire District Council or a Town or Parish Councillor (within the North Hertfordshire District Council area) who is the subject of the complaint.</p>
<p>“Proper Officer”:</p>	<p>means the designated Committee Services officer or nominated representative.</p>
<p>2. Representation</p>	
<p>2.1. The Councillor may be represented or accompanied during the hearing by a solicitor, counsel or, with the permission of the Sub-Committee, another person. Such person to have been notified to the Standards Sub-Committee, and agreed where applicable, at the CMH.</p>	

2.2.	Where a representative has been appointed, reference below to Councillor will (except in respect of any evidence from the Councillor concerned) mean the representative.
2.3	Where a representative is present the Councillor must indicate if the representative is to ask questions on the Councillor's behalf and make any submissions. Once such arrangements have been confirmed, they will be applied throughout the hearing.
3. Legal Advice	
3.1.	The Sub-Committee may take legal advice from its Legal Adviser at any time during the hearing or while they are considering the final decision on the potential breach(es) of the Code and any sanctions.
3.2.	The Legal Adviser will provide a summary of any legal advice given to the Members of the Sub-Committee in private session, when the meeting reconvenes in public session.
4. Voting	
4.1	Each Member of the Sub-Committee will have one vote, and all matters/issues will be decided by a simple majority of votes cast.
4.2	Abstentions will not be permitted. The Sub-Committee's decision will record whether it was unanimous or taken by a majority.
5. Quorum	
5.1.	The Proper Officer or their representative will confirm whether the Committee is quorate. A quorum for the Sub-Committee will be three elected Members of the Council.
5.2.	Where the complaint involves an allegation of misconduct against a Parish Councillor, then a non-voting Parish Member of the Standards Committee should also be present.
5.3.	The Sub-Committee must nominate a Chair for the meeting.
5.4.	The Independent Person must be present throughout the Sub-Committee hearing.
6. Opening/ Setting the Scene and Preliminary Procedural Issues	
6.1.	The Members of the Sub-Committee shall determine whether the hearing will be considered in private session.
6.2.	The Chair must explain the procedure for the hearing and remind all parties to turn off mobile phones, audible alarms, and similar devices etc. If the proceedings are in open session they will be recorded.
6.3.	The Chair must ask all present to introduce themselves.
6.4.	Most if not all of the procedural/ administrative issues should have been resolved by the CMH and any Sub-Committee resolutions complied with. The Sub-

Deleted: Chairman

Deleted: Chairman

Deleted: Chairman

<p>Committee may, however, resolve any issues (including failure to abide by resolutions from the CMH and absence of parties/ witnesses and whether to proceed).</p>
<p>7. The presentation of the Complaint and evidence of the case to answer on alleged breach of the Code of Conduct</p>
<p>7.1. The Investigating Officer will be invited to present the report including any evidence or other material and make any representations to support the relevant conclusions on a case to answer from the report. This will be based on the complaint made to the Council and any alleged failure to co-operate with the investigation or hearing preparation (where relevant). Witnesses will be called to give evidence or have their witnesses evidence taken as accepted, where the Councillor has indicated that the witness evidence is not disputed.</p> <p>7.2. The Councillor against whom the complaint has been made (or their representative) may question the Investigating Officer on the content of the report and question any witnesses called by the Investigating Officer.⁶ (This is the Councillor's opportunity to ask questions arising from the report and not to make a statement).</p> <p>7.3. Members of the Sub-Committee, the Independent Person and the Legal Adviser may question the Investigating Officer about the content of the report and/or any witnesses (including the complainant) called by the Investigating Officer.</p>
<p>8. The Councillor's case</p>
<p>8.1. The Councillor will then be given the opportunity to present their case (and call any relevant witnesses) including any evidence or other material and make any representations to address the specific allegations before the Sub-Committee.</p> <p>8.2. The Investigating Officer may question the Councillor and/or any witnesses.</p> <p>8.3. Members of the Sub-Committee, the Independent Person and the Legal Adviser may question the Councillor and/or any of the Councillor's witnesses.</p>
<p>9. Summing Up</p>
<p>9.1. The Investigating Officer will be given the opportunity to sum up the complaint and any relevant representations on the case to answer.</p> <p>9.2. The Councillor, or their representative, will be given the opportunity to sum up their case.</p>
<p>10. Consultation with the Independent Person</p>

⁶ **NOTE** If the Member disputes any relevant fact in the Investigating Officer's report, without having given prior notice of the dispute they will be required to give good reasons for not mentioning it when the draft report was finalised or in any event at the CMH. Such behaviour is likely to affect the weight of the Member's evidence on that issue and/ or be treated as evidence of failure to co-operate with an investigation.

10.1. Prior to the consultation, the Independent Person may seek a short adjournment of the hearing to prepare/ finalise their view on whether, in their view, a breach of the Code of Conduct has occurred.

10.2. The hearing will then be reconvened, and Members of the Sub-Committee **must** consult the Independent Person on whether in their opinion a breach has occurred. This view must be considered by the Sub-Committee before it makes its decision on an allegation.

Deleted: taken into account

11. The Members of Sub-Committee will deliberate in private session to consider evidence presented and to reach their decision (the Legal Adviser will attend)

12. Decision

12.1. Upon the Sub-Committee's return the Chair will announce the Sub-Committee's decision in the following terms:-

Deleted: Chairman

12.1.1. The Sub-Committee decides that there is no breach of the Code of Conduct;
or

12.1.2. The Sub-Committee decides that there is a breach of the Code of Conduct;

12.2 The Sub-Committee will give reasons for its decision.

12.3 If the Sub-Committee decides that there is no breach of the Code of Conduct the Chair closes the hearing. The case is at an end.

Deleted: Chairman

12.4 If the Sub-Committee decides that the Councillor has breached the Code of Conduct, it will consider any representations from the Investigating Officer and/or the Councillor and will seek the views of the Independent Person as to:

12.4.1 Whether any action should be taken; and

12.4.2 If so, what form any action (in the form of a sanction) should take.

12.5 As part of their role under 12.4.2, the Sub-Committee will consider whether to impose any of the following sanctions:

12.5.1 Publish its findings in respect of the Councillor's conduct (e.g. in a local newspaper in print or on-line or both). [Note that any decision will normally be made available for inspection and published on the Council's website if the hearing was held in public];

Deleted: in the event that

12.5.2 Report its findings to Council (or the Parish/ Town/ Community Council) for information;

12.5.3 Report its findings and recommend to Council (or the Parish/ Town/ Community Council) that the Councillor be issued with a formal censure or be reprimanded;

12.5.4 Recommend to the Councillor's Group Leader (or in the case of un-grouped Councillors, recommend to Council or to Committees) that the Councillor be removed from any or all Committees or Sub-Committees of the Council;

- 12.5.5 Recommend to the Leader of the Council that the Councillor be removed from the Cabinet, or removed from particular Executive Member responsibilities;
- 12.5.6 Instruct the Monitoring Officer to arrange (or recommend that the Parish/ Town/ Community Council should arrange) training for the Councillor;
- 12.5.7 Recommend to Council (or the Parish/ Town/ Community Council) that the Councillor be removed from all outside appointments to which they have been appointed or nominated by the authority;
- 12.5.8 Recommend to Council (or the Parish/ Town/ Community Council) that it withdraws facilities provided to the Councillor by the Council, such as a computer, website and/or email;
- 12.5.9 Recommend to Council (or the Parish/ Town/ Community Council) that the Councillor be excluded from the Council's Offices or other premises, except for meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings; or
- 12.5.10 Take no further action.
- 12.6 [NOTE: The Sub-Committee has no power to suspend or disqualify the Councillor or to withdraw Councillor's basic or special responsibility allowances or any other payment made to the Councillor that they are entitled to under legislation]
- 12.7 The Members of Sub-Committee must then deliberate in private to consider what action, if any, should be taken (the Legal Adviser will attend).
- 12.8 On the Sub-Committee's return the Chair must announce the Sub-Committee's decision (in relation to a Parish / Town/ Community Councillor, a recommendation to the Parish / Town/ Community Council). The Chair will confirm whether and if so, what sanctions will be applied and the reasons for this decision.
- 12.9 The Sub-Committee must consider whether it should make any recommendations to the Council or in relation to a Parish / Town/ Community Councillor to the Parish / Town/ Community Council, with a view to promoting high standards of conduct among its Councillors.
- 12.10 The Chair will confirm that a full written decision will be issued within 7 working days following the hearing and that the Sub-Committee's minutes will be published. The hearing will then be closed.

Deleted: with the exception of

Deleted: Chairman

Deleted: Chairman

Deleted: Chairman

ROLE OF INDEPENDENT PERSON AND RESERVE INDEPENDENT PERSONS – NORTH HERTFORDSHIRE DISTRICT COUNCIL

ROLE DESCRIPTION

Appointed by: The Council

Liaison with: Monitoring Officer, Deputy Monitoring Officer(s), Members of the Standards Committee, officers, District Councillors, and Town, Parish and Community Councillors within the district, key stakeholders within the community.

Reference to the IP includes the Independent Person and Reserve Independent Persons (except number 8 which is just the Reserve IP). The role is:

1. To assist the Council in promoting high standards of conduct by elected and co-opted Councillors of North Hertfordshire District Council and Parish/Town/Community Councillors and in particular to uphold the Code of Conduct adopted by the Council and underpinned by the seven principles of public life, namely selflessness, honesty, integrity, objectivity, accountability, openness and leadership.
2. To assist the Council by acting as advocate and ambassador in promoting ethical behaviour and by developing a sound understanding of the ethical framework as it operates within North Hertfordshire District Council and its local councils.
3. To be available for ad hoc consultation by the Monitoring Officer where the Monitoring Officer is dealing with a matter that has not reached the stage of a formal complaint.
4. To be available for consultations on assessment of a complaint with the Monitoring Officer
5. To be available for consultation by the Monitoring Officer and/or the Standards Committee before a decision is taken as to whether to investigate a complaint or to seek local resolution of the same.
6. To be consulted by the Council through the Monitoring Officer and/or the Standards Committee before it makes a decision on an allegation that has been investigated and to be available to attend meetings of the Standards Committee in a non-voting advisory capacity.
7. To attend a CMH meeting of the Standards Sub-Committee and an FDH meeting to confirm the IP's views as to whether a breach of the Code of Conduct has occurred and any subsequent penalty (which will be considered).
8. To be available for consultation by any Councillor, including Parish/ Town or Community Councillor. This may be on an ad hoc basis for views on the Complaints Procedure or process as pre-arranged between the parties, either by telephone, on-line or at the Council's offices. It is not the role of the IP to act as advocate for the Councillor who is subject to the complaint, to negotiate complaint matters, or to provide substantive advice (legal or otherwise) on the allegations themselves. This will generally be confidential between the Councillor and IP, unless the Councillor confirms they have acted illegally or has a

Deleted: taken into account

Appendix 5

Deleted: 4

complaint about the Procedure. This will then be confirmed to the Monitoring Officer.

9. To participate in training events to develop skills, knowledge, and experience and in any networks developed for Independent Persons operating outside the District Council's area. To share information and promote debate and discussion amongst the Standards Committee following such training. To attend training events organised and promoted by the Council's Standards Committee and Monitoring Officer.
10. To attend quarterly liaison meetings with the Monitoring Officer, Chair and Vice Chair of Standards Committee, to consider standards matters generally, including although not limited to the review of relevant complaints handling documents, [guidance](#), and processes.

Deleted: guidance