



**BARNSLEY METROPOPOLITAN BOROUGH COUNCIL &
SILKSTONE PARISH COUNCIL
MEMBER CODE OF CONDUCT**

Adopted by Silkstone Parish Council 7th April 2025

1. Introduction

- 1.1. The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable, and all adopt the behaviours and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.
- 1.2. As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.
- 1.3. Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.
- 1.4. This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.
- 1.5. All councils are required to have a local Councillor Code of Conduct.

2. Definitions

2.1. For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who:

- a. is a member of any committee or sub-committee of the authority, or;
- b. is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority,

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

2.2. For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

3. Purpose of the Code of Conduct

3.1. The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

4. General principles of councillor conduct

4.1. Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles, as set out below:

The Seven Principles of Public Life

The Seven Principles of Public Life (also known as the Nolan Principles) apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the Civil Service, local government, the police, courts and probation services, non-departmental public bodies (NDPBs), and in the health, education, social and care

services. All public office-holders are both servants of the public and stewards of public resources. The principles also apply to all those in other sectors delivering public services.

1. Selflessness

Holders of public office should act solely in terms of the public interest.

2. Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

3. Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

4. Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

5. Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

6. Honesty

Holders of public office should be truthful.

7. Leadership

Holders of public office should exhibit these principles in their own behaviour and treat others with respect. They should actively promote and robustly support the principles and challenge poor behaviour wherever it occurs.

4.2. Building on these principles, the following general principles have been developed specifically for the role of councillor.

4.3. In accordance with the public trust placed in me, on all occasions:

- a. I act with integrity and honesty;
- b. I act lawfully;
- c. I treat all persons fairly and with respect; and

- d. I lead by example and act in a way that secures public confidence in the role of councillor.

4.4. In undertaking my role:

- a. I impartially exercise my responsibilities in the interests of the local community;
- b. I do not improperly seek to confer an advantage, or disadvantage, on any person;
- c. I avoid conflicts of interest;
- d. I exercise reasonable care and diligence; and
- e. I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

5. Application of the Code of Conduct

5.1. This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

5.2. This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- a. you misuse your position as a councillor; or
- b. your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor.

5.3. The Code applies to all forms of communication and interaction, including:

- a. at face-to-face meetings;
- b. at online or telephone meetings;
- c. in written communication;
- d. in verbal communication;
- e. in non-verbal communication; and
- f. in electronic and social media communication, posts, statements and comments.

5.4. You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

5.5. Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct.

5.6. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

6. Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken. Guidance is included to help explain the reasons for the obligations and how they should be followed.

6.1. Respect

6.1.1. As a councillor:

- a. I treat other councillors and members of the public with respect.**
- b. I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

6.1.2. Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack. In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

6.1.3. In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor- officer protocol.

6.2. Bullying, harassment and discrimination

6.2.1. As a councillor:

- a. I do not bully any person.**
- b. I do not harass any person.**
- c. I promote equalities and do not discriminate unlawfully against any person.**

- 6.2.2. The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.
- 6.2.3. The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.
- 6.2.4. Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 6.2.5. The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

6.3. Impartiality of officers of the council

- 6.3.1. As a councillor, I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**
- 6.3.2. Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

6.4. Confidentiality and access to information

- 6.4.1. As a councillor, I do not disclose information:**
- a. given to me in confidence by anyone;**

- b. **acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless:**
- I. **I have received the consent of a person authorised to give it;**
 - II. **I am required by law to do so;**
 - III. **the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
 - IV. **the disclosure is:**
 - **reasonable and in the public interest; and**
 - **made in good faith and in compliance with the reasonable requirements of the local authority; and**
 - **I have consulted the Monitoring Officer prior to its release.**
- c. **I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**
- d. **I do not prevent anyone from getting information that they are entitled to by law.**

6.4.2. Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

6.5. Disrepute

6.5.1. As a councillor, I do not bring my role or local authority into disrepute.

6.5.2. As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to

discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

- 6.5.3. You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6.6. Use of position

- 6.6.1. As a councillor, I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

- 6.6.2. Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

6.7. Use of local authority resources and facilities

- 6.7.1. As a councillor:**

- a. I do not misuse council resources.**
- b. I will, when using the resources of the local authority or authorising their use by others:**
 - I. act in accordance with the local authority's requirements; and**
 - II. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

- 6.7.2. You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor. Examples include:
- a. office support;
 - b. stationery;
 - c. equipment such as phones, and computers;
 - d. transport; and

e. access and use of local authority buildings and rooms.

6.7.3. These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

6.8. Complying with the Code of Conduct

6.8.1. As a Councillor:

- a. **I undertake Code of Conduct training provided by my local authority.**
- b. **I cooperate with any Code of Conduct investigation and/or determination.**
- c. **I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**
- d. **I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

6.8.2. It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

PROTECTING YOUR REPUTATION AND THE REPUTATION OF THE LOCAL AUTHORITY

6.9. Interests

6.9.1. As a councillor, I register and disclose my interests.

6.9.2. Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority .

6.9.3. You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open

and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

6.9.4. You should note that failure to register or disclose a disclosable pecuniary interest is a criminal offence under the Localism Act 2011.

6.9.5. Appendix 8 sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

6.10. Gifts and hospitality

6.10.1. As a councillor:

- a. I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- b. I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- c. I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

6.10.2. In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

Appendices:

1. Members code of conduct Complaints procedure
2. Investigation Procedure
3. Appeals, Awards and Standards Regulatory Board Hearing Procedure
4. Witness Guidance
5. IP's Preliminary test

6. Decision notice
7. Investigating Officers Report

APPENDIX 1

MEMBERS' CODE OF CONDUCT COMPLAINT PROCEDURE

1. GENERAL

APPOINTMENT OF AND ROLE OF THE INDEPENDENT PERSON

- 1.1 The Council shall appoint an Independent Person or Persons, in accordance with the requirements of Section 28 of the Localism Act 2011. There is currently a shared service of Independent persons with Sheffield Council who have appointed two Independent Persons.
- 1.2 The Independent Person must be consulted and have his or her views taken into account to assess the appropriate course of action with regard to the complaint. The Monitoring Officer may consult the Independent Person at any stage of the process.

2. COMPLAINT RECEIVED

- 2.1 The Council will acknowledge receipt of a complaint in writing within 3 working days of receipt and send a copy of the complaint to the Monitoring Officer for consideration.

3. CONFIDENTIALITY

- 3.1 If the Complainant has asked for their identity to be withheld, the Monitoring Officer in consultation with the Independent Person will consider this request when they initially assesses the complaint.
- 3.2 As a matter of fairness and natural justice, the Subject Member will usually be told who the Complainant is and will also receive a summary of the complaint. However, in exceptional circumstances, it may be appropriate to keep the Complainant's identity confidential or not disclose details of the complaint to the Subject Member during the early stages of an investigation. The Monitoring Officer may withhold the Complainant's identity if they are satisfied that the Complainant has reasonable grounds for believing that they or any other person (e.g. a witness):
 - a) Is either vulnerable or at risk of threat, harm or reprisal.
 - b) May suffer intimidation or be victimised or harassed.

- c) Works closely with the Subject Member and are afraid of the consequences, for example, fear of losing their job.
- d) Suffers from a serious health condition and there are medical risks associated with their identity being disclosed (medical evidence will need to be provided to substantiate this).
- e) May receive less favourable treatment, because of the seniority of the person they are complaining about, in terms of any existing Council or Parish Council service provision or any tender/contract they may have with, or are about to submit to the Council or Parish Council.

OR where early disclosure of the complaint:

- a) May lead to evidence being compromised or destroyed; or
- b) May impede or prejudice the investigation; or
- c) Would not be in the public interest.

3.3 Relevant public interest factors favouring disclosure (not an exhaustive list) include:

- a) To facilitate transparency and ethical governance accountability: recognising that decision-making may be improved by constructive contributions from others.
- b) To raise public awareness: disclosing the complaint or part of it may inform the community about matters of general concern.
- c) Justice to an individual: the balance of the public interest may favour disclosure of the complaint to the Subject Member when it may not be in the public interest to disclose it to the world at large.
- d) Bringing out in the open serious concerns about the behaviour/conduct of an individual.

3.4 The Monitoring Officer, in consultation with the Independent Person, will balance whether the public interest in accepting the complaint outweighs the Complainant's wish to have their identity (or that of another person) withheld from the Subject Member. If the Monitoring Officer decides to refuse the Complainant's request for confidentiality, they will offer the Complainant the option to withdraw their complaint. The Monitoring Officer will notify the Complainant of the Monitoring Officer's decision, with reasons. There is no right of appeal against the Monitoring Officer's decision to refuse the Complainant's request for confidentiality.

4. PRELIMINARY TESTS

- 4.1 The complaint will be assessed by the Monitoring Officer, in consultation with the Independent Person, and will take the form of a two stage test: :

4.1.1 **Initial Criteria:**

The first step would be a jurisdictional test and would assess whether the complaint is:

- a) against one or more named councillors of the authority or of a parish or town council the authority is responsible for;
- b) the named councillor was in office at the time of the alleged conduct;
- c) the complaint relates to matters where the councillor was acting as a councillor or representative of the authority and it is not a private matter;
- d) the complaint, if proven, would be a breach of the Code under which the councillor was operating at the time of the alleged misconduct.

If the complaint fails one or more of these jurisdictional tests it cannot be investigated as a breach of the Code, and the complainant must be informed that no further action will be taken in respect of the complaint.

4.1.2 **Secondary Criteria**

The following non-exclusive factors may help an authority to develop local criteria:

- a) Does the complaint contain sufficient evidence to demonstrate a potential breach of the Code?
- b) Are there alternative, more appropriate, remedies that should be explored first?
- c) Where the complaint is by one councillor against another, a greater allowance for robust political debate (but not personal abuse) may be given, bearing in mind the right to freedom of expression;
- d) Is the complaint in the view of the authority malicious, politically motivated, or 'tit for tat'?
- e) Whether an investigation would not be in the public interest or the matter, even if proven, would not be serious enough to warrant any sanction (see guidance on hearings);
- f) Whether a substantially similar complaint has previously been considered and no new material evidence has been submitted within the current administration;

- g) Whether a substantially similar complaint has been submitted and accepted;
- h) Does the complaint relate to conduct in the distant past? This would include consideration of any reason why there had been a delay in making the complaint;
- i) Was the behaviour that is the subject of the complaint already dealt with? For example, through an apology at the relevant meeting;
- j) Does the complaint actually relate to dissatisfaction with a local authority decision rather than the specific conduct of an individual? And
- k) Is it about someone who is no longer a councillor or who is seriously ill?

The Monitoring Officer will determine whether the complaint is accepted or rejected. If the complaint is rejected, the Complainant will be notified accordingly, with reasons, normally within 10 working days of receipt of the complaint by the Monitoring Officer. **There is no right of appeal against the Monitoring Officer's decision.**

- 4.2 Where the complaint is accepted the Complainant will be notified accordingly, with the next steps outlined, normally within 10 working days of receipt of the complaint by the Monitoring Officer.

5. NOTIFICATION OF COMPLAINT TO SUBJECT MEMBER

- 5.1 Subject to any representations from the 'Complainant on confidentiality' (see paragraph 5 below), the Monitoring Officer will notify the Subject Member (and, if applicable, the Parish Clerk) of the complaint and a summary of the alleged breach. The Monitoring Officer may also notify the Subject Member's Group Leader, if appropriate. This information is given in confidence and the Subject Member is expected to respect that confidence.
- 5.2 The Monitoring Officer may invite the Subject Member (and, if applicable, the Parish Clerk) to submit initial views on the complaint, usually within 7 days, which will be taken into account by the Monitoring Officer when they decide how to deal with the complaint (see paragraph X below).

6. REQUEST FOR ADDITIONAL INFORMATION

- 6.1 The Monitoring Officer may ask the Complainant and the Subject Member (and, if applicable, the Parish Clerk) for additional information before deciding how to deal with the complaint.

7. DECISION ON HOW TO PROCEED

- 7.1 The Monitoring Officer, in consultation with the Independent Person will decide how to deal with the complaint. This will be by way of:
- a) Informal Resolution (with/without an investigation) – See section 8
 - b) Investigation – See section 9
 - c) Criminal Conduct – See section 10
 - d) No action – See section 11

8. INFORMAL RESOLUTION

- 8.1 The Monitoring Officer will, in consultation with the Independent Person, determine whether the complaint can be resolved through informal resolution.
- 8.2 The Monitoring Officer, in consultation with the Independent Person, may decide that the complaint can be resolved informally at any stage in the process prior to convening a Appeals, Awards and Standards Regulatory Board hearing.
- 8.3 Informal resolution may be the simplest and most cost effective way of resolving the complaint and may be appropriate where:
- a) The Subject Member appears to have a poor understanding of the Code of Conduct and/or related Council or Parish Council procedures; or
 - b) There appears to be a breakdown in the relationship between the Complainant and the Subject Member; or
 - c) The conduct complained of appears to be a symptom of wider underlying conflicts which, if unresolved, are likely to lead to further misconduct or allegations of misconduct; or
 - d) The conduct complained of appears common to a number of Members of the Council or Parish Council, demonstrating a lack of awareness, experience or recognition of the particular provisions of the Code of Conduct and/or other Council or Parish Council procedures, etc.; or
 - e) The conduct complained of appears to the Monitoring Officer not to require a formal censure; or
 - f) The complaint appears to reveal a lack of guidance, protocols and procedures within the Council or Parish Council; or
 - g) The complaint consists of allegations and retaliatory allegations between Councillors; or
 - h) The complaint consists of allegations about how formal meetings are conducted; or

- i) The conduct complained of may be due to misleading, unclear or misunderstood advice from officers.
- 8.4 Informal resolution may consist of one or more, (but not limited to), of the following actions, which do not have to be limited to the Subject Member, but may extend to other Councillors, including the whole Council or Parish Council, where it may be useful to address systemic behaviour:
 - a) Training;
 - b) Conciliation/mediation;
 - c) Mentoring;
 - d) Apology, written/verbal;
 - e) Implementing changes to the Council or Parish Council's procedures.
 - f) Conflict management;
 - g) Development of the Council's or Parish Council's protocols;
 - h) Other remedial action by the Council or Parish Council; or
 - i) Other steps (other than investigation), if it appears appropriate to the Monitoring Officer in consultation with the Independent Person.
- 8.5 Where the Subject Member or the Monitoring Officer or the Council or Parish Council make a reasonable offer of informal resolution, but the Complainant is not willing to accept this offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.
- 8.6 If the Subject Member complies with the informal resolution process, the Monitoring Officer will report the matter to the Appeals, Awards and Standards Regulatory Board and, if applicable, the Parish Council for information, but will take no further action against the Subject Member.
- 8.7 Where the Subject Member will not participate in the informal resolution process or if, having agreed to one or more actions under the informal resolution process, the Subject Member refuses or fails to carry out any agreed action, the Monitoring Officer will report the matter to the Appeals, Awards and Standards Regulatory Board.

9. INVESTIGATION

- 9.1 The Monitoring Officer, in consultation with the Independent Person, may refer the complaint for investigation when:

- a) It is serious enough, if proven, to justify the range of sanctions available to the Appeals, Awards and Standards Regulatory Board (see Appendix 3 to these Arrangements).
 - b) The Subject Member's behaviour is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the Council or Parish Council and there is no other avenue left to deal with it, short of investigation, and, in considering this, the Monitoring Officer may take into account the time that has passed since the alleged conduct occurred.
- 9.2 Where the complaint is referred for investigation, the Monitoring Officer may appoint an Investigating Officer who will conduct the investigation in accordance with the procedure at Appendix 2 to these Arrangements.

10. CRIMINAL CONDUCT

- 10.1 In accordance with Section 34 of the Localism Act 2011, it is a criminal offence if, without reasonable excuse, if a Member:
- a) Fails to notify the Monitoring Officer of a Disclosable Pecuniary Interest within 28 days beginning with the day the Member becomes, or is re-elected or re-appointed, a Member or Co-opted Member of the Authority.
 - b) Fails to notify the Monitoring Officer of a Disclosable Pecuniary Interest within 28 days of becoming aware of it, where a Member is acting alone in the course of discharging a function of the Authority (including making a decision in relation to the matter) and the interest is not already registered or subject to a pending notification to the Monitoring Officer.
 - c) Fails to disclose a Disclosable Pecuniary Interest at a meeting, where such interest has not already been registered or notified to the Monitoring Officer.
 - d) Fails to notify the Monitoring Officer of a Disclosable Pecuniary Interest within 28 days beginning with the day it is disclosed at a meeting, where such interest has not already been registered or notified to the Monitoring Officer.
 - e) Takes part in discussions or votes at meetings that relate to the Disclosable Pecuniary Interests, unless a dispensation has been obtained.
 - f) Knowingly or recklessly provides false or misleading information in any of the above disclosures or notifications.
- 10.2 Where a complaint against a Member relates to conduct of a criminal nature as defined in paragraphs a) to f) above, and which is perceived to be valid, the Monitoring Officer will report the complaint to the police or other prosecuting or

regulatory authority. Where a Complainant has been advised to refer a matter to the police, or the Monitoring Officer has referred the matter to the police, the complaints process under these Arrangements will be suspended, pending a decision/action by the police or other prosecuting or regulatory authority. Where the police or other prosecuting or regulatory authority decide to take no action on the complaint, the Monitoring Officer will lift the suspension and in consultation with the Independent Person will apply the local assessment criteria test in paragraph 4 above.

11. NO ACTION

11.1 The Monitoring Officer in consultation with the Independent Person, will take no action on the complaint when one or more of the following apply:

- a) On-going criminal proceedings or a police investigation into the Subject Member's conduct.
- b) Investigation cannot proceed without investigating similar alleged conduct or needing to come to conclusions of fact about events, which are also the subject of some other investigation or court proceedings.
- c) The investigation might prejudice another investigation or court proceedings.
- d) On-going investigation by another prosecuting or regulatory authority.
- e) Genuine long-term (3 months or more) unavailability of a key party.
- f) Serious illness of a key party.

12. COMPLAINT CONCLUDED

12.1 The subject member will be notified in writing of the outcome of the complaint.

12.2 There is no right of appeal for either the Complainant or Subject Member against decisions of the Monitoring Officer or the Appeals, Awards and Standards Regulatory Board.

APPENDIX 2

INVESTIGATION PROCEDURE

1. PRELIMINARIES

- 1.1.** The Investigating Officer will be appointed by the Monitoring Officer and will be aware of their obligations under the Data Protection Act 1998, Equality Act 2010, the Human Rights Act 1998 and other relevant legislation.
- 1.2.** The Investigating Officer is responsible for gathering all the facts, documents and, where applicable, for interviewing witnesses with knowledge of the facts, and they should remain objective, impartial and unbiased at all times.
- 1.3.** Witnesses will be identified at the investigation stage and their evidence supported by signed and dated witness statements and/or notes of interview with the Investigating Officer. The Investigating Officer cannot compel the attendance of witnesses or their co-operation.
- 1.4.** The Investigating Officer will not make recommendations on sanctions, but may be asked to suggest possible sanctions.
- 1.5.** Within 10 working days of being appointed, the Investigating Officer will contact the Subject Member and the Complainant in writing and:
 - a) Detail the procedure to be followed in respect of the investigation and the relevant timescales for responses and concluding the investigation;
 - b) Detail the sections of the Members' Code of Conduct that appear to be relevant to the complaint;
 - c) Request contact details of any potential witnesses; and
 - d) Require that confidentiality is maintained and that the complaint not be disclosed, Members or otherwise, as may be required by law or regulation the fact that an investigation is being conducted does not need to remain confidential.
- 1.6.** It is strongly recommended that the Subject Member engages in the investigation process. If the Subject Member declines to participate in the process, the investigation will proceed in their absence.
- 1.7.** It may be necessary for the Investigating Officer to agree with the Subject Member which documents will be submitted in evidence. This will generally include documents that will be relied on, or in support of, the Subject Member's case and which are relevant to the complaint.

- 1.8. The Investigating Officer may terminate their investigation at any point, where they are satisfied that they have sufficient information to enable them to report to the Monitoring Officer or Appeals, Awards and Standards Regulatory Board.
- 1.9. Subject to any unforeseeable delays, investigations and reports will aim to be completed within a six-month period of the original complaint being referred for an investigation.
- 1.10. It is for the Monitoring Officer to determine whether any conflict of interest does or may exist. The Monitoring Officer should consider the possibility of a potential conflict arising during the investigation and the hearing. Should a conflict arise, the Monitoring Officer **must** step down and another Monitoring Officer will be appointed either internally or externally at the Council's discretion.

2. DRAFT REPORT

- 2.1 On the conclusion of their investigation and/or when the Investigating Officer is satisfied that they have sufficient information, or has obtained as much information as is likely to be reasonably capable of being obtained, the Investigating Officer will issue a draft report (clearly labelled DRAFT), to the Monitoring Officer, for review.
- 2.2 The draft report will be marked 'CONFIDENTIAL' and watermarked with the name of the addressee, and will detail:
- a) The relevant provisions of the law and the relevant paragraphs of the Code of Conduct;
 - b) A summary of the complaint;
 - c) The Subject Member's response to the complaint;
 - d) Relevant information, explanations, etc., which the Investigating Officer has obtained in the course of the investigation;
 - e) A list of any documents relevant to the matter;
 - f) A list of those persons/organisations who have been interviewed;
 - g) A statement of the Investigating Officer's draft findings of fact and reasons;
 - h) The Investigating Officer's conclusion as to whether the Subject Member has or has not failed to comply with the Members' Code of Conduct; and
 - i) that the Investigating Officer will present a final report once they have considered any comments received on the draft.

- 2.3 Following review of the draft report by the Monitoring Officer, within 5 working days of receipt, the draft report will be sent in confidence to the Subject Member and the Complainant (not witnesses) for comment.
- 2.4 The Subject Member and Complainant will have 5 working days in which to consider the draft report and submit any comments to the Investigating Officer.
- 2.5 Once the Investigating Officer has considered all responses received from the Subject Member and/or the Complainant, they will finalise the draft report and make their final conclusions and recommendations to the Monitoring Officer, within 5 working days. The report will be clearly labelled FINAL, marked CONFIDENTIAL, and watermarked with the name of the addressee.

3. FINAL REPORT

- 3.1. The Monitoring Officer will review the Investigating Officer's final report and any comments submitted by the Parties, in consultation with the Independent Person, to consider if there is evidence of a failure to comply with the Members' Code of Conduct.
- 3.2. Where, based on the Investigating Officer's report, the Monitoring Officer, having consulted with the Independent Person, concludes that there is no evidence of a failure to comply with the Members' Code of Conduct, they will inform the Parties, in writing, that no further action is considered necessary. There is no right of appeal against the Monitoring Officer's decision.
- 3.3. Where, on the basis of the Investigating Officer's report, the Monitoring Officer, having consulted with the Independent Person, concludes that there is evidence of a failure to comply with the Members' Code of Conduct, they will either take no action or seek informal resolution or refer the matter for consideration by the Appeals, Awards and Standards Regulatory Board in accordance with the relevant procedure detailed in this Appendix 2.
- 3.4. The Monitoring Officer, in consultation with the Chair of the Appeals, Awards and Standards Regulatory Board, will convene a meeting of the Appeals, Awards and Standards Regulatory Board no earlier than 14 working days and no later than 28 Days after the Investigating Officer's final report has been copied to the Complainant and Subject Member. The Investigating Officer will be invited to present their final report to the Appeals, Awards and Standards Regulatory Board.

APPENDIX 3

APPEALS, AWARDS AND STANDARDS REGULATORY BOARD HEARING PROCEDURE

1. PROCEDURE RULES

These procedure rules shall apply to the Appeals, Awards and Standards Regulatory Board when considering the Investigating Officer's report under these arrangements.

1.1. The Appeals, Awards and Standards Regulatory Board comprises 21 Elected Members.

1.2. The quorum for a meeting of the Appeals, Awards and Standards Regulatory Board is 7.

1.3. The purpose of the hearing is for the Appeals, Awards and Standards Regulatory Board to consider, on the evidence provided, whether the Subject Member has breached the Members' Code of Conduct. The conduct of others, for example officers, would be dealt with through another process.

1.4. The Independent Person will be invited to attend and participate in the Appeals, Awards and Standards Regulatory Board meeting but will not have voting rights.

1.5. The legal requirements for publishing agendas, minutes and calling meetings, will apply to the Appeals, Awards and Standards Regulatory Board. The hearing will be held in public no earlier than 14 working days and no later than 28 days after the Monitoring Officer has copied the Investigating Officer's final report to the complainant and the Subject Member. Schedule 12A of the Local Government Act 1972 (as amended) will be applied where it is necessary to exclude the public and press from meetings of the Appeals, Awards and Standards Regulatory Board, where it is likely that confidential or exempt information will be disclosed.

1.6. The Monitoring Officer, in consultation with the Chair of the Appeals, Awards and Standards Regulatory Board, will convene a meeting of the Appeals, Awards and Standards Regulatory Board.

- 1.7.** If the Subject Member is unavailable for the proposed date, the Monitoring Officer, in consultation with the Chair of the Appeals, Awards and Standards Regulatory Board, will determine whether the meeting can be arranged outside of the prescribed timescale. If a meeting cannot be arranged within the prescribed timescale the Subject Member may be requested to provide a reasonable explanation to the Chair, along with any appropriate evidence of his/her unavailability.
- 1.8.** All matters/issues before the Appeals, Awards and Standards Regulatory Board will be decided by a simple majority of votes cast, with the Chair having a second or casting vote.
- 1.9.** Where the Subject Member fails to attend the Appeals, Awards and Standards Regulatory Board and where the Appeals, Awards and Standards Regulatory Board is not satisfied with their explanation for their absence from the hearing, the Appeals, Awards and Standards Regulatory Board may, in the first instance, have regard to any written representations submitted by the Subject Member, and/or the Investigating Officer's report and may resolve to proceed with the hearing in the Subject Member's absence and make a determination. Alternatively, if the Appeals, Awards and Standards Regulatory Board is satisfied with the Subject Member's reasons for not attending the hearing, it may adjourn the hearing to another date. The Appeals, Awards and Standards Regulatory Board may resolve in exceptional circumstances, that it will proceed with the hearing on the basis that it is in the public interest to hear the allegations expeditiously. Appeals, Awards and Standards Regulatory Board hearings shall only be adjourned once, if the Subject Member fails to attend a second scheduled meeting without exceptional circumstances, the meeting shall proceed in the Subject Member's absence.

2. RIGHT TO BE ACCOMPANIED BY A REPRESENTATIVE

- 2.1.** The Subject Member may choose to be accompanied and/or represented at the Appeals, Awards and Standards Regulatory Board by a fellow councillor, friend or colleague. The Subject Member will not be entitled to be represented by a solicitor or other legal representative, or by any Officer of the Council.

3. THE HEARING

3.1. Subject to paragraph 3.2 below, the order of business will be as follows:

- a) Apologies for absence;
- b) Declarations of interests;
- c) Approval of Minutes of the previous meeting;
- d) If the Subject Member is absent, consider whether to adjourn or to proceed with the hearing (refer to paragraph 1.9 above);
- e) Introduction by the Chair, of Members of the Appeals, Awards and Standards Regulatory Board, the Independent Person, Committee's Legal Advisor and/or Monitoring Officer, Investigating Officer, Democratic Services Officer, complainant and the Subject Member and their representative;
- f) Receive representations from the Monitoring Officer and/or Subject Member as to whether any part of the hearing should be held in private and/or whether any documents (or parts thereof) should be withheld from the public/press;
- g) Determine whether the public/press are to be excluded from any part of the meeting and/or whether any documents (or parts thereof) should be withheld from the public/press. When the public/press are excluded from any part of the meeting, filming, photography and/or audio recordings of the meeting will be prohibited in accordance with the provisions of the Council's Constitution (page).
- h) Consider the report of the Investigating Officer and determine the matter.

3.1 The Chair may exercise their discretion and amend the order of business, where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

3.2 The Appeals, Awards and Standards Regulatory Board may adjourn the hearing at any time.

3.3 Witnesses:

- a) The process of the hearing is inquisitorial, and not adversarial. Witnesses should not be made to feel uncomfortable or that their

integrity is being questioned. The purpose of the hearing is to establish the facts.

- b) All questions to witnesses should be made through the Chair.

3.4 Presentation of the complaint:

- a) The Investigating Officer presents their report including any documentary evidence or other material and calls his/her witnesses. No new points will be permitted.
- b) The Subject Member or their representative may question the Investigating Officer, and any witnesses called by the Investigating Officer.
- c) The Appeals, Awards and Standards Regulatory Board may question the Investigating Officer upon the content of his/her report, the Independent Person, the Advisory Officer, and any witnesses called by the Investigating Officer, upon the contents of his/her report.

3.5 Presentation of the Subject Member's response:

- a) The Subject Member or their representative presents their response to the Investigating Officer's report, and calls their witnesses.
- b) The Investigating Officer may question the Subject Member and any witnesses called by the Subject Member.
- c) The Appeals, Awards and Standards Regulatory Board may question the Subject Member, the Independent Person, the Advisory Officer, and any witnesses called by the Subject Member.

3.6 Summing up:

- a) The Investigating Officer sums up the report.
- b) The Subject Member or their representative sums up their response to the Investigating Officer's report.

3.7 Deliberations of the Appeals, Awards and Standards Regulatory Board:

- a) Having heard the representations/views of all parties, the Appeals, Awards and Standards Regulatory Board will adjourn the hearing and deliberate in private (assisted on matters of law by a legal advisor) to consider whether, on the facts found, the Subject Member has failed to comply with the Members' Code of Conduct, and if so, what sanctions should be applied.

- b) Prior to reaching a decision, the Appeals, Awards and Standards Regulatory Board will consider the views expressed by the Independent Person, including any views on sanctions to be applied and/or recommendations to the Council or Parish Council or Monitoring Officer.
- c) Where the complaint has a number of aspects, the Appeals, Awards and Standards Regulatory Board may reach a finding, apply a sanction and/or make a recommendation on each aspect separately.
- d) The Appeals, Awards and Standards Regulatory Board will make its decision on the balance of probability, based on the evidence before it during the hearing.
- e) The Appeals, Awards and Standards Regulatory Board may at any time come out of private session and reconvene the hearing in public, in order to seek additional evidence from the Investigating Officer, the Subject Member or the witnesses. If further information, to assist the Committee, cannot be presented, then the Committee may adjourn the hearing and issue directions as to the additional evidence required and by whom.
- f) If evidence presented to the Appeals, Awards and Standards Regulatory Board highlights other potential breaches of the Council's or Parish Council's Members' Code of Conduct, then the Chair will outline the Committee's concerns and recommend that the matter be referred to the Monitoring Officer as a new complaint.
- g) Having deliberated on its decision and/or recommendations and the application of any sanctions, the Appeals, Awards and Standards Regulatory Board will reconvene the hearing in public and the Chair will announce:
 - i. the Appeals, Awards and Standards Regulatory Board decision as to whether or not the Subject Member has failed to comply with the Members' Code of Conduct, detailing the breaches, and the principal reasons for the decision
 - ii. the sanctions (if any) to be applied;

- iii. the recommendations (if any) to be made to the Council or Parish Council or Monitoring Officer; and
- iv. that there is no right of appeal against the Appeals, Awards and Standards Regulatory Board decision and/or recommendations.

4 POSSIBLE SANCTIONS

4.1 Subject to paragraph 4.4 below, where the Appeals, Awards and Standards Regulatory Board determines that the Subject Member has failed to comply with the Members' Code of Conduct, any one or more of the sanctions below or any further sanctions deemed appropriate by the Appeals, Awards and Standards Regulatory Board may be applied/recommended:

- a) Recommend to the Council or Parish Council that the Subject Member be issued with a formal censure (i.e. the issue of an unfavourable opinion or judgement or reprimand) by motion;
- b) Issue an instruction that the Subject Member is removed from specified committees or sub-committees of the Council;
- c) Recommend to the Mayor that the Subject Member be removed from the Executive or removed from particular Portfolio responsibilities;
- d) Instruct the Monitoring Officer, or the Parish Council, to arrange training for the Subject Member;
- e) Recommend to the Council, or Parish Council, that the Subject Member is removed from all outside appointments to which they have been appointed or nominated by the Council, Executive or Parish Council;
- f) Instruct the Monitoring Officer, or Parish Council, to withdraw facilities provided to the Subject Member by the Council, or Parish Council, such as a computer, website and/or email and internet access;
- g) Instruct the Monitoring Officer or Parish Council, to implement a Communications Plan for the Subject Member;
- h) Instruct the Monitoring Officer, or Parish Council, to exclude the Subject Member from the Council or Parish Council's offices or other premises, with the exception of meeting rooms as necessary for Council or Parish Council committee and sub-committee meetings;

- i) Instruct the Monitoring Officer, or Parish Council, to apply the informal resolution process;
- j) Instruct the Monitoring Officer, or Parish Council, to issue a press release or other form of publicity; or
- k) Instruct the Monitoring Officer, or Parish Council, to restrict the Subject Member's access to confidential or exempt information.

4.2 The Appeals, Awards and Standards Regulatory Board has no power to suspend or disqualify the Subject Member or to withdraw basic or special responsibility allowances.

4.3 The Appeals, Awards and Standards Regulatory Board may specify that any sanction takes effect immediately or takes effect at a later date and that the sanction be time limited. If the sanctions are not complied with within the timescale directed by the Appeals, Awards and Standards Regulatory Board, the Monitoring Officer will report the fact to the Chair of the Appeals, Awards and Standards Regulatory Board, wherein further sanctions may be considered by the Appeals, Awards and Standards Regulatory Board.

4.4 When deciding whether to apply one or more sanctions referred to in paragraph 4.1 above, the Appeals, Awards and Standards Regulatory Board will ensure that the application of any sanction is reasonable and proportionate to the Subject Member's behaviour. The Appeals, Awards and Standards Regulatory Board will consider the following questions along with any other relevant circumstances or other factors specific to the local environment:

- a) What was the Subject Member's intention and did they know that they were failing to follow the Council's or Parish Council's Members' Code of Conduct?
- b) Did the Subject Member receive advice from officers before the incident and was that advice acted on in good faith?
- c) Has there been a breach of trust?
- d) Has there been financial impropriety, for example: improper expense claims or procedural irregularities?
- e) What was the result/impact of failing to follow the Council's or Parish Council's Members' Code of Conduct?
- f) Was there an impact on others?
- g) How serious was the incident?

- h) Does the Subject Member accept that they were at fault?
- i) Did the Subject Member apologise to the relevant persons?
- j) Has the Subject Member previously been reprimanded or warned for similar misconduct?
- k) Has the Subject Member previously breached the Council's or Parish Council's Members' Code of Conduct?
- l) Is there likely to be a repetition of the incident?

5 PUBLICATION AND NOTIFICATION OF THE APPEALS, AWARDS AND STANDARDS REGULATORY BOARD DECISION AND RECOMMENDATIONS

5.1 Within 5 working days of the Standard Committee's announcement of its decision and recommendations, the Monitoring Officer will publish the name of the Subject Member and a summary of the Appeals, Awards and Standards Regulatory Board's decision and recommendations, and reasons for the decision and recommendations, on the Council's website.

5.2 Within 5 working days of the announcement of the Appeals, Awards and Standards Regulatory Board's decision, the Monitoring Officer will provide a full written decision and the reasons for the decision, including any recommendations, to:

- a) The Subject Member;
- b) The Complainant; and
- c) The Clerk to the Parish Council (if appropriate).

APPENDIX 4

Witness Guidance

1. "Witness" is a general term incorporating those that may have either witnessed an event or be able to provide information/knowledge relating to an issue/subject. Witnesses may be internal to the organisation e.g. colleagues or other members of staff, or on occasion, external to the organisation e.g. complainants, or relatives or experts in a particular field related to the investigation.
2. Witnesses may be identified by the complainant, the subject member or as part of investigation process. Witnesses cannot be compelled to attend or to give a statement. Council Officers may have a duty within their Contract of Employment and any Codes of Conduct by which they are bound to support the process.
3. Witness evidence often forms part of the bundle of evidence considered at a Appeals, Awards and Standards Regulatory Board hearing, and witnesses are on occasions requested to give evidence in person at a hearing.
4. The witness will be briefed as to the process/proceeding that will follow, either by a Democratic Services Officer or by the Investigating Officer. .
5. Witnesses play an important role in clarifying any points of fact previously raised during an investigation and may be asked to answer questions relating to their evidence/information.
6. A witness is there as an independent party, to provide factual information. This can be provided either via an interview with an Investigating Officer, a written statement and/or by attending the formal hearing.
7. Reasonable support in relation to a disability or language skills (e.g.: where English is not the first language), will be considered if raised in advance of the meeting/hearing.
8. Following interview with the Investigating Officer, a copy of a witness's statement will be sent, confirming what they have to do next with the statement. However, if a signed copy is not returned within the date specified in the letter the original version may be included in the investigation report.
9. Witnesses are expected to treat their statement as confidential and not to discuss it with the other parties.
10. Once the investigation is complete, the investigating officer submits their report to the Monitoring Officer and the Council's Independent person, who will determine whether

the case should be progressed to a Appeals, Awards and Standards Regulatory Board hearing.

11. Should a Appeals, Awards and Standards Regulatory Board hearing be convened and witnesses required to attend, then witnesses will be informed of the time and the date of the meeting. Hearings are generally held in the public domain however, the Committee will determine on the day whether the hearing should be held in private (subject to schedule 12A of the Local Government Act 1972).
12. The Investigating Officer, the Committee or the Subject Member should be given a reasonable opportunity to call relevant witnesses and ask questions of witnesses to raise any points about information provided by them. Any such witnesses must be identified during the investigation process so that the investigating officer can include this in their investigation.
13. There may be a difference between witnesses called to the hearing by the Investigating Officer/Committee and the Subject Member. The Subject Member wishing to call any witnesses should make arrangements to invite the witnesses themselves.
14. During the investigation interview and prior to disclosing a witness statement the investigator will advise the witness that it may be disclosed to the subject of the investigation e.g. if the case goes to a hearing. In exceptional circumstances e.g. where there may be fear of reprisals and the witness has requested anonymity, an assessment will be made by the investigating officer and where possible the identity of the witness will not be divulged.
15. If a situation arises where the organisation is not able to resolve the concern without revealing a witness' identity it will be discussed with them prior to any disclosure. Ultimately, the Investigating Officer in conjunction with Monitoring Officer will make a reasoned decision about whether or not to disclose a witness statement or whether it can be released in an anonymised format. This will involve balancing the witness' right to privacy against the Subject Member's right to know what information is held about him or her.
16. It is usual, where there is a case to be answered, for all witness statements to be passed to the subject member so they can produce a full defence to the allegations raised against them and question the witnesses in relation to their evidence.
17. Witnesses will be offered the opportunity to read through and check their statement for accuracy once it has been typed, before signing and returning it. The statement will then be included in the report relating to the matter, which will be forwarded to the

Monitoring Officer to consider the next steps e.g., whether a Appeals, Awards and Standards Regulatory Board hearing is to be convened.

18. If the witness wishes to add any further information, they can do this through an addendum or via a further interview. Confidentiality must be maintained by the witnesses and those supporting them relating to matters discussed at interview.
19. During a formal hearing, witnesses may be asked by the Committee to clarify any issues as appropriate or to answer questions from any of the parties present. The Chair of the Appeals, Awards and Standards Regulatory Board may instruct that questions be posed through the Chair. All parties to the process are required to treat witnesses with courtesy and respect.
20. The Committee/Subject Member are only entitled to ask witnesses questions that are relevant to the matters in question and/or which could elicit a response which may assist the Committee in determining whether or not there has been a breach of the Code of Conduct. It will be for the Appeals, Awards and Standards Regulatory Board to determine whether to allow the question.
21. The party calling the witness should not put leading questions to the witness unless they are introductory matters or facts that are not in dispute. The Appeals, Awards and Standards Regulatory Board can choose to disregard any evidence elicited from a leading question. Leading questions are ones that prompt the answer wanted, suggest a particular answer, or contain information the person asking the question is looking to have confirmed. In general you will not be allowed to ask leading questions when asking your witnesses questions.
22. Questions should be asked in a fair manner. The Appeals, Awards and Standards Regulatory Board will not permit witnesses to be harassed or badgered by either party.

Attending a Hearing

Below are some useful tips for those who are called to attend a formal hearing:

- ❖ Witnesses attending a Appeals, Awards and Standards Regulatory Board hearing will be asked to wait in another room until called.
- ❖ When entering the room where the hearing is being held it can be quite intimidating to see many people in attendance. Introductions will be made and the process being followed will be confirmed to each witness when they attend.

- ❖ The room layout will be formal and some or all of the following will be present; Committee Members, the Independent Person, the Subject Member and their representative, the Investigating Officer, Democratic/Legal support staff, the press and the public.
- ❖ Witnesses who are required to attend a Appeals, Awards and Standards Regulatory Board hearing will be advised of the date and venue of the hearing. The hearing may take longer than expected and witnesses may well need to wait beyond the allocated time.
- ❖ Witnesses may like to bring along notes to help them recall the events and the copy of the statement given to them, which they may refer to at the hearing.
- ❖ It is important for the witness to listen carefully to the question and if it is not understood, to ask for it to be repeated or clarified.
- ❖ Witnesses should take time to consider the question, it is important not to feel rushed into answering; if unable to remember certain facts, the witness should say so.
- ❖ If additional time to think is needed the witness should say so, as this can be allowed.
- ❖ In closed sessions, principles of confidentiality apply to what is heard or observed at the hearing.
- ❖ Witnesses are advised to contact the Investigating Officer or the Democratic Services Officer if they have any queries regarding the process or their availability for the hearing.
- ❖ Whilst witnesses may wish to refuse to attend a Appeals, Awards and Standards Regulatory Board hearing, their statement will be used anyway. Council Officers may have a duty within their Contract of Employment and any Codes of Conduct by which they are bound to support the process.
- ❖ It is appreciated that giving evidence as a witness may not be easy. However, witness evidence is important and the Council is grateful for the assistance of witnesses and would like to thank them for their input.
- ❖ It is essential that the matter is kept confidential and not discussed with colleagues or other parties and in particular the subject of the complaint. If there are any questions or concerns, these should be raised with the Monitoring Officer.
- ❖ Once a witness has given evidence, they may leave the hearing. Alternatively, if the hearing is held in public witnesses may sit in the public seating area.

Code of Conduct

PRELIMINARY TESTS – Independent Person

Complainant:

Councillor Complained of:

1.1 The complaint will be assessed by the Monitoring Officer, in consultation with the Independent Person, and the following assessment criteria applied:

	Criteria	Y/N	Reasons (if applicable)
Initial Criteria			
The first step would be a jurisdictional test and would assess whether the complaint is:			
A)	against one or more named councillors of the authority or of a parish or town council the authority is responsible for;		
B)	the named councillor was in office at the time of the alleged conduct;		
C)	the complaint relates to matters where the councillor was acting as a councillor or representative of the authority and it is not a private matter;		
D)	the complaint, if proven, would be a breach of the Code under which the councillor was operating at the time of the alleged misconduct.		
Secondary Criteria			

The following non-exclusive factors may help an authority to develop local criteria			
A.	Does the complaint contain sufficient evidence to demonstrate a potential breach of the Code?		
B.	Are there alternative, more appropriate, remedies that should be explored first?		
C.	Where the complaint is by one councillor against another, a greater allowance for robust political debate (but not personal abuse) may be given, bearing in mind the right to freedom of expression.		
D.	Is the complaint in the view of the authority malicious, politically motivated, or 'tit for tat'?		
E.	Whether an investigation would not be in the public interest or the matter, even if proven, would not be serious enough to warrant any sanction and conducting a full investigation would have a disproportionate effect on both public money and officers' and Members' time.		

F.	Whether a substantially similar complaint has previously been considered and no new material evidence has been submitted within the current administration.		
G.	Whether a substantially similar complaint has been submitted and accepted.		
H.	Does the complaint relate to conduct in the distant past? This would include consideration or any reason why there had been a delay in making the complaint?		
I.	Was the behaviour that is the subject of the complaint already dealt with? For example, through an apology at the relevant meeting?		
J.	Does the complaint actually relate to dissatisfaction with a local authority decision rather than the specific conduct of an individual?		
K.	Is it about someone who is no longer a councillor or who is seriously ill?		
L.	Are there any other matters that need to be considered in deciding whether to accept or reject the complaint?		

Recommendation: Accept/Reject*(deletion)

Reasons:



Assessment completed by.....

Date of Assessment:

MEMBERS' CODE OF CONDUCT
MONITORING OFFICER'S ASSESSMENT DECISION NOTICE

COMPLAINANT: Councillor

SUBJECT MEMBER Councillor

DATE COMPLAINT RECEIVED

SUMMARY OF COMPLAINT

DECISIONS

My decisions are that:

- 1.
- 2.
- 3.

REASONS FOR DECISIONS

In reaching the decisions, I have taken into account, amongst other matters, the view of the Independent Person

PRELIMINARY TESTS

The complaint was assessed by the Monitoring Officer, in consultation with the Independent Person, and the following assessment criteria applied:

(insert preliminary IP test here...)

I have taken account of all the criteria above, all of which point in favour of **accepting/rejecting** the complaint against Councillor.

DETERMINATION:

Monitoring Officer

(Date)

Code of Conduct

Investigation Report

Report Date:

Author:

Details:

Report of an investigation into an allegation that

Investigation authorised by , Deputy/Monitoring Officer, Barnsley Metropolitan Borough Council.

1. **Summary of Complaint**
2. **Relevant part of the Code of Conduct**
3. **Documentation/Evidence**
4. **Persons Interviewed**
5. **Investigating Officers Findings of Fact and Reasons**
6. **(Recommendations)**
7. **Conclusion**

