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# NOTICE OF MEETING

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## GOVERNANCE & AUDIT & STANDARDS COMMITTEE

**FRIDAY, 17 APRIL 2015 AT 2.30 PM**

## CONFERENCE ROOM A - CIVIC OFFICES

Telephone enquiries to 023 9283 4058

Email: [Vicki.plytas@portsmouthcc.gov.uk](mailto:Vicki.plytas@portsmouthcc.gov.uk)

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### Membership

Councillor Simon Boshier (Chair)  
Councillor Eleanor Scott (Vice-Chair)  
Councillor John Ferrett  
Councillor Steve Hastings  
Councillor Leo Madden  
Councillor Hugh Mason

### Standing Deputies

Councillor David Fuller  
Councillor Phil Smith  
Councillor Rob Wood  
Councillor Julie Swan  
Councillor Alistair Thompson

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(NB This Agenda should be retained for future reference with the minutes of this meeting.)

Please note that the agenda, minutes and non-exempt reports are available to view online on the Portsmouth City Council website: [www.portsmouth.gov.uk](http://www.portsmouth.gov.uk)

**Deputations by members of the public may be made on any item where a decision is going to be taken. The request should be made in writing to the contact officer (above) by 12 noon of the working day before the meeting, and must include the purpose of the deputation (for example, for or against the recommendations). Email requests are accepted.**

## A G E N D A

### 1 Apologies for Absence

**2        Declarations of Members' Interests**

**3        Councillor training and development (Pages 1 - 28)**

The purpose of the report is to update members on the review of the councillor training programme in light of comments made at the 13 March 2015 meeting of this committee and make recommendations for future member training and development.

**RECOMMENDED that Members**

- I.        Support an enhanced induction programme for new members and ongoing training (Appendix 1 - Elected Member Training Calendar 2015)**
- II.       Support the expectation that members (and standing deputies) receive training prior to committee membership or that appropriate records are kept to demonstrate that formal training is not required for an individual councillor**
- III.      Support improved partnership working between officers and Group Leaders regarding ongoing professional development training**

**4        Review of Members' Code of Conduct and Committee Arrangements for Assessment, Investigation and Determination of Complaints (Pages 29 - 56)**

Following Members' earlier consideration of this report on 13 March 2015, this report is to update Members of the Committee on the Members' Code of Conduct and Committee Arrangements for Assessment, Investigation and Determination of Complaints following the resolution passed at the Committee on 30 January 2015.

**RECOMMENDED**

**That Members of the Committee**

**1.1       Agree**

- (i)       the proposed changes to the Code of Conduct and the Arrangements for Assessment, Investigation and Determination of Complaints or propose and agree further changes and**
- (ii)      the procedure for the initial filtering of complaints, or propose and agree further changes**

**1.2       Recommend the agreed changes to Council for**

**adoption.**

Members of the public are now permitted to use both audio visual recording devices and social media during this meeting, on the understanding that it neither disrupts the meeting or records those stating explicitly that they do not wish to be recorded. Guidance on the use of devices at meetings open to the public is available on the Council's website and posters on the wall of the meeting's venue.

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<b>Title of meeting:</b>	Governance & Audit & Standards
<b>Date of meeting:</b>	17 April 2015
<b>Subject:</b>	Councillor training and development
<b>Report by:</b>	Monitoring Officer
<b>Wards affected:</b>	N/A
<b>Key decision:</b>	No
<b>Full Council decision:</b>	No

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## **1. Purpose of report**

To update members on the review of the councillor training programme in light of comments made at the 13 March 2015 meeting of this committee and make recommendations for future member training and development.

## **2. Recommendations**

Members are recommended to:

- I. Support an enhanced induction programme for new members and ongoing training (Appendix 1 - Elected Member Training Calendar 2015)
- II. Support the expectation that members (and standing deputies) receive training prior to committee membership or that appropriate records are kept to demonstrate that formal training is not required for an individual councillor
- III. Support improved partnership working between officers and Group Leaders regarding ongoing professional development training

## **3. Background**

### **3.1. Induction training**

- I. Induction training has been offered in a number of different formats. All new members over the last four years have received an induction
- II. Members receive training in the Code of Conduct directly from the Monitoring Officer
- III. Members receive on-going training in matters relating to the Constitution via officers in Democratic Services

3.1.1. There are areas of work (that are treated as mandatory by the organisation) not fully addressed in the induction for members which potentially expose us to risk, including:

- I. Health & Safety responsibilities including fire procedures (the H&S policy states that members should complete the H&S Induction e-learning for Councillors but there is currently one member who is compliant)
- II. Data Protection and Freedom of Information (we have an obligation to 'raise awareness')
- III. Obligations under the Equality Act and best practice around equalities (particularly relating to responsibilities around Equalities Impact Assessments)

### **3.2 Committee training**

3.2.1. There is a lack of clarity around training that should be undertaken prior to committee membership (specifically relating to whether it is mandatory or not)

- I. Governance & Audit & Standards - annual training is offered, but is not mandatory. In 2006, at the creation of the Audit Committee it was agreed that "members to have skills and experience or being trained on....governance, risk management, internal control, accounting, regulation and compliance, the role of the committee and the role of internal / external audit"
- II. Governance & Audit & Standards sub-committees - provided by the Monitoring Officer
- III. Planning Committee - the lead officer reports that it is 'good practice' to ensure that committee members receive training prior to membership and that this should include deputies. Ideally they would like all members to receive training on planning matters
- IV. According to the Planning Advisory Service it is not mandatory to receive training prior to sitting on the Planning Committee, although they note that it is good practice and that some Local Authorities make training compulsory
- V. Licensing Committee - the lead officer reports that "it's not mandatory, but it is certainly expected that members receive training to membership"

3.2.2. There are a number of potential risks identified including:

- I. If a committee decision is challenged, would we be able to demonstrate that members have received training or have been assessed as possessing the required skills and experience?
- II. Would we be open to challenge if deputies (without training) had contributed to the decision made?

### **3.3. Ongoing professional development**

3.3.1. There is an inconsistent approach to supporting continuing professional development (e.g. not all councillors are made aware of opportunities)

3.3.2. There are under-utilised opportunities available from external bodies (e.g. the Local Government Association) that could directly meet expressed areas of need (e.g. Social Media training)

### **3.4. Feedback**

- 3.4.1. Councillor training provision has been assessed by external review and improvements have been identified (e.g. the Peer Review recommendations to improve robustness and identify champions)
- 3.4.2. Councillors were invited to respond to a Member Services Questionnaire and results indicate that:
- I. Councillors were unclear about what constituted 'mandatory' training (either for newly elected councillors or relating to committee responsibilities)
  - II. There were variable responses as to whether the training undertaken had been of value
  - III. Councillors were unclear about how to access training opportunities
  - IV. There are expressed development needs that are currently unmet (e.g. leadership, time management, IT, social media, presentation skills, chairing meetings and conflict management)
- 3.4.3. Councillors elected in May 2014 were invited to provide feedback to improve the training provision:
- I. The induction session carried out by the Chief Executive made them feel valued and welcomed to PCC but did not act as a 'training session'
  - II. Participation in formal meetings can feel 'over-whelming' at first and training should be provided that covers: meeting protocols, public speaking, decision making, conduct at meetings, asking questions, Notices of Motion, Standing Orders, Deputations, Exempt items, pecuniary interests etc. Ideally this would include 'live' practice in the Guildhall. Members felt that this should be facilitated by officers. Parts of this session were piloted in February 2015 with members elected in 2014 and received very favourable feedback (except "this should have been offered much sooner")
  - III. It would be helpful to have a better understanding of 'who's-who' within services (e.g. a contact guide for frequent issues)
  - IV. An IT skills assessment and on-going training would be helpful
  - V. Ongoing training opportunities would be welcome to develop skills (e.g. time management, social media)
  - VI. Ongoing ad-hoc training provided by Officers in Democratic Service is welcome and helpful
- 3.4.4. Members of G&A&S provided verbal feedback as part of discussions at the last committee meeting:
- I. Training sessions are offered at times that are un-suitable for councillors (evenings or weekends would be preferable, or to utilise a full-day session that covered all areas)
  - II. Up-to-date officer contact details would be helpful
  - III. PCC could seek to generate income by providing training for councillors for other Local Authorities
  - IV. Involvement of the Group Leaders is important

- V. Clarity is needed on what training is mandatory (does this also apply to standing deputies - would this for example, leave us open to challenge on planning decisions?)
- VI. It would be helpful to provide the Members Handbook to all members

#### **4. Reasons for recommendations**

- I. It is essential to bring clarity to the question of 'mandatory' committee training, as it is unclear for members and potentially exposes us to risk
- II. It is essential to better meet the needs of newly elected councillors
- III. There are un-met training needs that have been expressed by councillors. There is a need to develop / commission training that is valuable to councillors and better meets their needs

#### **5. Equality impact assessment (EIA)**

A preliminary EIA has been completed and a full EIA is not required.

#### **6. Legal implications**

The Monitoring Officer is satisfied there are no legal implications arising from the report.

#### **7. Finance comments**

There are no financial implications arising from the recommendations of this report.

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Signed by:

#### **Appendix 1: Elected Member Training Calendar 2015**

#### **Background list of documents: Section 100D of the Local Government Act 1972**

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location



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The recommendation(s) set out above were approved/ approved as amended/ deferred/  
rejected by ..... on .....

.....  
Signed by:

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## **Elected Member Training Calendar - 2015**



## Training calendar

Welcome to the elected member training calendar 2015

This calendar aims to set out all the training that is available to you, whether internally provided, externally commissioned, informal support or other opportunities that are available to you.

If you would like to book a place on any of the training events in this calendar, please contact:

Liz Aplin

Operational Training Manager

HR - Floor 1, Core 5-6

[liz.aplin@portsmouthcc.gov.uk](mailto:liz.aplin@portsmouthcc.gov.uk)

023 9268 8551

If you have any training or development needs that are not covered, please get in touch and we will try to find a solution for you.

### Overview

For ease of understanding, the training calendar has been split into four sections:

- Induction training
- Committee training
- Corporate priorities
- Ongoing professional development

Any member is welcome to attend any training event within this calendar. Wherever possible, training will be offered with a variety of dates and times (with an early evening option included).



When you see this symbol by the title of a course, this indicates that it is of high importance, and you are strongly encouraged to attend.

All other training is offered for your professional development.



## **Contents**

### **For new councillors:**

- Induction training for new councillors
- Induction seminar from South East Employers
- Being an effective councillor
- Enhanced skills for new councillors

### **For councillors and standing deputies for committees:**

- Governance & Audit & Standards Committee training
- Employment Committee training
- Licensing Committee training
- Planning Committee training

### **Corporate priorities**

- Safeguarding children
- Equalities Impact Assessments
- Health & Safety

### **Ongoing professional development opportunities:**

- Leadership skills (influencing and negotiating)
- Community Leadership
- Chairing and managing meetings
- Time management
- Mastering social media
- Presentation skills



## **Induction Training For New Councillors**

### **Who is this course for?**

All newly elected and re-elected members are strongly encouraged to attend this session. All councillors are also welcome to attend this session.

This session has been designed based on feedback from members elected last year. It will act as a welcome and orientation into Portsmouth City Council, provide invaluable information about the practicalities of council meetings / decision making and outline legal responsibilities.

### **Who is running this course?**

This course is run in-house and will be facilitated by a range of officers including the Chief Executive and the Deputy Chief Executive.

### **What will it cover?**

Welcome and orientation

- Supported by a guide to who's who in the organisation for frequently asked questions by residents
- Decision making across the council (full council, cabinet and committees)

How the council operates

- The Constitution
- Code of Conduct
- Pecuniary interests
- Conduct and protocol at Council meetings
- Working safely with sensitive information (Data Protection)

The practicalities of council meetings

- Submitting questions to Council - time limits and content
- Notices of Motion
- Standing Orders
- Exempt items
- The role of Democratic Services in supporting you

## Where and when?

Venue - Chief Executive's Conference Room / Conference Room A

Timing - Options available - subject to change

- Monday 18 May, 10am - 12.30pm
- Thursday 21 May, 9.30am - 12 noon
- Thursday 21 May, 12.30pm - 3pm
- Tuesday 26 May, 10am - 1pm
- Tuesday 26 May, 2pm - 5pm
- Tuesday 26 May, 5pm - 7pm

DRAFT



## **Induction Seminars for Newly Elected Councillors (Induction Training)**

### **Who is this course for?**

Newly elected councillors are invited to attend this induction session run by South East Employers. There is a limit to the number of places available to each council, so please register your interest as soon as possible.

This session is designed to help you to feel confident in your new role and to facilitate networking between councillors in the region.

### **Who is running this course?**

This is an external course run by South East Employers. It is facilitated by Councillor Barnard (Bracknell Forest Council) and Mark Palmer (Development Director, South East Employers)

### **What will it cover?**

- Key challenges for Councillors
- Major issues for local government from a national and regional perspective
- The skills needed to be an effective councillor
- Resources and support available
- Effective overview and scrutiny
- Networking opportunities

### **Where and when?**

This course is held at two regional venues (Surrey and Kent)

9<sup>th</sup> June - Surrey

10<sup>th</sup> June - Kent

Both sessions run from 9.30am till 2.00pm





## **Being an Effective Councillor (Induction Training)**

### **Who is this course for?**

Although designed for newer councillors, all members are welcome to attend this training.

### **Who is running this course?**

This course will be run in-house by an external facilitator

### **What will it cover?**

This course is designed to provide an opportunity to explore the ward role and how councillors can increase their effectiveness.

Indicative content:

- Ward roles and responsibilities
- Good practice in managing casework and time management
- How they can have an effect in their ward – communicating and influencing
- How to manage their own stress and personal resilience
- Tips on public speaking and holding effective meetings

### **Where and when?**

**Venue** - TBC

**Timing** - Summer 2015 (subject to change)



## **Enhanced Skills for New Councillors (Induction Training)**

### **Who is this course for?**

Although designed for newer councillors, all members are welcome to attend this training.

### **Who is running this course?**

This course will be facilitated internally

### **What will it cover?**

This session is designed to support you to get the most from council meetings. It will build on knowledge gained at the induction session, plus experience from the first few months after election.

Indicative content:

- An interactive session around getting the most from council meetings (e.g. using Standing Orders, Notices of Motion etc.)
- Getting the most from financial reports

### **Where and when?**

**Venue** - TBC

**Timing** - TBC - this session will be available on a choice of dates and times in Autumn 2015



## **Governance & Audit & Standards (Committee Training)**

### **Who is this course for?**

This course is for members of the Governance & Audit & Standards Committee and their Standing Deputies.

All members, however, are welcome to attend this training to enhance their knowledge about this committee.

### **Who is running this course?**

This training will be offer in-house with an external facilitator

### **What will it cover?**

- The role of the Governance & Audit & Standards Committee
- How the committee fits into the overall governance framework
- The role of the committee in governance, risk management, internal control, audit and financial management
- Key ways that the committee can make a positive difference
- Treasury Management Focus
- Key opportunities, risks and challenges for Portsmouth City Council
- Adding organisational value

### **Where and when?**

Venue - tbc

Timing - This training is expected to take place on the same day as the first committee meeting currently scheduled for 26 June - time to be confirmed



## **Employment Committee Training (Committee Training)**

### **Who is this course for?**

This course is for members of the Employment Committee and their Standing Deputies.

All members, however, are welcome to attend this training to enhance their knowledge about this committee.

### **Who is running this course?**

This training will be facilitated internally.

### **What will it cover?**

- Role and purpose of the Employment Committee
- Introduction to HR Policies
- Overview of Job Evaluation
- Senior Officer appointments

### **Where and when?**

Venue - tbc

Timing - This training will take place before the first committee meeting.



## **Planning Committee (Committee Training)**

### **Who is this course for?**

This course is for members of the Planning Committee and their Standing Deputies.

All members, however, are welcome to attend this training to enhance their knowledge about this committee.

### **Who is running this course?**

This training will be facilitated internally.

### **What will it cover?**

- The significance of the Development Plan
- Key concepts in planning (e.g. viability)
- Listed buildings
- Conservation areas
- Standards and governance for planning committee members
- Understanding the planning code of conduct
- Appropriate responses to residents and developers
- Committee member conduct
- The wider agenda of planning for all members (e.g. representations, planning issues for residents)

### **Where and when?**

Venue - tbc

Timing - Expected to take place on Monday 22<sup>nd</sup> June from 5pm till 6.30pm



## **Licensing Committee (Committee Training)**

### **Who is this course for?**

This course is for members of the Licensing Committee.

All members, however, are welcome to attend this training to enhance their knowledge about this committee.

### **Who is running this course?**

This training will be facilitated internally.

### **What will it cover?**

- The role of the Licensing Committee
- Responsibilities and decision making for members of the committee
- The quasi-judicial role of the committee
- The principles of natural justice
- The role and function of the licensing authority under the various statutory provisions
- Decision making
- Member conduct
- Human rights

### **Where and when?**

Venue - Conference Room B

Timing - Friday 12<sup>th</sup> June from 9.30-12.30 (one to one training is available if members are unavailable on this date)



## **Safeguarding Children (Corporate Priority Training)**

### **Who is this course for?**

All councillors are strongly encouraged to attend this training. It has been commissioned in response to an Ofsted recommendation and for members to understand their role in Corporate Parenting and Safeguarding children.

### **Who is running this course?**

This course will be facilitated internally.

### **What will it cover?**

- The role of elected members in Corporate Parenting and Safeguarding children
- An exploration of the respective roles of members, officers, the Portfolio Holder and the Local Children's Safeguarding Board
- An overview of scrutiny in relation to Safeguarding children

### **Where and when?**

Venue - Chief Executives Conference Room

Timings - Commencing on the 17<sup>th</sup> June (subject to change) and an ongoing rolling programme throughout the year (further dates to be published)



## **Equalities Impact Assessments (Corporate Priority Training)**

### **Who is this course for?**

All members are strongly encouraged to attend this training.

### **Who is running this course?**

This training will be run in-house by an external facilitator

This training programme is designed exclusively around the needs of elected members. Training for officers in this area is also being delivered to complement this training.

### **What will it cover?**

The aim of this training is to provide you with the information you need about EIAs to enable you to ask the right questions. It aims to help ensure that the needs of all parts of the community have been considered in proposals, proper consultation has taken place and that assessments are not a 'tick-box' exercise.

- The purpose of EIAs
- A refresher on legislation
- Questions and considerations when an EIA has taken place
- Understanding positive and negative impacts
- Statutory roles and responsibilities

### **Where and when?**

**Venue** - TBC

**Timing** - 24<sup>th</sup> June 2015 from 5pm till 7pm (subject to change)





## Health & Safety for Members (Corporate Priority Training)

### **Who is this course for?**

All members are strongly encouraged to complete this training.

### **Who is running this course?**

This training is covered via an e-learning module and has been created by PCC's Health & Safety Manager.

### **What will it cover?**

This e-learning package will take you through the special responsibilities you hold under Health & Safety law

### **Where and when?**

**Venue** - The e-learning can be accessed anywhere (via the internet) as it is held on PCC's Managed Learning Environment. The link to this training course will be sent through to you during May 2015. You can follow this link to register and log on to the Managed Learning Environment.

**Timing** - This course will take less than an hour to complete



## **Leadership Skills - Influencing & Negotiating (Ongoing Professional Development Training)**

### **Who is this course for?**

All members are welcome to attend this course.

### **Who is running this course?**

This course will be run in-house by an external facilitator

### **What will it cover?**

The aim of this course is to coach councillors to explore their leadership style, with a particular reference to influencing others and negotiating good outcomes.

Indicative content:

- Improving personal and interpersonal communication skills
- Developing influencing and negotiating strategies to strengthen the leadership role within the council and the community
- Communication strategies

### **Where and when?**

**Venue** - TBC

**Timing** - Autumn 2015 (subject to change)



## **Community Leadership (Ongoing Professional Development Training)**

### **Who is this course for?**

All members are welcome to attend this course.

### **Who is running this course?**

This course will be run in-house by an external facilitator

### **What will it cover?**

This course is designed to support members to develop their community leadership role.

Indicative content:

- To consider what community leadership means, and what skills support its effective delivery
- To provide an opportunity to think more deeply about community engagement, community leadership and partnerships – including changing roles and responsibilities in local government
- To consider how engaging more effectively can raise the political credibility of Councillors and the credibility of the council in general

### **Where and when?**

**Venue** - TBC

**Timing** - Autumn 2015 (subject to change)



## **Chairing and Managing Meetings (Ongoing Professional Development Training)**

### **Who is this course for?**

All members are welcome to attend this course.

### **Who is running this course?**

This course will be run in-house by an external facilitator

### **What will it cover?**

The aim of this course is to support skill development in managing effective and productive meetings. It will also explore the necessary skills to manage challenging situations and people

Indicative content:

- The pro-active chair
- What is needed to run a successful meeting
- Practicalities of effective meetings
- Dealing with challenging situations and moving forwards productively
- Strategies to maximise engagement and contribution

### **Where and when?**

**Venue** - TBC

**Timing** - Autumn 2015 (subject to change)



## **Time Management**

### **(Ongoing Professional Development Training)**

#### **Who is this course for?**

All members are welcome to attend this course.

#### **Who is running this course?**

This course will be run in-house by an external facilitator

#### **What will it cover?**

The aim of this course is to explore the relationship between self-management and time management.

Indicative content:

- Mapping work streams to identify time pressures and conflicts
- Prioritising the goals, objectives and milestones for success
- Action planning and resources

#### **Where and when?**

**Venue** - TBC

**Timing** - Autumn 2015



## **Mastering Social Media (Ongoing Professional Development Training)**

### **Who is this course for?**

All members are welcome to attend this course.

### **Who is running this course?**

This course will be run in-house by an external facilitator

### **What will it cover?**

The aim of this course is to coach councillors to explore how to lever social media as a medium whilst mitigating reputational risk.

Indicative content:

- The power of social media
- The rules of engagement and communication strategies
- Benefits and risks
- How to drive the agenda
- Using social media to inform, empower and involve communities

### **Where and when?**

**Venue** - TBC

**Timing** - Summer 2015 (subject to change)



## **Presentation Skills**

### **(Ongoing Professional Development Training)**

#### **Who is this course for?**

All members are welcome to attend this course.

#### **Who is running this course?**

This course will be run in-house by an external facilitator

#### **What will it cover?**

The aim of this course is to promote confidence and skill in public speaking and giving presentations

Indicative content:

- Purpose and structure of presentations
- Prepare yourself and the presentation effectively
- Improving projection of confidence
- Effective audience interaction
- Dealing with problems
- Handling questions

#### **Where and when?**

**Venue** - TBC

**Timing** - TBC

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<b>Title of meeting:</b>	Governance & Audit & Standards Committee
<b>Date of meeting:</b>	17 April 2015
<b>Subject:</b>	Review of Members' Code of Conduct and Committee Arrangements for Assessment, Investigation and Determination of Complaints
<b>Report by:</b>	Monitoring Officer
<b>Wards affected:</b>	N/A
<b>Key decision:</b>	No
<b>Full Council decision:</b>	Yes

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## **1 Purpose of report**

- 1.1 Following Members' earlier consideration of this report on 13 March 2015, to update Members of the Committee on the Members' Code of Conduct and Committee Arrangements for Assessment, Investigation and Determination of Complaints following the resolution passed at the Committee on 30 January 2015.

## **2 Recommendations**

That Members of the Committee

- 2.1 Agree
- (i) the proposed changes to the Code of Conduct and the Arrangements for Assessment, Investigation and Determination of Complaints or propose and agree further changes and
  - (ii) the procedure for the initial filtering of complaints, or propose and agree further changes
- 2.2 Recommend the agreed changes to Council for adoption.

## **3 Background**

- 3.1 The current Code of Conduct which was adopted in July 2012 was last updated by Members at the Council meeting of 15 July 2014.
- 3.2 At the Committee meeting of 30 January 2015 it was resolved that the City Solicitor produce a report concerning the options for amending and bringing up to date the following:
- 3.2.1 Members' Code of Conduct (including submission of complaints).

### 3.2.2 Arrangements for Assessment, Investigation and Determination of Complaints.

- 3.3 The proposed revisions to the Members' Code of Conduct and the Arrangements for Assessment, Investigation and Determination of Complaints are annexed to this report as Appendices A to C.

## 4 Proposed Changes to the Code of Conduct

- 4.1 The proposed changes to the Code, although they may appear substantial, are mainly presentational. However, a new section has been introduced headed "Personal Interests".
- 4.2 The previous obligation to declare personal and prejudicial interest came to an end following the introduction of the Localism Act 2011 which also disbanded the former standards regime and revoked the model code of conduct. Since that time Members have only been obliged to declare "disclosable pecuniary interests". These are set out at paragraph 3 in the report and they are quite limited in nature. However if a Member were to fail to disclose such an interest and were to participate in the business of the Council, a criminal offence would be committed which can lead to a fine of up to £5,000 and disqualification from holding office as a councillor for up to five years.
- 4.3 It was always intended that the new code of conduct should have a provision to require further interests to be disclosed. Whilst these were not within the provisions of disclosable pecuniary interest, they could be considered to be of such significance as to affect your own wellbeing or financial position that they should be disclosed when you are taking part in the business of the Council. This proposed class of interest is set out in Paragraph 4 of the report and Paragraph 5 sets out the disclosure requirements. The principle difference with disclosable pecuniary interests is that whilst they need to be disclosed you may still participate in the business of the Council.

## 5 Proposed changes to the Assessment Investigation and Determination of complaints

- 5.1 The procedure which the Council adopted for complaints consideration substantially mirrored the approach taken under the old standards regime. This was considered to be tried and tested and had widespread support amongst Members. However, experience since the introduction of adoption of these procedures has suggested that some enhancements could be made.

### 5.2 Introduction of a filtering mechanism for complaints.

The vast majority of complaints which are made are not progressed beyond the initial Sub-Committee stage. This is usually because they are either not considered to amount to a breach of the code nor is it felt that the concern which has been raised could be dealt with in another way other than through the formal investigation and hearings procedure. In respect of the latter, this often means that the Monitoring Officer is asked to discuss the matter with the Member who is the subject of the Complaint and ask that they take some remedial action, perhaps writing a letter of apology.

At present there is no "filtering" process to deal with such complaints. Filtering processes have been adopted by other Councils as they have been considered to be a way of more expeditiously dealing with complaints. This can mean that complaints that have no merit can be concluded quickly and without the need to arrange for a formal sub-committee meeting. This is considered to be beneficial to all parties in that the complainant receives earlier notice of the outcome and the Member does not have the ongoing worry of an unresolved complaint.

It could also be used as a means to resolve complaints where other action is a more appropriate remedy.

If Members were to adopt this proposal it is suggested that the filtering could be carried out by the Monitoring Officer in consultation with Members and the Independent Person as set out in the attached revised procedure. The proposal, if adopted, would mean that the "Initial Filtering Panel" would meet informally. At this meeting the Monitoring Officer would decide on the future course of action in consultation with those present. A right of review of that decision would remain if the complainant requested it to a review panel which would take the place of an "Assessment Sub -Committee".

#### **5.3      Time period for Assessment to make an initial assessment of the Complaint**

If the proposed Initial Filtering Panel procedure is not adopted Members are asked to consider a minor amendment to the present procedure. At present 10 days is allowed from the receipt of the complaint to the initial Sub-Committee hearing. Practice has shown that due to Members' availability the time allowed is too short and it is proposed that this is increased to 15 days, although when possible Sub-Committee meetings will take place within a shorter time scale.

### **6    Reasons for recommendations**

- 6.1      It is considered that revisions to the Members' Code of Conduct and Arrangements for Assessment, Investigation and Determination of Complaints are needed to bring clarity to the Code and enable the complaints procedure to be more efficient and less protracted.

### **7    Equality Impact Assessment (EIA)**

- 7.1      It should be noted that the equalities submission form on the Councillors' Code of Conduct Complaint form has been removed. The Council is no longer required to compile this information and therefore this section has been deleted.

### **8    Legal implications**

- 8.1      The Monitoring Officer's comments are included in this report.

### **9    Finance comments:**

- 9.1      There are no financial implications arising from the recommendations set out in this report.

.....  
Monitoring Officer

**Appendices: Appendix A - Members' Code of Conduct**  
**Appendix B - Councillors' Code of Conduct Complaint form (as amended)**  
**Appendix C - Arrangements for Assessment, Investigation and**  
**Determination of Complaints**

**Background list of documents: Section 100D of the Local Government Act 1972**

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

<b>Title of document</b>	<b>Location</b>

## APPENDIX A

### CODE OF CONDUCT FOR MEMBERS

#### Part 1: General Provisions and Interpretation

##### Introduction

This Code of Conduct is adopted by Portsmouth City Council ("the Council") pursuant to its statutory duty to promote and maintain high standards of conduct by Members and Co-opted Members ("Members") of the Council. This Code applies to all Members of the Council, and all members of the Health & Wellbeing Board (excluding a person who is an employee of the Council).

This Code is based on and is consistent with the following principles:

**SELFLESSNESS:** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**INTEGRITY:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

**OBJECTIVITY:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**ACCOUNTABILITY:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**OPENNESS:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**HONESTY:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**LEADERSHIP:** Holders of public office should promote and support these principles by leadership and example.

##### General obligations of Members ("member")

1. You must not bully any person.
2. You must not intimidate, or try to intimidate, anyone who has complained about you or who may be involved with a complaint about you.

3. You must not do anything which compromises the impartiality of the Authority's officers.
4. You must not disclose confidential information (other than in very limited circumstances permitted by law, and following consultation with the Authority's Monitoring Officer).
5. You must not prevent a person from gaining access to information to which they are entitled.
6. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or Authority into disrepute.
7. You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person an advantage or disadvantage.
8. You must, when using or authorising the use by others of the resources of the Authority, act in accordance with the Authority's reasonable requirements, and ensure that the resources are not used improperly for political purposes.
9. When reaching decisions, you must have regard to relevant advice from the Authority's officers, and give reasons for decisions.
10. You must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986 or otherwise\*.
11. You must declare any lobbying that has taken place and those lobbied not to participate in Council business.
12. You should not lobby other members where you have a disclosable pecuniary interest in a matter.

## **2. Scope**

This Code applies to all Members of the Council when acting in their official capacity, or when giving the impression that they are acting as a representative of the Council.

Where a Member is a member of more than one local authority, but acting on behalf of the Council, such Member is, for the avoidance of doubt, bound by this Code of Conduct.

\* "Code of recommended practice in local authority publicity" issued under Section 2 and 4 of the Local Government Act 1986. From 30th March 2014 the Secretary of State has power to require specified local authorities to comply with the Code.

## **Part 2: Registration and Disclosure of Disclosable Pecuniary Interests and Personal Interests**

### **1. Obligations**

- 1.1 You must, within 28 days of taking office as a Member of the Council, supply the Council's Monitoring Officer with details of any disclosable pecuniary interests as set out at Part 3 of this Code.
- 1.2 In addition, you must, within 28 days of taking office as a Member of the Council, supply the Council's Monitoring Officer with details of any personal interest which the Council has decided should be included in Portsmouth City Council's Register of Members' Interests (as set out at Part 4A of this Code).
- 1.3 You must also, within 28 days of becoming aware of any new disclosable pecuniary interest or any personal interest notify Portsmouth City Council's Monitoring Officer of any change.
- 1.4 If you have an interest included on the Register of Members' Interests, you must disclose this interest at any meeting of the Council, its Committees or the Cabinet at which you are present and participating in the business. Where an interest is a 'sensitive interest'<sup>1</sup> you need only disclose the fact that you have a disclosable pecuniary or personal interest in the matter being considered and do not need to disclose details of the interest itself.
- 1.5 If an interest has not been entered onto the Council's Register of Interests, then you must also disclose the interest to any meeting of Portsmouth City Council, its Committees or the Cabinet at which you are present where you have such an interest in any matter being considered.
- 1.6 Unless a dispensation has been granted, you may not participate in any meeting where that interest is required to be disclosed (this would include making a deputation), discussed, voted on, or discharge any function related to any matter in which you have a disclosable pecuniary interest and must (save for in circumstances set out at 1.7 below) withdraw from the room where the meeting considering the business is being held, unless a dispensation has been granted by the Council's Governance and Audit and Standards Committee. If acting as a single Cabinet member you may not take any further steps in relation to the matter other than for the purpose of arranging for the matter to be dealt with otherwise than by yourself.

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<sup>1</sup> A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest (disclosable pecuniary interest or otherwise), and the nature of the interest

## **Part 3: Disclosable Pecuniary Interests**

### **1. Introduction**

A disclosable pecuniary interest is an interest falling within the Schedule set out at Paragraph 3 below of:

- 1.1 Yourself; or
- 1.2 Your spouse or civil partner, or someone you are living with as if you were husband and wife or civil partners, where you are aware that that other person has the interest.

### **2. Interpretation**

In the Schedule set out at Paragraph 3 below, the following words or expressions mean as follows:

- 2.1 'the Act' means the Localism Act 2011;
- 2.2 'body in which the relevant person has a beneficial interest' means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;
- 2.3 'director' includes a member of the committee of management of an industrial and provident society;
- 2.4 'land' excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;
- 2.5 'M' means a member of a relevant authority;
- 2.6 'member' includes a co-opted member;
- 2.7 'relevant authority' means Portsmouth City Council of which M is a member;
- 2.8 'relevant period' means the period of 12 months ending with the day on which M gives a notification for the purposes of Section 30(1) or Section 31(7), as the case may be, of the Act;
- 2.9 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

### **3. Schedule of disclosable pecuniary interests**

<b>Subject</b>	<b>Prescribed description</b>
----------------	-------------------------------



Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a Member, or towards the election expenses of M.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(2).</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority:</p> <ul style="list-style-type: none"> <li>(a) under which goods or services are to be provided or works are to be executed; and</li> <li>(b) which has not been fully discharged.</li> </ul>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to M's knowledge):</p> <ul style="list-style-type: none"> <li>(a) the landlord is the relevant authority; and</li> <li>(b) the tenant is a body in which the relevant person has a beneficial interest.</li> </ul>
Securities	<p>Any beneficial interest in securities of a body where:</p> <ul style="list-style-type: none"> <li>(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either: <ul style="list-style-type: none"> <li>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</li> <li>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</li> </ul> </li> </ul>

Note: 'M' means a member of a relevant authority.

#### 4. **Personal interests**

4.1 You have a personal interest in the business of the Council when it relates to or is likely to affect:

a any body of which you are a member or in a position of general control or management, and to which you are appointed or nominated by the Council.

b any body:

i exercising functions of a public nature;

ii directed to charitable purposes; or

iii one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);

of which you are a member or in a position of general control or management

c any employment or business carried on by you other than for profit or gain;

d any person or body who employs you, or who has appointed you, other than for profit or gain;

e the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50 in the last three years;

4.2 You also have a personal interest in the business of the Council when a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position, or the well-being or financial position of a relevant person (as defined at paragraph 4.3 below), to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral ward within the administrative area of the Council affected by the decision;

4.3 In Paragraph 4.2, a “relevant person” is:

a your spouse or civil partner, or someone you are living with as if you were husband and wife or civil partners, where you are aware that that other person has the interest; or

b another member of your family, or any person with whom you have a close association, where you are aware that that other person has the interest; or

c any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors; or

- d any person or body in whom to the Member's knowledge such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000: or
- e any body of a type described in paragraph 4.1a or 4.1b above.

## **5. Disclosure of Personal Interests**

- 5.1 Subject to paragraphs 5.2 to 5.5 below, where you have a personal interest in any business of the Council you must disclose this interest at any meeting of the Council, its Cabinet or Committees (including joint committees and sub-committees) at which you are present. Such interest should be disclosed at the commencement of consideration of the business or when the interest becomes apparent.
- 5.2 Where you have a personal interest in any business of the Council which relates to or is likely to affect a person described in Part 4 paragraphs 4.1 or 4.2 above, you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- 5.3 The requirement to declare a personal interest only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- 5.4 Where you have a personal interest in any business of the Council and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision (portfolio holder decision notice) records the existence and nature of that interest.
- 5.5 In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

## **6. Prejudicial Interests**

### **6.1 Definition of Prejudicial Interest.**

Subject to paragraph 6.2 below, where you have a personal interest in any business of the Council, you also have a prejudicial interest in that business when the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

### **6.2 Limitation on extent of prejudicial interests**

- a You do not have a prejudicial interest in any business of the Council where that business does not affect your financial position, or the financial position of a body or relevant person as described in Part 4 of this Code; or

- b does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or a body or relevant person as described in Part 4 of this Code; or
- c relates to the functions of the Council in respect of
  - i housing, where you are a tenant of the Council provided that those functions do not relate particularly to your tenancy or lease;
  - ii statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of or are entitled to the receipt of such pay;
  - iii an allowance, payment or indemnity given to members;
  - iv any ceremonial honour given to Members; and
  - v setting council tax or a precept under the Local Government Finance Act 1992.

## **7. Effect of Prejudicial Interests on Participation**

- 7.1 Unless a dispensation has been granted by the Council's Standard's Committee, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a personal interest which is also a prejudicial interest (as set out at Part 6 of this Code), and must as soon as it becomes apparent that you have such an interest (save for in circumstances set out at paragraph 7.2 below) withdraw from the room where the meeting considering the business is being held, and must not seek improperly to influence a decision about that business. If acting as a single Cabinet member you may not take any further steps in relation to the matter other than for the purpose of arranging for the matter to be dealt with otherwise than by yourself.
- 7.2 Without prejudice to paragraph 7.1 above, where you have a prejudicial interest in any business of the Council (including any meeting of an Overview and Scrutiny Committee of the Council) you may, notwithstanding such prejudicial interest, attend such meeting for the purpose of making representations, answering questions or giving evidence relating to such business, provided members of the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.
- 7.3 For the avoidance of doubt the procedure in paragraph 7.2 above cannot be used by the member where the interest comes within the statutory definition of a disclosable pecuniary interest.
- 7.4 In any case where paragraph 7.2 above applies, you must withdraw from the room immediately after making representations, answering questions, or giving evidence.

## APPENDIX B

### COMPLAINT FORM - Councillors' Code of Conduct

To be used if you wish to make an allegation that a Councillor of Portsmouth City Council has failed to comply with the Councillors' Code of Conduct.

#### 1. Your details

Please provide us with your name and contact details

<b>Title:</b>	
<b>First name:</b>	
<b>Last name:</b>	
<b>Address:</b>	
<b>Daytime telephone:</b>	
<b>Evening telephone:</b>	
<b>Mobile telephone:</b>	
<b>Email address:</b>	

Your address and contact details will not usually be released unless necessary to deal with your complaint. The following people will be advised that you have made a complaint:

- The Member(s) you are complaining about
- The Monitoring Officer to Portsmouth City Council (Monitoring Officer)

We will:

- tell them your name
- provide them with a summary of your complaint(s)
- provide full details of your complaint where necessary or appropriate

If you do not wish details of your name and your complaint to be released, please complete section 6 of this form.

**2. Please tell us which best describes you:**

- ☐ Member of the public
- ☐ An elected or co-opted Member of Portsmouth City Council
- ☐ A Member of the Governance and Audit and Standards Committee
- ☐ Member of Parliament
- ☐ Portsmouth City council monitoring officer
- ☐ Council officer of Portsmouth City Council/service employee
- ☐ Other

**3. Making your complaint**

*Please note this section is subject to further amendments following the outcome of the committee meeting on 17 April 2015*

Once you have submitted your complaint, it will be considered by the Governance and Audit and Standards Assessment Sub-Committee. This consists of three Councillors (normally from different political groups represented on the Council) and an Independent Person. None of the Councillors will have any previous involvement in the substance of your complaint.

On the basis of your written submission and any additional relevant material that the Monitoring Officer may produce, the Sub-Committee will assess whether your allegation is likely to amount to a failure to comply with the Councillors' Code of Conduct. If it is considered necessary to do so, the Sub-Committee has a range of options available to it. This can include referral for a full investigation by the Monitoring Officer, mediation or no further action (if it is considered that any failure to comply with the Code of Conduct is of a trivial nature).

The Sub-Committee will meet to consider and determine the matter as soon as reasonably possible. If the Sub-Committee decides that no further action is required in respect of your complaint, you may, within 30 days of the meeting, ask for that decision to be reviewed. This review will be undertaken by the Governance and Audit and Standards Review Sub-Committee which consists of three different Councillors from those who originally considered your complaint. The Review Sub-Committee will have the same range of options available to it as the Assessment Sub-Committee. The Review Sub-Committee will have up to three months to consider and determine the review of your allegations and how they should be dealt with.

If either the Governance and Audit and Standards Assessment or Review Sub-Committee decide that an investigation is required into your complaint, the

Monitoring Officer or someone appointed by him will be instructed to undertake it. You will be given further information at that time should an investigation be necessary.

**4. Please provide us with the name of the Member(s) you believe have breached the Code of Conduct:**

Title	First Name	Last Name

**5. Please explain in this section (or on separate sheets) what the Member has done that you believe breached the code of Conduct.**

If you are complaining about more than one Member you should clearly explain what each individual person has done that you believe breached the Code of Conduct.

A copy of the Portsmouth City Council Code of Conduct for Councillors can be found at the following Web address:

[http://www.portsmouth.gov.uk/media/Constitution\\_P4.pdf](http://www.portsmouth.gov.uk/media/Constitution_P4.pdf)

Alternatively, a paper copy can be supplied on request by contacting:

The Monitoring Officer to Portsmouth City Council, Civic Offices, Guildhall Square, Portsmouth, PO1 2AL

- You should be specific, wherever possible, about exactly what you are alleging the Member said or did. For instance, instead of writing that the Member insulted you, you should state what it was they said.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.

Please provide us with the details of your complaint and the desired outcome from this complaints process. Continue on a separate sheet if there is not enough space on this form.



Signature.....

Date.....

**6. Only complete this next section if you are requesting that your identity is kept confidential.**

In the interests of fairness and natural justice, we believe Members who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or details of your complaint unless you have good reason to justify that Portsmouth City Council do so.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The Monitoring Officer will consider the request alongside the substance of your complaint. We will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

## **7. Additional Help**

Complaints must be submitted in writing. This includes electronic submissions. However, in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

We can also help if English is not your first language.

If you need any support in completing this form, please let us know as soon as possible.

This complaint should be submitted to the Monitoring Officer by email to:  
[michael.lawther@portsmouthcc.gov.uk](mailto:michael.lawther@portsmouthcc.gov.uk)

Alternatively, by post to: The Monitoring Officer to Portsmouth City Council, Civic Offices, Guildhall Square, Portsmouth, PO1 2AL

## APPENDIX C

### **Governance and Audit and Standards Committee Arrangements for Assessment, Investigation and Determination of a Complaint that a Member has failed to Comply with the Members' Code of Conduct**

#### **1. Application of these Arrangements**

- 1.1. These are the Arrangements to be followed by the Governance and Audit and Standards Committee of Portsmouth City Council ("the Council") in the assessment, investigation and determination of a complaint that any Member of the Authority has failed to comply with the Members' Code of Conduct. The Arrangements will be followed and applied in accordance with the requirements of the Localism Act 2011.

#### **2. Receipt of Complaint**

- 2.1. A complaint shall be made by email to [michael.lawther@portsmouthcc.gov.uk](mailto:michael.lawther@portsmouthcc.gov.uk) or by post addressed to the Monitoring Officer to Portsmouth City Council (Civic Offices, Guildhall Square, Portsmouth PO1 2AL). The Complaint Form at Appendix 3 (Part 3) shall be used for this purpose.
- 2.2. Anonymous complaints will not normally be considered unless the complaint is accompanied by documentary or photographic evidence indicating an exceptionally serious or significant matter.

#### **3. Notification to Member**

- 3.1. The Monitoring Officer shall provide the Member who is the subject of the allegation with written notification that a complaint has been made.

#### **4. Terms of Reference of Governance and Audit and Standards Assessment Sub-Committee and Initial Filtering Panel**

- 4.1. The Initial Filtering Panel is established to receive allegations that a Member of the Council has failed to comply with the Members' Code of Conduct.
- 4.2. The Initial Filtering Panel shall be an informal meeting to enable the Monitoring Officer to obtain the views of Members upon a complaint, shall comprise three members and shall in so far as practicable shall have no more than one member of each political group represented on it
- 4.3. The Monitoring Officer will, within 10 working days of receipt of the complaint, set up an Initial Filtering Panel to see if the complaint falls within the Local Assessment Criteria in Appendix 3 (Part 1). Having considered the complaint and taken into account the views of the Members and Independent Persons, the Monitoring Officer will:-

- 4.3.1. Arrange:

- 4.3.1.1. a formal investigation of the allegation, or

- 4.3.1.2. training or conciliation,
- 4.3.1.3. such other appropriate alternative steps; or

4.3.2. Decide that no action should be taken in respect of the allegation.

- 4.4. The Monitoring Officer will take reasonable steps to notify the person making the allegation, and the Member the subject of it, of that decision. Where the decision is that no action should be taken, reasons for the decision shall be given, and reference made to the right to request a review of that decision under Paragraph 5 below. This notification shall normally be given within ten working days of the decision being made.
- 4.5. The notification to the Member concerned shall include the name of the complainant and a written summary of the allegation, unless the Monitoring Officer determines that to do so would be contrary to the public interest or would prejudice any person's ability to investigate the allegation.
- 4.6. When it is decided to investigate or take other action, it does not mean that the Monitoring Officer has made up his mind about the allegation.

The Monitoring Officer makes no findings of fact on the matter. It simply means that the Monitoring Officer believes the alleged conduct, if proven, may amount to a failure to comply with the Code of Conduct, and that some action should be taken in response to the complaint.

## 5. **Right to Request a Review**

- 5.1. Where a decision is made by the Monitoring Officer that no action should be taken in respect of the allegation, the person who made the allegation may make a request for that decision to be reviewed. The request shall be made in writing addressed to the Chair, Governance and Audit and Standards Committee. The request must be received within 30 days of notification being given under paragraph 4.4 above.
- 5.2. On receipt of a request for review, it shall be passed to the Monitoring Officer

## 6. **Convening of Meeting of the Governance and Audit and Standards Review Sub-Committee**

- 6.1. In consultation with the Chair, the Monitoring Officer shall appoint, and convene a meeting of, the Governance and Audit and Standards Review Sub-Committee, ("the Review Sub-Committee") from amongst the Members of the Governance and Audit and Standards Committee, provided that at all times the composition of the Sub-Committee complies with paragraphs 6.2 and 6.3. The meeting shall take place within 20 working days of the date of receipt of the request for review, where practicable, and certainly within a maximum of three months from that date.
- 6.2. The Review Sub-Committee shall comprise three members and so far as is practicable have no Page 48 one member from each political group represented on it.

- 6.3. The Review Sub-Committee shall not include any member who was a member of the Assessment Sub-Committee whose decision to take no action is subject to review. This is to minimise the risk of conflicts of interest and ensure fairness for all parties.

**7. Notification to Member**

- 7.1. The Monitoring Officer shall notify the Member who is the subject of the allegation that a request for review has been received.

**8. Terms of Reference of Governance and Audit and Standards Review Sub-Committee**

- 8.1. The Governance and Audit and Standards Review Sub-Committee is established to review, upon the request of the person who has made an allegation that a Member of the Authority has failed or may have failed to comply with the Council's Code of Conduct, a decision of the Governance and Audit and Standards Assessment Sub-Committee that no action be taken in respect of that allegation.
- 8.2. Upon receipt of such request for a review and any accompanying report by the Monitoring Officer the Governance and Audit and Standards Review Sub-Committee shall, within 10 working days, review the decision of the Assessment Sub-Committee and shall then do one of the following:
- 8.2.1. Refer the allegation to the Monitoring Officer with an instruction that he/she arrange a formal investigation of the allegation or (after consultation with the Deputy Monitoring Officer where appropriate) directing that he/she arrange training, conciliation or such other appropriate alternative steps; or
- 8.2.2. Decide that no action should be taken in respect of the allegation; or
- 8.2.3. Where the allegation is in respect of a person who is no longer a Member of the Authority but is a Member of another relevant authority (as defined in Section 27(6) of the Localism Act 2011) refer the allegation to the Monitoring Officer of that other Authority.
- 8.3. In reaching its decision, the Sub-Committee shall have regard to the Local Assessment Criteria in Appendix 3 (Part 1).
- 8.4. The Sub-Committee shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation, and the Member concerned, of that decision. Where the decision is that no action should be taken, reasons for the decision shall be given. This notification shall normally be given within ten working days of the decision being made.
- 8.5. When a matter is referred for investigation or other action, it does not mean that the Sub-Committee has made up its mind about the allegation. The Sub-Committee makes no findings of fact on the matter. It simply means that the Sub-Committee believes the alleged conduct, if proven,

may amount to a failure to comply with the Code of Conduct, and that some action should be taken in response to the complaint.

## **9. Referral for Steps other than Investigation**

- 9.1. Where the Assessment Sub-Committee or Review Sub-Committee has consulted the Monitoring Officer with a view to making a direction to take steps other than investigation that involve conciliation, the Monitoring Officer shall contact the person making the allegation, and the Member the subject of it, seeking confirmation that they would co-operate with the action proposed if such a direction were made. It must be made clear that the decision to take other action, if pursued, will close the opportunity for the complaint to be fully investigated. The Monitoring Officer shall inform the Sub-Committee of the responses received from the complainant and member.
- 9.2. Where a direction is then made to take steps other than investigation, the Monitoring Officer shall produce a written report of the action taken or proposed. The report shall be considered by the Governance and Audit and Standards Committee within three months of the direction being given. This meeting shall normally be open to the press and public, unless the Committee decides that, in accordance with Part VA of and Schedule 12A to the Local Government Act 1972, the report should be considered in private session.
- 9.3. If the Governance and Audit and Standards Committee is not satisfied with the action specified in the report, it shall give a further direction to the Monitoring Officer to take such further steps as appear appropriate.
- 9.4. If the Governance and Audit and Standards Committee is satisfied with the action specified in the report, it shall authorise the Monitoring Officer to give written notice to that effect to the person making the allegation and the member the subject of it. A written summary of the main points considered at the meeting, including the conclusion reached in respect of the allegation, and the reasons for it, shall be recorded.

## **10. Referral to the Governance and Audit and Standards Committee**

Where the decision of the Assessment Sub-Committee, or Review Sub-Committee is that the matter should be referred to the Governance and Audit and Standards Committee, the Monitoring Officer shall notify the Governance and Audit and Standards Committee in writing.

Where the referral is accepted by the Governance and Audit and Standards Committee, the further handling of the matter shall be the responsibility of the Governance and Audit and Standards Committee.

## **11. Referral for Investigation**

- 11.1. Where the Assessment Sub-Committee or Review Sub-Committee has referred the matter to the Monitoring Officer for investigation, the Monitoring Officer shall arrange for such investigation to be carried out by the Deputy Monitoring Officer, or other person the Monitoring Officer

considers to be suitably qualified and experienced to undertake the task ("the Investigating Officer"). This may include:

- 11.1.1. Making inquiries of such persons as the Investigating Officer considers necessary or expedient;
- 11.1.2. Requiring such persons to give such information or explanation as the Investigating Officer considers expedient;
- 11.1.3. Inspection of such documents as the Investigating Officer considers expedient.

The Monitoring Officer may refer the matter back to the Assessment Sub-Committee if, as a result of new evidence or information, he is of the opinion that the matter is materially more or less serious than may have been apparent when the decision to refer the matter for investigation was made, and that the Sub-Committee would have made a different decision had it been aware of that new evidence or information. The Monitoring Officer may also refer the matter back to the Sub-Committee if the Subject-Member has died, resigned, or is seriously ill, and he is of the opinion that it is no longer appropriate to continue with an investigation.

- 11.2. Where the matter is referred back to the Assessment Sub-Committee under Paragraph 11.1, the Sub-Committee may make any of the decisions referred to in Paragraph 4.3.
- 11.3. On completion of an investigation, the Investigating Officer shall prepare a written report of the investigation making one of the following findings:
  - 11.3.1. That there has been a failure to comply with the Code of Conduct; or
  - 11.3.2. That there has not been a failure to comply with the Code of Conduct
- 11.4. The Monitoring Officer shall send a copy of the Investigating Officer's report to the Member the subject of the allegation, and to the Governance and Audit and Standards Committee. The Governance and Audit and Standards Committee shall then arrange for the report to be considered at a hearing of the Governance and Audit and Standards Consideration Sub-Committee ("Consideration Sub-Committee").

## **12. Convening a meeting of the Consideration Sub-Committee**

- 12.1. In consultation with the Chair, the Monitoring Officer shall appoint, and convene a meeting of, the Consideration Sub-Committee, from amongst the Members of the Governance and Audit and Standards Committee, provided that at all times the investigation shall be carried out in accordance with any guidance issued by the Governance and Audit and Standards Committee and the composition of the Sub-Committee complies with Paragraph 12.2.
- 12.2. The Consideration Sub-Committee shall comprise three members. Membership may include any member who has participated in consideration of the allegation at a meeting of the Assessment Sub-

Committee or Governance and Audit and Standards Review Sub-Committee at an earlier stage.

- 12.3. This meeting shall not normally be open to the press and public, provided that the Sub-Committee decides that, in accordance with Part VA and Schedule 12A to the Local Government Act 1972, the report should be considered in private session.

**13. Terms of Reference of the Consideration Sub-Committee**

- 13.1. The Consideration Sub-Committee shall be responsible for determining whether:
- 13.1.1. It accepts the Monitoring Officer's finding of no failure to observe the Code of Conduct; or
- 13.1.2. The matter should be referred to consideration at a hearing before the Governance and Audit and Standards Hearings Sub-Committee

**14. Finding of No Failure**

- 14.1. Where a finding of no failure is made, the Monitoring Officer shall give written notification of this to the person who made the allegation, and the Member the subject of it.
- 14.2. The Monitoring Officer shall also arrange for a notice to be published on the Council's website, within 10 working days stating that there has been no failure to comply with the Code of Conduct, unless the Member the subject of the allegation requests that no such notice be published.

**15. Convening a meeting of the Governance and Audit and Standards Hearings Sub-Committee ("the Hearings Sub-Committee")**

- 15.1. Where the Assessment Sub-Committee decides that the matter should be referred for consideration at a hearing before the Hearings Sub-Committee, then, in consultation with the Chair, the Monitoring Officer shall appoint, and convene a meeting of, the Hearings Sub-Committee for this purpose. The Sub-Committee shall be appointed from amongst the Members of the Governance and Audit and Standards Committee, provided that at all times the composition of the Sub-Committee complies with Paragraph 4.2.
- 15.2. The Hearings Sub-Committee shall comprise three members. Membership may include any member who has participated in consideration of the allegation at a meeting of the Assessment Sub-Committee, Standards Review Sub-Committee or Consideration Sub-Committee at an earlier stage.
- 15.3. The meeting shall be held within three months of the date of completion of the Investigating Officer's report (or as soon as reasonably practicable thereafter) and at least fourteen days after the date on which the Monitoring Officer sent the Investigating Officer's report to the member the subject of the allegation, or as soon as the member agrees to it being held earlier).



- 15.4. This meeting shall normally be open to the press and public, unless the Sub-Committee decides that, in accordance with Part VA and Schedule 12A to the Local Government Act 1972, the report should be considered in private session.
- 15.5. The meeting of the Hearings Sub-Committee may consider the report in the subject member's absence if the subject member does not attend the hearing. If the Sub-Committee is satisfied with the subject member's reasons for not being able to attend the meeting, it may arrange for the hearing to take place on another date.

## 16. **Terms of Reference of Hearings Sub-Committee**

- 16.1. The Hearings Sub-Committee is established to hold a hearing and make one of the following findings:
  - 16.1.1. That the Member did not fail to comply with the Code of Conduct; or
  - 16.1.2. That the Member did fail to comply with the Code of Conduct, but that no action needs to be taken in respect of the matters considered at the hearing: or
  - 16.1.3. That the Member did fail to comply with the Code of Conduct and that one of, or any combination of, the following sanctions should be imposed:
    - 16.1.3.1. Censure of the Member:
    - 16.1.3.2. Restriction for a period not exceeding six months of that Member's access to the premises of the Authority or that Member's use of the resources of the Authority, provided that those restrictions are reasonable and proportionate to the nature of the breach, and do not unduly restrict the Member's ability to perform the functions of a Member;
    - 16.1.3.3. Recommending to the Member's Group Leader that he/she be removed from any or all Committees or Sub-Committees of the Authority;
    - 16.1.3.4. Reports its findings to the Authority and/or the relevant authority responsible for appointing the Member to the Authority.
- 16.2. Any sanction imposed shall take effect immediately, except where the Sub-Committee directs that it shall take effect on a later date within the following six months.

## 17. **Pre-Hearing Procedure**

- 17.1. In consultation with the Chair of the Governance and Audit and Standards Committee, the Monitoring Officer shall write to the Subject Member proposing a date for the hearing. The letter shall outline the hearing

procedure, and the member's rights, asking for a response within a set time. The letter shall enquire whether the subject member:

- 17.1.1. Wants to be represented at the hearing by a solicitor, barrister or other person;
  - 17.1.2. Disagrees with any of the findings in the investigation report, including reasons for any disagreements;
  - 17.1.3. Wants to give evidence at the hearing, either verbally or in writing;
  - 17.1.4. Wants to call relevant witnesses to give evidence and, if so to provide outlines or statements of the evidence those witnesses intend to give;
  - 17.1.5. Wants any part of the hearing to be held in private;
  - 17.1.6. Wants to have any part of the investigation report or other documents withheld from the public, and
  - 17.1.7. Can attend the hearing.
- 17.2. The Monitoring Officer shall send a copy of the Subject Member's response to the Investigating Officer, inviting them to say by a set date whether they wish to:
- 17.2.1. Be represented at the hearing;
  - 17.2.2. Call relevant witnesses to give evidence;
  - 17.2.3. Have any part of the hearing held in private; and
  - 17.2.4. Have any part of the investigation report or other documents withheld from the public.
- 17.3. The Monitoring Officer shall advise the Hearings Sub-Committee as necessary on any matter arising out of the Subject Member's response. At least two weeks before the hearing, the Monitoring Officer shall send a pre-hearing process summary to everyone involved in the complaint. This should set the date, time and place for the hearing, summarise the allegation, outline the main facts that are agreed and those which are not agreed, note whether the subject member will attend and be represented, list the witnesses who intend to give evidence, and outline the procedure to be followed at the hearing.

## 18. **Hearing Procedure**

- 18.1. The hearing is a formal meeting of the Authority and is not a court of law. It does not hear evidence under oath, but it does decide factual evidence on the balance of probabilities. The hearing will be conducted in a demonstrably fair, independent and politically impartial way, so that members of the public and members of the Authority have confidence in the Council's procedures and findings.

- 18.2. The procedure followed at the hearing will be confirmed in the pre-hearing process summary referred to in Paragraph 17.3.

19. **Notification of Findings**

- 19.1. As soon as reasonably practicable after the Hearings Sub- Committee makes its finding on the matter, the Monitoring Officer shall give written notice of the finding and the reasons for it to the Subject-Member and the person who made the allegation. A summary of the finding and reasons for it shall be placed on the Council's website.
- 19.2. Where the finding is that there was no failure to comply with the Code of Conduct, a summary of the finding and reasons for it shall not be placed on the Council's website if the Subject-Member the subject of the finding so requests.

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