

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 in-writing by email to michael.lawther@portsmouthcc.gov.uk or by post addressed to the City Solicitor/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. ~~A completed Complaint Form may be submitted electronically by email to michael.lawther@portsmouthcc.gov.uk~~
- 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. Convening of Meeting of the Governance and Audit and Standards Assessment Sub-Committee~~

- ~~3.1. The City Solicitor shall arrange and convene a meeting of the Governance and Audit and Standards Assessment 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 Paragraph 3.2.~~
- ~~3.2. The Governance and Audit and Standards Assessment Sub-Committee shall comprise three members and shall in so far as practicable have a Members of each political group represented upon it.~~
- ~~3.3. The meeting shall normally take place within 10 working days of the date of receipt of the complaint.~~

4.3. Notification to Member

4.1.3.1. The ~~City Solicitor~~Monitoring Officer shall provide the Member who is the subject of the allegation with written notification that a complaint has been made, ~~the name of the complainant (unless the complainant has requested confidentiality in section 6 of the Complaint Form) and the relevant paragraphs of the Code of Conduct that.~~

Terms of Reference of

5.4. ~~may have been breached. The notification shall state that a written summary of the allegation can only be provided once the~~Initial Filtering Panel and Governance and Audit and Standards Assessment Sub-Committee ~~has met to consider the complaint, and the date of this meeting, if known.~~

The Initial Filtering Panel

6. ~~Terms of Reference of~~ Governance and Audit and Standards Assessment SubCommittee

6.1.4.1. ~~The Governance and Audit and Standards Assessment Sub-Committee~~ is established to receive allegations that a Member of the Council has failed to comply with the Members' Code of Conduct.

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4.2. ~~Upon receipt of each allegation and any accompanying report by~~Initial Filtering Panel shall be an informal meeting to enable the City Solicitor, 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

6.2. ~~The Sub-Committee shall~~Monitoring Officer will, within 10 working days, ~~make of receipt of the complaint, set up an Initial assessment of the allegation~~Filtering Panel to see if ~~it~~the complaint falls within the ~~Committees jurisdiction and shall then do one of the following:~~

4.3. ~~Refer~~Local Assessment Criteria in Appendix 3 (Part 1). Having considered the allegation to complaint and taken into account the City Solicitor with an instruction that he/she arrange views of the Members and Independent Persons, the Monitoring Officer will:-

4.3.1. Arrange:

- ~~6.2.1.1.4.3.1.1.~~ a formal investigation of the allegation, or
4.3.1.2. ~~(after consultation with the City Solicitor)~~ directing that he/she
arrange training, or conciliation or,
~~6.2.1.2.4.3.1.3.~~ such other appropriate alternative steps; or

~~6.2.2.4.3.2.~~ Decide that no action should be taken in respect of the
allegation; or,

~~6.2.3.~~ Where the allegation is in respect of a person who is no longer a
Member of the Council but is a Member of another relevant authority
(as defined in Section 27(6) of the Localism Act 2011) refer the
allegation to the City Solicitor of that other Authority.

~~6.3.~~ In reaching its decision, the Sub-Committee shall have regard to the Local
Assessment Criteria in Appendix 3 (Part 1).

The Monitoring Officer will

~~6.4.4.4.~~ ~~The Governance and Audit and Standards Assessment Sub-Committee~~
~~shall instruct the City Solicitor to~~ 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 65 below. This notification shall
normally be given within fiveten working days of the decision being made.

~~6.5.4.5.~~ The notification to the Member concerned ~~under Paragraph 5.4~~ shall
include ~~the name of the complainant and~~ a written summary copy of the
allegation/complaint, unless the ~~Sub-Committee~~ Monitoring Officer
determines that to ~~do so~~ disclose the identity of the complainant would be
contrary to the public interest or would prejudice any person's ability to
investigate the allegation.

~~6.6.4.6.~~ When ~~a matter is referred~~ decided to ~~the City Solicitor for investigation~~
~~or investigate or take~~ other action, it does not mean that the ~~Sub-~~
~~Committee~~ Monitoring Officer has made up ~~its~~ his mind about the
allegation.

The ~~Sub-Committee~~ Monitoring Officer makes no findings of fact on the
matter. It simply means that the ~~Sub-Committee~~ 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.

7.5. Right to Request a Review

~~7.1.5.1.~~ Where a decision is made by the ~~Governance and Audit and Standards~~
~~Assessment Sub-Committee~~ 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 Monitoring Officer.~~ The request must be received within 30 days of notification being given under ~~Para 5.4 paragraph 0~~ above.

~~7.2. On receipt of a request for review, it shall be passed to the City Solicitor~~

~~8.6.~~ **Convening of Meeting of the Governance and Audit and Standards Review SubCommittee**
~~Sub-Committee~~

~~8.1.6.1.~~ ~~In consultation with the Chair, the City Solicitor~~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 ~~7.2 and 7.3.6.2~~ and 0. 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.

~~8.2.6.2.~~ The ~~Governance and Audit and Standards Committee~~ Review Sub-Committee shall comprise three members- and so far as is practicable have no more than one member from each political group represented on it.

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~~8.3.6.3.~~ ~~The Governance and Audit and Standards Committee~~ Review Sub-Committee shall not include any member who was a member of the ~~Governance and Audit and Standards~~ 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.

~~9.7.~~ **Notification to Member**

~~9.1.7.1.~~ The ~~City Solicitor~~Monitoring Officer shall notify the Member who is the subject of the allegation that a request for review has been received.

~~10.8.~~ **Terms of Reference of Governance and Audit and Standards Review SubCommittee**
~~Sub-Committee~~

~~10.1.8.1.~~ 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.

~~10.2.8.2.~~ Upon receipt of such request for a review and any accompanying report by the ~~City Solicitor~~Monitoring Officer the Governance and Audit and Standards Review Sub-Committee shall, within 10 working days, review the decision of the Assessment ~~SubCommittee~~Sub-Committee and shall then do one of the following:

~~10.2.1.8.2.1.~~ Refer the allegation to the ~~City Solicitor~~Monitoring Officer with an instruction that he/she arrange a formal investigation of the

allegation or (after consultation with the Deputy ~~City Solicitor~~Monitoring Officer where appropriate) directing that he/she arrange training, conciliation or such other appropriate alternative steps; or

~~10.2.2.8.2.2.~~ Decide that no action should be taken in respect of the allegation; or

~~10.2.3.8.2.3.~~ 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 ~~City Solicitor~~Monitoring Officer of that other Authority.

~~10.3.8.3.~~ In reaching its decision, the Sub-Committee shall have regard to the Local Assessment Criteria in Appendix 3 (Part 1).

~~10.4.8.4.~~ The Sub-Committee shall instruct the ~~City Solicitor~~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 ~~five~~ten working days of the decision being made.

~~10.5.8.5.~~ 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 ~~SubCommittee~~Sub-Committee makes no findings of fact on the matter. It simply means that the ~~SubCommittee~~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.

~~11.9.~~ **Referral for Steps other than Investigation**

~~11.1.~~ Where the ~~Governance and Audit and Standards~~ Assessment Sub-Committee or ~~Governance and Audit and Standards~~ Review Sub-Committee has consulted the

~~11.2.9.1.~~ ~~City Solicitor~~Monitoring Officer with a view to making a direction to take steps other than investigation that involve conciliation, the ~~City Solicitor~~Monitoring Officer shall contact the person making the allegation, and the Member the subject of it, seeking confirmation that they would cooperate 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 ~~City Solicitor~~Monitoring Officer shall inform the Sub-Committee of the responses received from the complainant and member.

~~11.3.9.2.~~ Where a direction is then made to take steps other than investigation, the ~~City Solicitor~~Monitoring Officer shall ~~produce a written~~ report this as part of ~~the action taken or proposed. The~~his annual report ~~shall be considered by the~~to 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.

~~11.4. — 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 City Solicitor to take such further steps as appear appropriate.~~

~~11.5. — If the Governance and Audit and Standards Committee is satisfied with the action specified in the report, it shall authorise the City Solicitor 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.~~

~~11.6. — Referral to the Governance and Audit and Standards Committee~~

~~Where the decision of the Governance and Audit and Standards Assessment Sub-Committee, or Governance and Audit and Standards Review SubCommittee, is that the matter should be referred to the Governance and Audit and Standards Committee, the City Solicitor 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.~~

12.10. Referral for Investigation

~~12.1.10.1. — Where the Governance and Audit and Standards Assessment Sub-Committee or Governance and Audit and Standards~~Initial Filtering Panel ~~or Review Sub-Committee has referred the matter to the City Solicitor~~Monitoring Officer ~~for investigation, the City Solicitor~~Monitoring Officer ~~shall arrange for such investigation to be carried out by the Deputy City Solicitor~~Monitoring Officer~~, or other person the City Solicitor~~Monitoring Officer ~~considers to be suitably qualified and experienced to undertake the task (“the Investigating Officer”). This may include:~~

~~12.1.1.10.1.1. — Making inquiries of such persons as the Investigating Officer considers necessary or expedient;~~

~~12.1.2.10.1.2. — Requiring such persons to give such information or explanation as the Investigating Officer considers expedient;~~

~~12.1.3.10.1.3. — Inspection of such documents as the Investigating Officer considers expedient.~~

~~12.2. — The City Solicitor may refer the matter back to the Governance and Audit and Standards 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 City Solicitor may also refer the matter back to the Sub-Committee if the Member the subject of the allegation.~~ The Monitoring Officer may set up a Sub-Committee to consider its further progress 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.

~~12.3.10.2.~~ Where the matter is referred back to the Governance and Audit and Standards Assessmenta Sub-Committee ~~under Paragraph 12.2, the Sub-Committeethey~~ may ~~make any of the decisions referred~~ decide not to in Paragraph 5.2 proceed with the investigation.

~~12.4.10.3.~~ On completion of an investigation, the Investigating Officer shall prepare a written report of the investigation making one of the following findings:

~~12.4.1.10.3.1.~~ That there has been a failure to comply with the Code of Conduct; or

~~12.4.2.10.3.2.~~ That there has not been a failure to comply with the Code of Conduct

~~12.5.10.4.~~ The ~~City Solicitor~~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").

~~13.11.~~ **Convening a meeting of the ~~Governance and Audit and Standards Consideration Sub-Committee~~**

~~13.1.11.1.~~ In consultation with the Chair, the ~~City Solicitor~~Monitoring Officer shall appoint, and convene a meeting of, the ~~Governance and Audit and Standards Consideration SubCommitteeSub-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 ~~13.2.11.2.~~

~~13.2.11.2.~~ The ~~Governance and Audit and Standards~~ 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 Governance and Audit and Standards ~~Assessment Sub-Committee or Governance and Audit and Standards~~ Review Sub-Committee at an earlier stage.

~~13.3.11.3.~~ 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.

14.12. Terms of Reference of the ~~Governance and Audit and Standards~~ Consideration Sub-Committee

~~14.1.12.1.~~ The ~~Governance and Audit and Standards~~ Consideration Sub-Committee shall be responsible for determining whether:

~~14.1.1.12.1.1.~~ It accepts the City Solicitor's Monitoring Officer's finding of no failure to observe the Code of Conduct; or

~~14.1.2.12.1.2.~~ The matter should be referred to consideration at a hearing before the Governance and Audit and Standards Hearings Sub-Committee; ~~or~~

15.13. Finding of No Failure

~~15.1.13.1.~~ Where a finding of no failure is made ~~under Paragraph 13.1.1~~, the City Solicitor Monitoring Officer shall give written notification of this to the person who made the allegation, and the Member the subject of it.

~~15.2.13.2.~~ The City Solicitor 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.

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

~~16.1.14.1.~~ Where the ~~Governance and Audit and Standards~~ Assessment Sub-Committee decides that the matter should be referred for consideration at a hearing before the ~~Governance and Audit and Standards~~ Hearings Sub-Committee, then, in consultation with the Chair, the City Solicitor Monitoring Officer shall appoint, and convene a meeting of, the ~~Governance and Audit and Standards~~ 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 ~~15.2.0.~~

~~16.2.14.2.~~ The ~~Governance and Audit and Standards Committee~~ 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 Governance and Audit and Standards Assessment Review Sub-Committee, ~~Standards Review SubCommittee~~ or Governance and Audit and Standards Consideration SubCommittee Sub-Committee at an earlier stage.

~~16.3.14.3.~~ 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 City Solicitor Monitoring Officer sent the Investigating Officer's report to the member the subject of the allegation, ~~under Paragraph 11.5 above~~ (unless the member agrees to it being held earlier).

~~16.4.14.4.~~ This meeting shall normally be open to the press and public, unless the ~~SubCommitteeSub-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.
~~Local Government Act 1972, the report should be considered in private session.~~

~~16.5.14.5.~~ The meeting of the ~~Governance and Audit and Standards~~ Hearings ~~SubCommitteeSub-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.

~~17.15.~~ **Terms of Reference of ~~Governance and Audit and Standards~~ Hearings ~~SubCommitteeSub-Committee~~**

~~17.1.15.1.~~ The ~~Governance and Audit and Standards~~ Hearings Sub-Committee is established to hold a hearing and make one of the following findings:

~~17.1.1.15.1.1.~~ That the Member did not fail to comply with the Code of Conduct; or

~~17.1.2.15.1.2.~~ 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

~~17.1.3.15.1.3.~~ 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:

~~17.1.3.1.15.1.3.1.~~ Censure of the Member;

~~17.1.3.2.15.1.3.2.~~ 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;

~~17.1.3.3.15.1.3.3.~~ Recommending to the Member's Group Leader that he/she be removed from any or all Committees or Sub-Committees of the Authority;

~~17.1.3.4.15.1.3.4.~~ Reports its findings to the Authority and/or the relevant authority responsible for appointing the Member to the Authority.

~~17.2.15.2.~~ Any sanction imposed shall take effect immediately, except where the ~~SubCommitteeSub-Committee~~ directs that it shall take effect on a later date within the following six months.

~~18.16.~~ **Pre-Hearing Procedure**

~~48.1.16.1.~~ In consultation with the Chair of the Governance and Audit and Standards Committee, the ~~City Solicitor~~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:

~~48.1.1.16.1.1.~~ Wants to be represented at the hearing by a solicitor, barrister or other person;

~~48.1.2.16.1.2.~~ Disagrees with any of the findings in the investigation report, including reasons for any disagreements;

~~48.1.3.16.1.3.~~ Wants to give evidence at the hearing, either verbally or in writing;

~~48.1.4.16.1.4.~~ Wants to call relevant witnesses to give evidence and, if so to provide outlines or statements of the evidence those witnesses intend to give;

~~48.1.5.16.1.5.~~ Wants any part of the hearing to be held in private:

~~48.1.6.16.1.6.~~ Wants to have any part of the investigation report or other documents withheld from the public, and

~~48.1.7.16.1.7.~~ Can attend the hearing.

~~48.2.16.2.~~ The ~~City Solicitor~~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:

~~48.2.1.16.2.1.~~ Be represented at the hearing:

~~48.2.2.16.2.2.~~ Call relevant witnesses to give evidence;

~~48.2.3.16.2.3.~~ Have any part of the hearing held in private; and

~~48.2.4.16.2.4.~~ Have any part of the investigation report or other documents withheld from the public.

~~48.3.16.3.~~ The ~~City Solicitor~~Monitoring Officer shall advise the ~~Governance and Audit and Standards~~ Hearings Sub-Committee as necessary on any matter arising out of the Subject Member's response. At least two weeks before the hearing, the ~~City Solicitor~~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.

~~49.17.~~ **Hearing Procedure**

~~49.1.17.1.~~ 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.

~~19.2.17.2.~~ The procedure followed at the hearing will be confirmed in the pre-hearing process summary referred to in Paragraph ~~17.3-16.3.~~

~~20.18.~~ **Notification of Findings**

~~20.1.~~ As soon as reasonably practicable after the ~~Governance and Audit and Standards~~ Hearings Sub- Committee makes its finding on the matter, the ~~City~~

~~20.2.18.1.~~ ~~Solicitor~~ Monitoring Officer shall give written notice of the finding and the reasons for it to the Subject-Member ~~the subject of the finding, and~~ the person who made the allegation. A summary of the finding and reasons for it shall be placed on the Council's website.

~~20.3.18.2.~~ 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.