



STANDARDS COMMITTEE

DATE:	Wednesday, 2 October 2019
TIME:	10.00 am
VENUE:	Council Chamber - Council Offices, Thorpe Road, Weeley, CO16 9AJ

MEMBERSHIP:

Councillor Land (Chairman)	Councillor Overton
Councillor Amos (Vice-Chairman)	Councillor Steady
Councillor Harris	Councillor Wiggins
Councillor J Henderson	

Most Council meetings are open to the public and press.

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Meeting papers can be provided, on request, in large print, in Braille, or on disc, tape, or in other languages.

For further details and general enquiries about this meeting, contact Ian Ford on 01255 686584.

DATE OF PUBLICATION: Tuesday, 24 September, 2019

AGENDA

1 Apologies for Absence and Substitutions

The Committee is asked to note any apologies for absence and substitutions received from Members.

2 Minutes of the Last Meeting (Pages 1 - 4)

To confirm and sign as a correct record, the minutes of the meeting of the Standards Committee, held on Wednesday 3 July 2019.

3 Declarations of Interest

Councillors are invited to declare any Disclosable Pecuniary Interests or Personal Interest, and the nature of it, in relation to any item on the agenda.

4 Questions on Notice pursuant to Council Procedure Rule 38

Subject to providing two working days' notice, a Member of the Committee may ask the Chairman of the Committee a question on any matter in relation to which the Council has powers or duties which affect the Tendring District **and** which falls within the terms of reference of the Committee.

5 Report of Head of Democratic Services & Elections - A.1 - Councillor Development Statement (Pages 5 - 22)

To ensure that the Committee is aware of the development of the Statement, has the opportunity to input into the Statement and can be re-assured that within the overall ambit of good governance at the Council the need to support the development of Councillors in their roles is being given further recognition through the development of the Statement.

6 Report of the Monitoring Officer - A.2 - "The Local Government Ethical Standards Report dated January 2019 following a review by the Committee on Standards in Public Life" (Pages 23 - 34)

Further to Minute 7 of the meeting of the Committee held on 3 July 2019, Members will consider a breakdown of:-

- (1) which of the CSPL's recommendations required changes in legislation;
- (2) which of the CSPL's 'good practice' recommendations could be adopted and implemented straight away by local authorities; and
- (3) which of the 'good practice' recommendations referred to in (2) above this Council has already implemented.

7 Review of the Council's Complaints Procedure (Pages 35 - 50)

The Committee will review the Council's Complaints Procedure in order to determine whether it is still 'fit for purpose'.

8 Case Review and Guidance Update

The Monitoring Officer will update the Committee on decisions and actions taken nationally in relation to standards cases and/or guidance.

9 Quarterly Update on Complaints

The Monitoring Officer will give an update on existing cases together with general details of new cases, if any.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Standards Committee is to be held in the Council Offices, Thorpe Road, Weeley, CO16 9AJ at 10.00 am on Wednesday, 29 January 2020.

Information for Visitors

FIRE EVACUATION PROCEDURE

There is no alarm test scheduled for this meeting. In the event of an alarm sounding, please calmly make your way out of any of the fire exits in the hall and follow the exit signs out of the building.

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Your calmness and assistance is greatly appreciated.

**MINUTES OF THE MEETING OF THE STANDARDS COMMITTEE,
HELD ON WEDNESDAY, 3RD JULY, 2019 AT 10.00 AM
IN THE CONNAUGHT ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors Land (Chairman), Alexander, Harris, J Henderson, Overton and Wiggins
Also Present:	Councillor I J Henderson
In Attendance:	Lisa Hastings (Head of Governance and Legal Services & Monitoring Officer), Linda Trembath (Senior Solicitor (Litigation and Governance) & Deputy Monitoring Officer), Ian Ford (Committee Services Manager & Deputy Monitoring Officer) and Debbie Bunce (Legal and Governance Administration Officer)
Also in Attendance:	Sue Gallone, Clarissa Gosling and Jane Watts (all of whom were the Council's appointed Independent Persons)

1. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillor Amos (with Councillor Alexander substituting) and David Irvine (one of the Council's appointed Independent Persons).

2. MINUTES OF THE LAST MEETING

It was moved by Councillor Land, seconded by Councillor Harris and:-

RESOLVED that the minutes of the meeting of the Standards Committee, held on Wednesday 20 March 2019, be approved as a correct record and signed by the Chairman.

3. DECLARATIONS OF INTEREST

There were none on this occasion.

4. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 37

There were none on this occasion.

5. STANDARDS COMMITTEE - TERMS OF REFERENCE

As this was the first meeting of the Committee following the District Council elections in May, the Council's Monitoring Officer (Lisa Hastings) explained the terms of reference and delegated powers of the Standards Committee and also the Town and Parish Councils' Standards Sub-Committee and responded to Members' questions thereon.

The Committee noted the foregoing.

6. CODE OF CONDUCT TRAINING

The Monitoring Officer updated the Committee on the Members' Code of Conduct training that had been provided to Members as part of the post-election Members' Induction process.

After discussion, it was moved by Councillor Land, seconded by Councillor J Henderson and:-

RESOLVED that –

- (a) the Monitoring Officer be requested to arrange a further session of training on the Members' Code of Conduct for those Members who did not attend on 15 May 2019; and
- (b) the Committee stresses once again the importance of all Members receiving training on the Members' Code of Conduct.

7. “THE LOCAL GOVERNMENT ETHICAL STANDARDS REPORT DATED JANUARY 2019 FOLLOWING A REVIEW BY THE COMMITTEE ON STANDARDS IN PUBLIC LIFE”

Further to Minute 53(4) of the meeting of the Committee held on 20 March 2019, the Monitoring Officer gave an update on the progress being made on the implementation of the Committee on Standards in Public Life's (CSPL) recommendations.

The Committee had before it a summary of the issues, overall findings and recommendations arising from the CSPL's review which formed the basis of the Monitoring Officer's update.

Further to an undertaking given at the last meeting of the Committee, the Monitoring Officer outlined the Council's current position in regards to professional indemnity cover for Members, Officers and the Independent Persons. She confirmed that there was no business need at present for such general cover but that decisions would be taken as needed on their individual merits.

Following a discussion of the issues arising in the update the Monitoring Officer undertook to submit to the next meeting of the Committee a breakdown of:-

- (1) which of the CSPL's recommendations required changes in legislation;
- (2) which of the CSPL's 'good practice' recommendations could be adopted and implemented straight away by local authorities; and
- (3) which of the 'good practice' recommendations referred to in (2) above this Council has already implemented.

It was then moved by Councillor Alexander, seconded by Councillor J Henderson and:-

RESOLVED that the Head of Finance, Revenues and Benefits Services be requested to produce for the Committee's consideration a business case for providing a general professional indemnity cover for Members, Officers and, in particular, the Independent Persons.

8. QUARTERLY COMPLAINTS UPDATE

The Monitoring Officer circulated to the Committee the quarterly schedule, which gave an update on existing cases together with general details of new cases, without providing any names, and went through them with the Committee. There had been no requests for dispensations from Members.

The Committee noted the foregoing.

9. APPOINTMENT OF MEMBERS TO SERVE ON THE TOWN AND PARISH COUNCILS' STANDARDS SUB-COMMITTEE

Pursuant to the provisions of Article 9.05 of the Council's Constitution, the Committee was requested to appoint three of its members to serve on the Town and Parish Councils' Standards Sub-Committee for the 2019/2020 Municipal Year.

RESOLVED that –

- (a) subject to (b) below, Councillors Overton, Steady and Wiggins be appointed to serve on the Town and Parish Councils' Standards Sub-Committee for the 2019/2020 Municipal Year; and
- (b) Councillor Steady's appointment be subject to confirmation by him of his willingness to serve on the Sub-Committee.

The meeting was declared closed at 11.29 am

Chairman

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STANDARDS COMMITTEE

2 OCTOBER 2019

REPORT OF HEAD OF DEMOCRATIC SERVICES AND ELECTIONS

A.1 COUNCILLOR DEVELOPMENT STATEMENT 2019/23

(Report prepared by Keith Simmons)

PURPOSE OF THE REPORT

This report is submitted to this Committee in order to ensure that the Committee is aware of the development of the attached Statement, has the opportunity to input into the Statement and can be re-assured that within the overall ambit of good governance at the Council the need to support the development of Councillors in their roles is being given further recognition through the development of the Statement.

EXECUTIVE SUMMARY

The Councillor Development Statement 2019-23 has been drafted and is set out at Appendix A to this report. Ensuring that Councillors are as best equipped as practically possible to fulfil the range of responsibilities that role entails is a key component to delivering good governance.

The Statement at Appendix A seeks to provide the overarching position in respect of Councillor development at the Council; addressing needs analysis and different modes of provision to address those needs. The Committee is asked to consider the draft Statement and determine whether to endorse it for adoption as the framework for Councillor development over the term of current Council. The Statement will be kept under review and, should there be a need to substantially update, refine and amend it there will be a further report to this Committee.

RECOMMENDATIONS

That the Committee:

- (a) Receives and considers the draft Councillor Development Statement 2019/23 at Appendix A to this report;**
- (b) Records the commitment of this Committee to seeing good Councillor development as a key component of good governance; and**
- (c) Endorses the draft Councillor Development Statement 2019/23 at Appendix A; and**
- (d) Notes that the Statement will be kept under review and any substantial alteration to it will be the subject of a further report to this Committee.**
- (e) Endorses that the Head of Democratic Services and Elections shall be authorised to make minor amendments to the Statement.**

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The contents of the report and subsequent decision of the Standards Committee will enable the Council to demonstrate good governance in connection with decision-making processes and monitoring of Member training.

FINANCE, OTHER RESOURCES AND RISK

Finance

The cost of external training organised for elected Members is met through a specified training budget and is therefore within existing resources.

Risk

The integrity of Members, their decision-making and that of the Council and its committees, are part of good governance. Appropriate training should minimise or eradicate the risk of legal challenge through statutory appeals or judicial review.

LEGAL & CONSTITUTIONAL

Mandatory attendance at site visits, briefings and specific training as a pre-requisite for Members (and named substitutes) of the Council's Audit, Licensing & Registration, Planning and Standards Committees is part of the Council Procedure Rules included within Part 4 of the Council's Constitution.

Planning and Licensing decisions can be challenged by specific statutory appeal routes in addition to being subject to judicial review on administrative grounds.

Various pieces of legislation provide criteria to be considered for the majority of decisions taken by the Councillors in meetings. Knowledge of the relevant legal provisions and how these are applied, together with general decision-making principles are essential in those areas.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below. Crime and Disorder/Equality and Diversity/Health Inequalities/Area or Ward affected/Consultation/Public Engagement.

Wards Affected: All

PART 3 – SUPPORTING INFORMATION

CURRENT POSITION

The Standards Committee, as part of its annual work programme since 2014 has received a report providing details of the mandatory training provided to members of the Planning and Licensing and Registration Committees.

It is clearly in the remit of this Committee to concern itself with good decision making principles and therefore the arrangements of the Council in respect of Councillor development to support that decision making.

The draft Statement set out at Appendix A includes the provision currently available for Councillors; together with measures to enhance that provision and place it within a context of a needs analysis for Councillors to ensure individual requirements are addressed.

BACKGROUND PAPERS FOR THE DECISION

There are no background papers arising from this report.

APPENDICES

Appendix A: Draft Councillor Development Statement 2019/23

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Councillor Development Statement 2019-23

Foreword by the Chairman of the Council

I am grateful for the opportunity to provide a foreword to this Statement. The first such Statement approved by Tendring District Council on the issue of Councillor Development.

As Chairman of the Council it is my role to both represent the Council at civic and ceremonial functions and be the custodian of the democratic process of the Council. I take these responsibilities very seriously and I know all Councillors take their individual responsibilities very seriously.

The public generally expects all Councillors to want to do the best for the people of the District. The public expects those Councillors with particular responsibilities to perform those duties well and with due regard to the likely outcomes of decisions. It is therefore right and proper that we support Councillors in all roles to deliver against the expectations.

Underpinning the democratic process of the Council is the Code of Conduct for Councillors. We all sign up to complying with the Code and that means approaching our role with the Nolan Principles in our mind at all times. This is part of the bargain we as Councillors make with each other and the people we serve.

We also make a bargain, that where development opportunities are provided we will try to participate and take on board what we are presented with. To this end, it is important that Councillors have a say about what development is to be provided and use the learning they have been given access to.

This statement provides the framework for Councillor development and how we can shape it. Making it work is then up to us as Councillors with the support of Officers.

Daniel Land
Chairman of the Council
2019/20

Introduction

Tendring District Council is the principal Council for its District and provides a variety of services to residents, businesses and visitors. The District has a population of about 140,000 and an area of about 34,000 hectares. It has large urban centres, smaller towns, villages and rural hamlets. It has 60km of coastline and stretches inland to its boundary with Colchester. It has bustling seaside resorts attracting hundreds of thousands of visitors and a range of protected natural habitats where wildlife flourish with little interruption. It has a major international sea port and four miles off of its coast are the important wind turbines that provide much needed green energy to the UK.

With 48 Councillors elected every fourth year from 32 District Wards, the role of those Councillors in representing the District at its full is a tough call. Councillors bring with them a range of skills and experiences and this is vital to an organisation with the role Tendring District Council has and with the business it is responsible for delivering. They also have different capacities to take on specific roles and it is important to record that many Councillors have employment, business, caring and other responsibilities to fulfil alongside their role as a District Councillor.

Through this Statement, the Council is able to make a clear commitment to support Councillors undertake the range of roles they have as elected representatives. Through providing relevant development opportunities, Councillors will be better equipped to undertake those roles and to maximise the available time they have to fulfil the range of roles Councillors have. This document sets out the Council's strategy approach to Councillor development.

Foundations for this statement

This Statement has at its core the aim of supporting Councillors and thereby supporting the Council's Corporate Plan Objectives, supporting good decision making and supporting community engagement by Councillors.

The Constitution states (at Article 2.03) that the key roles of all Councillors are:

- (i) Collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;*
- (ii) Represent their communities and bring their views into the Council's decision making process, i.e. become an advocate for their communities;*
- (iii) Effectively represent the interests of their ward and of individual residents;*
- (iv) Respond to residents' enquiries and representations, fairly and impartially and assist in the resolution of concerns and grievances;*
- (v) Be involved in decision-making for the people of the District as a whole;*
- (vi) Be available to represent the Council on other bodies; and*
- (vii) Contribute to the governance and effective management of the Council's business at meetings of the Council, Cabinet and other Committees and Sub Committees, maintaining the highest standards of conduct and ethics.*

In addition there are specific additional responsibilities on, amongst others, the Chairman of the Council, Vice-Chairman of the Council, Leader and Cabinet Members, Chairmen of Vice-Chairmen of Committees.

With a business the size of Tendring District Council, it is vital that the ultimate decision makers, Councillors, are made aware of relevant development opportunities with a view to ensuring they are continually better able to fulfil the responsibilities of their roles. In return, Councillors will be expected to avail themselves of those development opportunities, actively participate in those development opportunities provided and help to shape the programme of opportunities with the stated aim to enhance their ability to fulfil their Councillor responsibilities.

An element of Councillor development must be providing a basic foundation to the role for those new to it/or returning, over-arching legislative requirements such as on declarations of pecuniary interest and the Equality Act duties and the established mandatory training requirements for particular roles (such as when determining planning and licensing applications).

Roles and responsibilities

Individual Councillors have a personal responsibility to contribute to identifying their development needs and aspirations, to help shape the provision of Councillor development opportunities, to positively seek to access development opportunities/attend development events and sessions, to provide feedback on the development opportunities provided and to apply the learning in their role.

Political Groups have a collective responsibility to encourage development and to channel views and needs from the members of those Groups so that all voices are heard and all Councillors can legitimate feel they can help shape the development programme for Councillors.

Chairman of the Council has the responsibility as part of his role as custodian of the democratic processes to be the Champion of development for Councillors and the conduit through whom the views of Councillors are channelled to oversee the construction, delivery and views on Councillor development at the Council.

The Head of Democratic Services and Elections shall be responsible for providing the officer support for Councillor development, inviting Councillors to identify their development needs and aspirations, collating and determining the development programme for Councillors and keeping that programme up to date, providing the means for development opportunities to be evaluated and reporting on the evaluation outcomes and being the officer liaison point for development opportunities.

The Chief Executive and Corporate Directors have the responsibility to support Councillor development including the making available of staff to support that development.

Individual Officers have the responsibility to consider and advise their line management of issues that it would be beneficial for Councillors to receive development opportunities in. Designated Officers, such as the Head of Paid Service, Section 151 Officer and Monitoring Officer have their statutory responsibilities to consider in respect of development requirements for Councillors.

Induction provision

Even before Polling Day, the Council will contact declared candidates to alert them to key initial requirements and events immediately following the day of Poll. This is to try to equip whoever from among the candidates is to be elected by the public with information so that they can take up the role as seamlessly as possible. This information is then refreshed and repeated in correspondence issued to the successful candidate as soon as possible after the declaration of result.

The person elected to the District Council is also provided with the Council's 70 page guide for Councillors called 'Signpost'. The guide provides a broad range of information on local government structure, the role of Councillors, governance arrangements, decision making and meetings schedule as well as details of other elected representatives for the District and officers with a brief explanation of their responsibilities.

The first formal event happens within days as the elected Councillor must make their declaration of acceptance of office and at the same time they confirm their acceptance of the terms of the Code of Conduct. Time is allocated for the declaration of acceptance of office beyond the physical time this takes to make. This is the opportunity for the Councillor to talk with the Chief Executive and/or Monitoring Office and for those officers to assist Councillors to settle in to the new/returning role.

As soon as practical after the four yearly elections of all 48 District Councillors, there will be an Induction Day. The 2019 Induction day was held on 10 June and covered these subjects:

Introduction from the Chief Executive	Council/Cabinet/ Committees, Overview and Scrutiny The	The Corporate Transformation Programme
The Council's Community Leadership role and key strategies	Council's Constitution, and Decision making	Planning / Local Plan / Garden Communities
Corporate Plan and Priorities - Reviewing these	Councillors' Allowances Mileage and subsistence (including business use car insurance)	Waste collection and recycling – up-coming changes
Performance Management System	Health & safety / lone working	Tending 4 Growth
The showing of the review of the year film	The Council's Financial Plan and Medium Term Financial Strategy	Jaywick Sands revitalisation strategy

In between the above sessions, a 'Marketplace' setting was provided to cover other issues or provide an opportunity for Councillors to access more information on issues raised in the above sessions. The 'Marketplace' had officers present in the gaps between the above sessions on the following subjects:

Councillor Support	Committee Administration	Electoral Registration and Elections
IT (including Information Governance)	Payroll	Transformation (including Customer Service)
Planning, Local Plan and NEGC	Waste and Recycling	Jaywick Sands and Housing
Community Safety	Tourism and Events	Cliff Stabilisation
Regeneration		

The induction programme was also delivered away from the Induction Day with face-to-face sessions on the planning process and licensing to meet the approved requirement for Councillors determining planning applications and licensing applications to have received training before they take part in meetings that make such decisions.

In addition, short 1-2-1 Chairmanship sessions were provided with an external facilitator to support those Councillors taking or being reappointed to positions where they would preside over meetings. The sessions were aimed at the Chairman of the Council, Vice-Chairman of Council and Chairmen of Committees.

A group training session was also provided on overview and scrutiny to which all Councillors were invited with the object of involving both those who would sit on Overview and Scrutiny Committees but also those who sit on the Executive and other Councillors so that they could consider how best to enhance the positive culture of the Council towards overview and scrutiny.

The Induction Programme for Councillors provided the framework in which organised visits took place to sites in the District which were or would be the subject of decisions by the Council. These visits allowed for more informal dialogue around the issues associated with the sites being visited and the options being pursued/considered.

In the event of a by-election, time will be allocated to the elected Councillor with the aim of achieving the same level of induction as was provided for in the above.

Planning for induction for the programmed elections in 2023 will also be provided for to build on the induction plan successes from 2019.

Personal Councillor Development Planning

Beyond the induction training for Councillors immediately after they take up office the Council is establishing a development planning process for Councillors. The development plan will look at the skills and experience of Councillors. It also:

- Considers the needs of Councillors as part of a complex multi-service Council such as Tendring.
- Tries to address the changing landscape in which the Council will be operating in during the period up to and beyond the next programme of elections
- Seeks to help prepare Councillors for roles they may have to take on or aspire to taking on.
- Aims to set development goals and the route to deliver against those goals

Through the implementation of personal development plans, it is intended that support for Councillors to develop will be targeted where it will be most effective in terms of the plan and to provide objective data on which to construct Councillor development opportunities year upon year.

The implementation of the personal development plans will help to ensure that equality of access to relevant development opportunities is an enduring feature of the Councillor development programme to be delivered by Tendring District Council.

Development Opportunities and approaches

This statement uses the term development opportunities extensively throughout. This phrase has been used as learning styles are as broad as the range of services the Council provides. As such, it is important that we seek to provide learning in a broad range of ways to achieve the best outcome. This statement commits the Council to this approach. An approach that uses the following in a blended package to achieve the development needs and aspirations it is possible to achieve:

<p>All Councillor Briefings</p>	<p>Most months of the year there is an evening face-to-face session, normally starting at 6.00pm, as an informal way of introducing current and relevant issues for Councillors. The programme of briefing dates is agreed as part of the schedule of meetings approved by Council each year.</p> <p>In addition, when the programmed dates for All Councillor Briefings do not work with an issue that would benefit from the format of such a briefing, a special briefing session will be organised (such as on the Local Plan to achieve determination of submissions in accordance with timescales we need to respond to).</p> <p>During 2020, it is our intention to video record All Councillor Briefings and make the video available to Councillors. In this way, attendees can remind themselves as to what was said at the briefing and those who could not attend are not disadvantaged by not having access to the briefing detail.</p>
<p>E-learning</p>	<p>Through the Council's membership of the Local Government Association, a dedicated e learning platform is available to all Councillors to assist them with their development. The modules have been established to help support and develop Councillors ensuring they are confident and capable; well-equipped and well-supported to make a difference, deliver and be trusted.</p> <p>A separate introduction guide to the e-learning package, setting out how to access it and the available modules is available to all Councillors.</p>
<p>Written briefings</p>	<p>Either as part of All Councillor Briefings Sessions mentioned above, some other development opportunity or otherwise as a stand-alone form of briefing the Council may provide material in written form to assist Councillors. The written briefing may be provided to the Council by an external agency.</p> <p>The written briefing will be uploaded to the Council's repository for Councillor development material and a link circulated so that Councillors can access it. Councillors are free to request the material in paper format in response to the link being circulated.</p>
<p>Subscriptions</p>	<p>The Council subscribes to the Local Government Association's</p>

	<p>First magazine. The Council then circulates those copies to each Tendring District Councillor.</p> <p>Individually, Councillors may subscribe to the online monthly e-bulletin of First Magazine using the link below: https://public.govdelivery.com/accounts/UKLGA/subscriber/new?topic_id=UKLGA_262</p> <p>Where relevant information can be secured that can be obtained for Councillors through free subscription it will be offered to Councillors.</p>
<p>Presentations/ Evidence at meetings</p>	<p>Where presentations or evidence is presented to Councillors in meetings, it will be made available for all Councillors to access. As with written briefings it will be uploaded to the Council's repository for Councillor development material and a link circulated so that Councillors can access it. Paper copies will be available upon request.</p> <p>Included in this description is the response to questions raised on individual performance data being considered by Councillors in Committee.</p>
<p>Specific training Sessions</p>	<p>In addition to training for Councillors in order to allow them to participate as Members of the Planning, Licensing, Audit or Standards Committee, the use of specific training subject/topic based training exists and will be provided in addition to All Councillor briefings where appropriate.</p> <p>Such training can be to support understanding of overview and scrutiny techniques, questioning skills, work programme planning and changes to improve the culture around scrutiny.</p> <p>Where significant changes to the Constitution are brought in there will be the opportunity for training to be provided on those changes to ensure that understanding of the changes is widespread.</p> <p>During 2020, it is our intention to video record all training sessions provided by Council Officers and make the video available to Councillors. In this way, attendees can remind themselves as to what was said at the briefing and those who could not attend are not disadvantaged by not having access to the briefing detail.</p>
<p>1-2-1 or small group sessions</p>	<p>On occasion, based on the learning style of individual Councillors or on the requirements of the subject, it may be more appropriate to provide for 1-2-1 or small group sessions of Councillors. This style may be particularly suited to Councillor IT provision and Chairman-ship sessions looking at the specific</p>

	needs of the Councillor concerned. Where this style, rather than large group sessions, would be more appropriate it will be used.
Site Visits/ Tours	The opportunity to visit a site, building or place that is to be the subject of an impending decision can be of great value. While organised site visits are normally associated with planning applications to be determined by the Council's Planning Committee, they may be relevant in other circumstances. In the same way tours can greatly help in understanding complex or strategic issues and solutions to those issues. Councillors are, subject to normal and reasonable considerations and respect for those in the vicinity of the site, building or place able to make their own arrangements to visit the area in order to support their understanding of the issues to be debated. Where Councillors do make their own arrangements for a site visit on a matter to be determined by the Council they are asked to give prior notification during office hours to the Head of Democratic Services and Elections. An annual organised tour may be set as part of the schedule of meetings approved each year.
Visits to other Councils	As with Site Visits, if there is a relevant reason to take Councillors from Tendring to another Council in order to develop and support understanding and appreciation of a matter relevant to issues being faced by the Council locally, then the facility exists for Councillors to request such a visit.
External Seminars, Conferences and symposiums	<p>A range of organisations provide seminars, conferences and symposiums on relevant subjects. Where the event is provided within 150 miles of Tendring, is free of an admission charge and all other costs to the Council would be less than £100, the Council's Head of Democratic Services and Elections will be able to determine requests from Councillors.</p> <p>The Leader of the Council is able to authorise the representation of the Council, by Councillors, at the Annual Local Government Association Conference.</p> <p>All other conference etc attendance requests will be the subject of consultation with the Chairman of the Council.</p>

Feedback on development

A crucial element of the delivery of Councillor development is the provision for Councillors to be able to feedback on the development opportunity concerned, for that feedback to be collated and for the views expressed on the development opportunity to influence future provision. A commitment to this element is provided for in the form of this statement.

Specifically, the views of Councillors will be sought on facilitator of development sessions provided in respect of their knowledge of the subject matter, their ability to explain and describe key concepts and to answer questions. Feedback is further sought on the structure of the development opportunity, its pace, its convenience and on materials provided. The appropriateness of the level of training is also sought.

Feedback can be provided on a paper sheet or, preferably, using an online evaluation form the Council has developed. A link to the online form is provided immediately following the training opportunity to those who attended. The relevant officer will confirm the detail of attendees to the Head of Democratic Services and Elections to facilitate this.

Within a week of the development opportunity, the expressed views of attendees will be collated from the paper and online forms returned. If remedial steps are needed as indicated from the feedback received, they will be put in place. The feedback will also be used to help shape future provision generally.

The feedback forms also ask Councillors for any development opportunities they would like to see provided in the coming 12 months and also if there are support issues that they wish to record. This data supplements that coming from the personal development planning process.

Adjusted feedback arrangements will be put in place for such things as e-learning packages and the provision solely of written material as part of development opportunities.

On a quarterly basis, the summary of feedback and ideas for further development opportunities will be reported to Management Team and to the Chairman of the Council for them to review and direct if additional measures are needed to meet identified needs and aspirations.

Annually, there is a report to the Standards Committee, notifying it of the mandatory training sessions which have been undertaken for the members of the various committees, the topics covered and the attendees including whether they are a member of the committee, as substitute or otherwise.

Shared access with Essex County Council and Unitary/District Councils in Essex

The Council commits to providing reciprocal agreements with Essex County Council and the Unitary/District Councils in the county of Essex to providing mutual access to development opportunities being provided. As such, and under these arrangements, it is envisaged that no charge will be levied for a Councillor from one of those other Councils to attend a development opportunity provided by Tendring District Council on the basis that no charge will be levied for attendance etc on a Tendring District Councillor participating in a development opportunity provided by another Council. A mutual access agreement would envisage similar levels of Councillor development opportunities being provided by both Councils.

The value of shared access is recognised as being a good practice in the use of public funds and a way of extending learning opportunities through engaging a wider range of experiences in those opportunities.

Contact Points and useful links

For further information, please contact the Head of Democratic Services and Elections using the following contact details:

In person: Room 67, Town Hall, Clacton-on-Sea CO15 1SE

Tel: (01255) 686580

Email: ksimmons@tendringdc.gov.uk

Links to information that Councillors may find useful as part of their development:

Centre for Public Scrutiny – www.cfps.org.uk

Local Government Association – www.local.gov.uk

East of England Local Government Association – www.eelga.gov.uk

Local Government Information Unit – www.lgiu.org.uk

UK Parliament Website – www.parliament.uk

STANDARDS COMMITTEE

2 OCTOBER 2019

REPORT OF MONITORING OFFICER

A.2 “THE LOCAL GOVERNMENT ETHICAL STANDARDS REPORT DATED JANUARY 2019 FOLLOWING A REVIEW BY THE COMMITTEE ON STANDARDS IN PUBLIC LIFE”

(Report prepared by Lisa Hastings and Ian Ford)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To enable the Committee to consider a breakdown of:-

- (1) which of the CSPL’s recommendations required changes in legislation;
- (2) which of the CSPL’s ‘good practice’ recommendations could be adopted and implemented straight away by local authorities; and
- (3) which of the ‘good practice’ recommendations referred to in (2) above this Council has already implemented.

BACKGROUND

The Committee, at its meeting held on 3 July 2019 (Minute 7 refers), received an update from the Monitoring Officer on the progress being made on the implementation of the Committee on Standards in Public Life’s (CSPL) recommendations.

The Committee had before it a summary of the issues, overall findings and recommendations arising from the CSPL’s review which formed the basis of the Monitoring Officer’s update.

The Monitoring Officer also outlined the Council’s current position in regards to professional indemnity cover for Members, Officers and the Independent Persons. She confirmed that there was no business need at present for such general cover but that decisions would be taken as needed on their individual merits. An update on this matter is provided at the end of the Report.

Following a discussion of the issues arising in the update the Monitoring Officer undertook to submit to the next meeting of the Committee a breakdown of:-

- (1) which of the CSPL’s recommendations required changes in legislation;
- (2) which of the CSPL’s ‘good practice’ recommendations could be adopted and implemented straight away by local authorities; and
- (3) which of the ‘good practice’ recommendations referred to in (2) above this Council

has already implemented.

Appendix A to this report provides an update on the progress made (if any) in implementing the recommendations contained in the CSPL's report.

Appendix B to this report provides a breakdown of this Council's current practice in relation to the list of best practice recommendations to local authorities contained in the CSPL's report.

In relation to the Committee's previous resolution on 3 July 2019 that the Head of Finance, Revenues and Benefits Services be requested to produce for the Committee's consideration a business case for providing a general professional indemnity cover for Members, Officers and, in particular, the Independent Persons, this matter is on-going and will be reported back to Committee when progressed.

RECOMMENDATIONS

- (a) That, in relation to Appendix A, the Committee notes the updates provided; and**
- (b) That, in relation to Appendix B, the Committee decides whether it wishes to recommend any changes to the Council's current practices.**

A.2 APPENDIX A

No.	Recommendation	Responsible Body	TDC Comment and Local Practice
1.	Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.	Local Government Association	<p>It is understood that this work has been commenced.</p> <p>TDC uses a model Code of Conduct which was agreed through the work of Essex Councils through Public Law Partnership in 2011. A number for Councils have reviewed the Code since, including TDC and made slight alterations to clarify definitions and matters arising through dealing with complaints. Last review undertaken concluded in 2018.</p>
2	<p>The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address.</p> <p>The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests.</p>	Government	<p>Candidates who stood for election to Tendring District Council at the Elections held in May 2019 had the right not to disclose their home address on the Ballot Paper and a good number availed themselves of that right.</p> <p>No amendment to the regulations has been made. Councillors can apply for their details to be withheld but only if the interest is regarded as sensitive (due to the threat of violence) in accordance with Section 32 of the Localism Act 2011.</p>
3	Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local	Government	TDC has taken a hard position in relation to public conduct and where linked to the Council, has decided it has been undertaken whilst in official capacity. This has included

	authorities to presume so when deciding upon code of conduct breaches.		statements made on social media. Further clarification within the Localism Act 2011 would be welcomed to strengthen TDC's existing position.
4	Section 27(2) of the Localism Act 2011 should be amended to state that a local authority's code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.	Government	TDC's Code of Conduct states this.
5	The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include: unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy.	Government	TDC is unable to take any action in relation to this recommendation for DPIS, because it requires an amendment to legislation. However, TDC does include these types of interests within its Code of Conduct, which are defined as Personal Interests and would be declared at a meeting, where an item of business related to these. There is also a requirement to register some of these in advance.
6	Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any gifts and hospitality received over a value of £50, or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct.		The requirement to register gifts or hospitality offered or received, is contained within TDC's Code of Conduct.
7	Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not	Government	Section 31 of the Localism Act 2011 relates to DPIS and any change in practice requires an amendment to the legislation.

	participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, “if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to that matter”.		However, TDC has incorporated the ‘public interest test and judgement’ into its Code of Conduct in relation to Personal Interests.
8	The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.	Government	TDC’s Standards Committee has previously expressed it does not agree with this recommendation and will not be applying it, unless the legislation is changed.
9	The Local Government Transparency Code should be updated to provide that the view of the Independent Person in relation to a decision on which they are consulted should be formally recorded in any decision notice or minutes.	Government	TDC’s Decision Notices and Reports record the comments of Independent Persons. Those comments are also included in the preamble of the Minutes.
10	A local authority should only be able to suspend a councillor where the authority’s Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction.	Government	The sanction to suspend a councillor would require new powers to be included within legislation, and any criteria would be sensible to prevent being abused.
11	Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed.	Government / all local authorities	The Standards Committee has requested that a business case is prepared for this recommendation, which relates to 10. above.
12	Local authorities should be given the discretionary power to establish a decision-making standards committee with voting independent members and voting members from dependent	Government	TDC invites its Independent Persons to attend all Standards Committees and take part in the debate. If a hearing is taking place

	parishes, to decide on allegations and impose sanctions.		<p>regarding a potential breach of the Code of Conduct, TDC has established a practice of inviting the IPs into the closed session.</p> <p>TDC has co-opted three Parish Councillors for its Town and Parish Standards Sub Committee who are nominated by the Tendring District Association of Local Councils.</p>
13	Councillors should be given the right to appeal to the Local Government Ombudsman if their local authority imposes a period of suspension for breaching the code of conduct.	Government	Agreed, any suspension should have the right of appeal by an independent body.
14	The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, on appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority.	Government	Agreed – see comment above.
15	The Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g. bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.	Government	<p>TDC's Monitoring Officer reports this on a quarterly basis to the Standards Committee, with a summary at the end of the year.</p> <p>The information is not included within the minutes but can be adopted.</p>
16	Local authorities should be given the power to suspend councillors, without allowances, for up to six months.	Government	Would require new legislation.

17	The government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. These powers should be put beyond doubt in legislation if necessary.	Government	TDC has included within its Complaints Procedure, a list of available sanctions, which includes removal of facilities. This could only be used, if the sanction was appropriate and proportionate to the code of conduct breach. Members must not be prevented from attending meetings to carry out their functions as an elected councillor.
18	The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.	Government	No comment
19	Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.	Parish Councils	Understand why it would be helpful
20	Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code.	Government	TDC encourages Town and Parishes to adopt its Code of Conduct. Website Audit - 27 T&PC: <ul style="list-style-type: none"> • following last review in 2018 - 16 adopted latest version. • 7 no details on the website • 4 older versions (2013, 2014 & 2015)
21	Section 28(11) of the Localism Act 2011 should be amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority.	Government	This requires an amendment to legislation, but would be appreciated because currently, the principal authority can only recommend the sanction.
22	The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be	Government	

	amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal.		
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A.2 APPENDIX B

Local Government Ethical Standards - A Review by the Committee on Standards in Public Life (January 2019)

List of best practice (taken from pages 18 and 19 of the CSPL Report)

Our best practice recommendations are directed to local authorities, and we expect that any local authority can and should implement them. We intend to review the implementation of our best practice in 2020.

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

TDC Current Practice: Prohibition on Bullying & Harassment included in the Code [Section 3.2]. No Definitions or list of examples of defined behaviour are included in the Code at present.

Best practice 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.

TDC Current Practice: These provisions are included in the Code [Section 3.4].

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

TDC Current Practice: No annual review of the Code is undertaken at present. Code was last reviewed in 2017 and the current Code was adopted by the Council on 23 January 2018.

Best practice 4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

TDC Current Practice: Code accessible to Members within the Constitution, their Members' Booklet and via the Council's intranet and to the public via the

Council's website. It is currently not in a prominent position on the website. Code is not readily available at Council premises, but a copy would be provided if requested.

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

TDC Current Practice: Register is updated as and when declarations are received by Democratic Services & Elections. Register is published via the Council's website and an annual report is submitted to the Standards Committee.

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

TDC Current Practice: Annex D to the TDC Complaints Procedure sets out the Assessment Criteria against which allegations are filtered. This does not currently include a defined public interest test.

Best practice 7: Local authorities should have access to at least two Independent Persons.

TDC Current Practice: TDC is fortunate in having four Independent Persons to call on.

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

TDC Current Practice: Section 4 of the Council's Complaints Procedure states that the Monitoring Officer may consult with an Independent Person before making their decision as to whether a complaint merits no further action; merits early informal resolution or mediation or merits further investigation.

Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of

the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

TDC Current Practice: This is the Monitoring Officer's current practice.

Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

TDC Current Practice: This is the Council's current practice.

Best practice 11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.

TDC Current Practice: We have not received any complaints concerning a parish councillor's conduct towards a clerk, but this advice could be given, if the circumstances arise.

Best practice 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

TDC Current Practice: The Monitoring Officer has two deputies and all 3 individuals receive training to undertake their roles and have support within the organisation.

Best practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

TDC Current Practice: The Monitoring Officer's current practice in such circumstances is to use an external Investigator.

Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture

of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.

TDC Current Practice: The Council is currently reviewing its governance arrangements concerning companies.

Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

TDC Current Practice: The Chief Executive has regular meetings with political group leaders and any standards issues that arise would be added to the agenda for such a meeting at the Monitoring Officer's request and the Monitoring Officer would then attend that meeting.

TENDRING DISTRICT COUNCIL

COMPLAINTS PROCEDURE

1. Context

- 1.1 These “Arrangements” set out how you may make a complaint that an elected or co-opted member (with voting rights) of this Authority (“Tendring District Council” or a Town or Parish Council within its area (see 1.3 below)) has failed to comply with the Member Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the Member Code of Conduct.
- 1.2 Under **Section 28(6) and (7) of the Localism Act 2011**, Tendring District Council must have in place “arrangements” under which allegations that a Member or co-opted Member of the Authority (*or of a Town or Parish Council within the authority’s area*), or of a Committee or Sub-Committee of the authority, has failed to comply with the Code of Conduct can be investigated and decisions made on such allegations.
- 1.3 Town and Parish Councils within the Tendring District are set out on the Council’s website.
- 1.4 Such arrangements must provide for the District Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation against a Member, which it has decided shall be investigated, and whose views can be sought by the District Council at any other stage. The Council has adopted an Independent Person Protocol which sets out some general principles.

2. The Member Code of Conduct

- 2.1 The Council has adopted a Code of Conduct for Councillors, which is available on the website or on request from reception at the Council Offices.
- 2.2 Each Town or Parish Council is also required to adopt a Code of Conduct. If you wish to inspect a Town or Parish Council’s Code of Conduct, you should visit the website operated by the Town or Parish Council or request the Town or Parish Council Clerk to allow you to inspect the Town or Parish Council’s Code of Conduct.

3. Making a Complaint

- 3.1 If you wish to make a complaint, please write to or email:

The Monitoring Officer, Tendring District Council,
Corporate Services, Town Hall, Station Road,
Clacton-on-Sea, Essex CO15 1SE

standards@tendringdc.gov.uk

The Complaints Form can be downloaded from the website.

- 3.2 The Monitoring Officer is a senior officer of the authority who has a statutory responsibility for maintaining the Register of Members’ Interests and who is responsible for administering the system in respect of complaints of member misconduct. This information will be retained by the Council for a period of two years in accordance with its Retention and Destruction Policy. The Council has adopted a Monitoring Officer Protocol which sets out some general principles.

- 3.3 In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the complaint form which is available on request from the reception at the Council Offices or via the website. You must also include all relevant information relating to the complaint which you have to enable it to be fully considered.

Please provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. The name and address of a complainant will be provided to the member that is the subject of the complaint. In exceptional cases, we may agree to withhold your name and address from the member. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form along with the reasons why you feel it necessary for your name and address to be withheld. The Monitoring Officer will consider your request and if granted we will not disclose your name and address to the member against whom you make the complaint, without your prior consent.

- 3.4 The authority does not normally investigate anonymous complaints, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct and there is a clear public interest in doing so.

- 3.5 Following receipt of your complaint, the Monitoring Officer will:-

- (a) acknowledge receipt of your complaint within 10 working days of receiving it;
- (b) notify, within 10 working days, the member that is the subject of the complaint that you have made a complaint about them and provide them with the information set out on the complaint form; excluding any personal information but including your name and address, unless this is to be withheld in accordance with section 3.3 above;
- (c) keep you and the Member that is the subject of the complaint informed of the progress of your complaint; and
- (d) your complaint will be given a reference number which will appear on complaint documentation to preserve the privacy of the complainant and the subject Member until the complaint outcome is determined.

- 3.6 The Complaints Procedure Flowchart is set out at the end of this procedure for reference.

- 3.7 The Complaints Procedure follows the principles of natural justice and the presumption of innocence until proven otherwise.

- 3.8 Both Parties are encouraged to keep the matter of the complaint confidential whilst it is progressing in accordance with this complaints procedure. The Monitoring Officer will also adhere to this confidentiality and only inform/contact any such individuals which are identified in the procedure or by the parties. If the details of the complaint are made public, it may be necessary for a statement to be issued by the Monitoring Officer for clarification only.

4. Will your complaint be investigated?

- 4.1 The Monitoring Officer will review every complaint received and, may consult with one of the Independent Persons before making a decision as to whether the complaint:

- 4.1.1 Merits no further action
- 4.1.2 Merits early informal resolution or mediation
- 4.1.3 Merits further investigation

- 4.2 In reaching a decision in respect of how to progress the complaint the Monitoring Officer will take account of the following factors where appropriate:-

- Was the Member acting in their official capacity?
- Was the Member in office at the time of the alleged misconduct?
- Is the complaint of a very minor or trivial nature?
- Is the complaint vexatious or malicious?
- Are there historical matters?
- Is there a potential breach of the Code?
- Assessment of public interest?
- Is additional information required prior to making a decision?

- 4.3 The decision as to how the complaint is to be progressed will normally be taken within 15 working days of receipt of your complaint. Your complaint will be considered in accordance with the Assessment Criteria included at **Annex D (set out at the end of this procedure for reference)**.

Where the Monitoring Officer has taken a decision, you will be informed of the decision and the reasons for that decision. The Monitoring Officer may require additional information in order to come to a decision, and may come back to you for such information. In the absence of a response from you within 15 working days the Monitoring Officer may close the complaint. Information may be requested from the member against whom your complaint is directed to enable the Monitoring Officer to take the decision. In the absence of the subject Member's response within 15 working days the Monitoring Officer may proceed with the complaint.

Where your complaint relates to a Town or Parish Councillor, the Monitoring Officer *may* also inform the Town or Parish Council of your complaint and seek the views of the Town or Parish Council before deciding whether the complaint merits formal investigation.

Any failure to comply with the time scale by the Monitoring Officer or parties concerned will be notified to the Standards Committee or Sub-Committee together with reasons for the delay and the member subject of the complaint and the complainant will be kept informed of progress and reasons for the delay.

- 4.4 In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally through informal resolution, without the need for a formal investigation. Such informal resolution may involve notifying the Group Leader and the Member accepting that his/her conduct was unacceptable and/or offering an apology, and/or agreeing to mediation and/or other remedial action by the authority. Where the Member or the Authority make a reasonable offer of informal resolution, but you are not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint merits further investigation.

Where the Member subject of the complaint is the Group Leader, appropriate alternative arrangements will be required for informal resolution or mediation; this will be dependent upon whether the Group has allocated a Deputy to undertake this role, involve the Group Leader directly or an independent individual or suitable alternative, depending upon the circumstances.

- 4.5 If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power and obligation to notify or refer to the Police or other regulatory agencies.

5. Referral to the Standards Committee or Sub-Committee and how is the Investigation conducted?

(The Committee and Sub-Committee Terms of Reference are included at **Annex C (set out at the end of this procedure for reference)**).

- 5.1 The Council has adopted a procedure for the investigation of misconduct complaints a summary of which is attached as **Annex E (set out at the end of this procedure for reference)**.

The Council has a Town and Parish Councils' Standards Sub-Committee which has responsibility for dealing with complaints regarding the actions of a Town or Parish Councillor, reference to the Sub-Committee throughout this procedure relates to the Town and Parish Council's Standards Sub-Committee.

- 5.2 If the Monitoring Officer decides that a complaint merits further investigation without referral to the Standards Committee or Sub-Committee, he/she will commission the investigation to be undertaken by a suitably qualified investigator with requisite experience and may include another officer of the Council, a senior officer of another authority or an appropriately experienced consultant, ensuring that independence and impartiality is maintained.

When deciding that a complaint merits further investigation, the Monitoring Officer may, in exceptional circumstances, refer the matter to the Council's Standards Committee or Sub-Committee, with a recommendation together with any information received from either the complainant or member who is the subject of the complaint. The Committee or Sub-Committee, upon consideration of this recommendation and information, may decide that the complaint merits no further action, conciliation or similar resolution.

- 5.3 The Investigating Officer or Monitoring Officer will decide whether he/she needs to meet you or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents need to be seen and who needs to be interviewed. Any information supplied to the Monitoring Officer or Investigating Officer will be kept confidential within the remit of the investigation and therefore, may be shared with the parties. It is important to note that if a hearing is required at a later date, and the Standards Committee is convened the information disclosed will be available to the public in accordance with the Access to Information legislation, which the Council has to abide by when conducting meetings.

- 5.4 As referred to in section 3.5, upon receipt of your complaint the member that is the subject of the complaint will ordinarily be informed that you have made a complaint about them and will be provided with details of the complaint. If an investigation is to be undertaken, the Investigating Officer or Monitoring Officer will normally write to the Member against whom you have complained and provide him/her with full details of your complaint, (including your name and address but excluding any additional or sensitive personal information) and formally ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is felt appropriate to continue to keep your identity confidential or where disclosure of details of the complaint to the Member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay providing full details of the complaint to the member until the investigation has progressed sufficiently.

- 5.5 At the end of his/her investigation, the Investigating Officer or Monitoring Officer will produce a draft report ("the Investigation Report") and will, in all cases, send copies of that draft report, in confidence, to you and to the Member concerned, to give you both an opportunity to identify any matters in that draft report which you disagree with or which you consider requires more consideration.

- 5.6 Having received and taken account of any comments which you, or the Member that is the subject of the complaint, may make on the draft Investigation Report, the report will be finalised. Where an Investigating Officer has been appointed the Investigating Officer will

send his/her final report to the Monitoring Officer together with a conclusion as to whether the evidence supports a finding of failure to comply with the Code of Conduct.

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

- 6.1 If an Investigating Officer has been appointed, the Monitoring Officer will review the Investigating Officer's report and may consult with the Independent Person(s). If he/she is satisfied that the Investigating Officer's report is sufficient, subject to 6.3 below, the Monitoring Officer will write to you and to the member concerned (*and, if appropriate, to the Town or Parish Council, where your complaint relates to a Town or Parish Councillor*), notifying you that he/she is satisfied that no further action is required, and give you both a copy of the Investigation Final Report. The Monitoring Officer will also notify the Standards Committee or Sub-Committee and the relevant Independent Person.
- 6.2 If an Investigating Officer has been appointed and if the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer to reconsider his/her report.
- 6.3 The Monitoring Officer, may at their own discretion and only in exceptional cases, following consultation with the Chief Executive, decide to refer cases to the Committee for determination where the outcome of an investigation was to recommend no breach of the Code of Conduct.

Exceptional cases may include but not be limited to matters where the evidence is so finely balanced or is in the public interest to do so.

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

- 7.1 If an Investigating Officer has been appointed, the Monitoring Officer will review the Investigating Officer's report and will then either refer the matter for a hearing before the Standards Committee or Sub-Committee or in consultation with one of the Independent Persons seek an informal resolution or mediation.

7.1.1 Informal Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with one of the Independent Persons and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Member accepting that his/her conduct was unacceptable and/or offering an apology, and/or mediation and/or other remedial action by the Authority. If the Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee or Sub-Committee (*and the Town or Parish Council*) for information, but will take no further action.

7.1.2 Hearing

If the Monitoring Officer considers that informal resolution is not appropriate, or the Councillor concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigation Report to the Standards Committee or Sub-Committee which will conduct a hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Member.

To conduct a hearing, the Standards Committee must be convened and a Committee Agenda and Report is published and made available for public and press inspection, however, the Investigators Report will be kept confidential and will remain in Part B, until the day of the hearing to protect the parties.

At the hearing, following the Council's procedures, a copy of which will be provided, the Investigating Officer or the Monitoring Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the Member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer or Monitoring Officer may ask you as the complainant to attend and give evidence to the Standards Committee or Sub-Committee. The Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Standards Committee or Sub-Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Members of the Standards or Sub-Committee, after hearing all the evidence and information, may adjourn the meeting for a short period and deliberate together in private. The hearing will then be reconvened and the Decision will be announced in public. It is expected that this will usually be on the same day.

The Standards Committee or Sub-Committee, with the benefit of any comments or advice from one of the Independent Persons, may conclude that the Member did not fail to comply with the Code of Conduct, and dismiss the complaint. If the decision is contrary to a recommendation from the Investigating Officer and/or Monitoring Officer, detailed reasons will be required to be published in the Decision Notice. The decision of the Standards Committee or Sub-Committee will also be reported to the next meeting of Full Council.

If the Standards Committee or Sub-Committee concludes that the Member did fail to comply with the Code of Conduct, the Chairman will inform the Member of this finding and the Committee or Sub-Committee will then consider what action, if any, the Committee or Sub-Committee should take as a result of the Member's failure to comply with the Code of Conduct. In doing this, the Committee or Sub-Committee will give the Member an opportunity to make representations and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

8. What action might the Standards Committee or Sub-Committee take where a member has failed to comply with the Code of Conduct?

8.1 The Standards Committee or Sub-Committee has the power to take action in respect of individual Members as may be relevant and proportionate, and necessary to promote and maintain high standards of conduct. Accordingly the Standards Committee or Sub-Committee may:-

- 8.1.1 Publish its findings in respect of the Member's conduct on the Council's website;
- 8.1.2 Report its findings to Council (*or to the Town or Parish Council*) for information;
- 8.1.3 Recommend to the Member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committee) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 8.1.4 Recommend to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 8.1.5 Instruct the Monitoring Officer to (*or recommend that the Town or Parish Council*) arrange training for the member;
- 8.1.6 Recommend to the relevant Group Leader (or in the case of un-grouped members, recommend to Council or to Committee) that the Member be removed (*or recommend*

to the Town or Parish council that the Member be removed) from all outside appointments to which he/she has been appointed or nominated by the authority (or by the Town or Parish Council);

- 8.1.7 Recommend to the relevant Group Leader (or in the case of un-grouped members, recommend to Council or to Committee) the withdrawal of *(or recommend to the Town or Parish Council that it withdraws)* facilities provided to the member by the Council, such as a computer, website and/or email and internet access; or

- 8.1.8 Recommend to the relevant Group Leader (or in the case of un-grouped members, recommend to Council or Committee) the exclusion of (*or recommend that the Town or Parish Council exclude*) the member from the Council's Offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- 8.2 In each circumstance, where the Member subject of the complaint is the Group Leader, appropriate alternative arrangements will be required, this will be dependent upon whether the Group has allocated a Deputy to undertake this role, involve the Group Leader directly or an independent individual or suitable alternative, depending upon the circumstances.
- 8.3 In each circumstance, where the Standards Committee or Sub-Committee recommend the Group Leaders take action, it is expected that the Group Leader will within 6 weeks of the referral to them, or as soon as reasonably practicable thereafter, submit a report back to the Standards Committee or Sub-Committee giving details of the action taken or proposed to comply with the Committee's direction.
- 8.4 The Standards Committee or Sub-Committee has no power to suspend or disqualify the Member or to withdraw Members' special responsibility allowances.

9. What happens at the end of the hearing?

- 9.1 At the end of the hearing, the Chairman will state the decision of the Standards Committee or Sub-Committee as to whether the Member failed to comply with the Code of Conduct and as to any actions which the Committee or Sub-Committee resolves to take.
- 9.2 Within 5 days, the Monitoring Officer shall prepare a formal Decision Notice in consultation with the relevant Chairman of the Standards Committee or Sub-Committee, and send a copy to you and to the Member (*and to the Town or Parish Council if appropriate*), make that Decision Notice available for public inspection and, report the decision to the next convenient meeting of the Council for information.
- 9.3 Should a police investigation result in a Member being convicted of a criminal offence the Monitoring Officer in consultation with an Independent Person will determine whether it is in the public interest for the matter to be reported to Council for information. In such circumstances the Group Leader will also be consulted and notified of the decision accordingly.

10. Who forms the Standard Committee or Sub-Committee?

- 10.1 The Standards Committee will comprise of 7 District Councillors;
- 10.2 The Standards Town and Parish Sub-Committee will comprise of 3 District Councillors and 3 Town and Parish Councillors (nominated by the Tendring District Association of Local Councils);
- 10.3 At least one of the two Independent Persons must have been consulted on their views and taken into consideration before the Standards Committee or Sub-Committee takes any decision on whether a member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

11. Who are the Independent Persons?

- 11.1 The Council has appointed two Independent Persons to support the Standards Committee and Sub-Committee.
- 11.2 An Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.
- 11.3 Section 28 (8) of the Localism Act 2011 provides the definition and restriction of the Independent Person. The Council has adopted an Independent Person protocol which sets out some general principles.

12. Revision of these Arrangements

The Council may by resolution agree to amend these arrangements, upon the advice of the Monitoring Officer where it is necessary, fair, proportionate and expedient to do so.

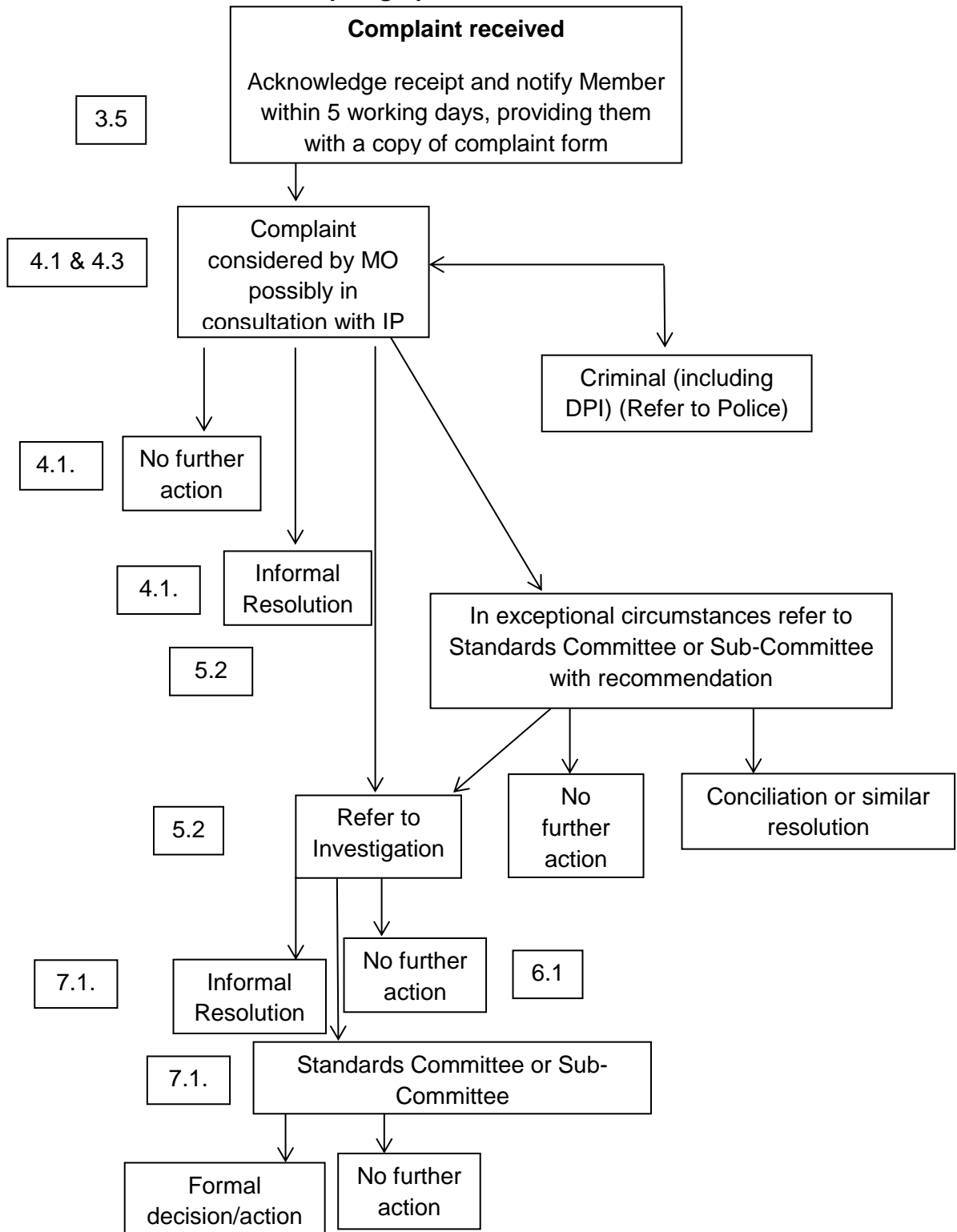
13. Appeals

- 13.1 There is no right of appeal for you as complainant or for the Member against a decision of the Monitoring Officer or the Standards Committee.
- 13.2 If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government and Social Care Ombudsman.

ANNEX B

This Flowchart is to be read in conjunction with the Tendring District Council's Complaints Procedure

(Reference is made to the relevant paragraphs of the Procedure in the boxes on the left hand side)



**ANNEX C – STANDARDS COMMITTEE AND TOWN AND PARISH COUNCILS’ SUB-COMMITTEE
TERMS OF REFERENCE**

Committee	Functions and Terms of Reference	Delegated Functions
Standards Committee	<ol style="list-style-type: none"> 1. To promote and maintain high standards of conduct by Members and Co-opted Members of the authority; 2. To develop a culture of openness, transparency, trust and confidence between Members and in Member and Officer relationships and to embed a culture of strong ethical and corporate governance at all levels of the Council; 3. To advise the Council on the adoption or revision of the Members’ Code of Conduct; 4. To advise, train or arrange training on matters relating to and assisting Members, Co-opted Members and Town and Parish Councillors on observing the Members’ Code of Conduct; 5. To approve procedures for the conduct of hearings into complaints against Members; 6. To advise the Council upon the contents of and requirements for codes/protocols/other procedures relating to standards of conduct throughout the Council; 7. To receive reports from the Monitoring Officer and assess the operation and effectiveness of the Members’ Code of Conduct and the other elements of the Standards Framework; 8. To inform Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints; 9. To hear and determine appeals against refusal to grant dispensations by the Monitoring Officer pursuant to Section 33 of the Localism Act 2011; and 10. To maintain oversight of the Council’s arrangements for dealing with complaints delegated to Standards Town and Parish Sub-Committee. 	<p>Delegation to Monitoring Officer:</p> <ol style="list-style-type: none"> 1. Deal with complaints against Members and co-opted Members of the Council and/or any Town or Parish Council in the Tendring District alleging a breach of the Members’ Code of Conduct of the Council/Town or Parish Council (“Code”) in accordance with the Complaints Procedure. 2. Assess complaints in accordance with the Assessment Criteria and may consult with a duly appointed Independent Person and determine whether the complaint: <ul style="list-style-type: none"> • Merits no further action • Merits early informal conciliation • Merits further investigation • Should due to exceptional circumstances be referred to the Standards Committee or Sub-Committee for consideration for further investigation. 3. Determine the format of the Complaints Form, Decision Notices and Procedure Flowchart and review where necessary.

	<p>Proceedings:</p> <ol style="list-style-type: none"> 1. To conduct proceedings in accordance with the Complaints Procedure, giving due consideration to the Monitoring Officer's advice and guidance, and following the principles of natural justice and innocent until proven otherwise; 2. To receive referrals from the Monitoring Officer into allegations of misconduct in accordance with the assessment criteria and Complaints Procedure; 3. To hear and determine complaints about Tendring District Council Members and Co-opted Members referred to it by the Monitoring Officer; and 4. Any determination by the Committee which is contrary to the recommendation of the Monitoring Officer will include detailed reasons. The decision of the Committee will also be reported to the next meeting of full Council. 	<ol style="list-style-type: none"> 4. Commission external resources to investigate, undertake consultation with an Independent Person and report on any complaints relating to Member conduct. 5. Grant dispensations in compliance with Section 33(a) to (e) of the Localism Act 2011. 6. Submit reports to the Standards Committee or Sub-Committee on the actions taken under these delegated powers and to provide advice and support making recommendations to the relevant Committee on any matters relating to the promotion and maintenance of high standards of conduct.
Committee	Functions and Terms of Reference	Delegated Functions
<p>Town and Parish Councils' Standards Sub-Committee</p>	<p>To advise and assist Town and Parish Councils and Councillors to maintain high standards of conduct and to make recommendations to Parish and Town Councils on improving standards or actions following a finding of a failure by a Town or Parish Councillor to comply with its Code of Conduct.</p> <p>Proceedings:</p> <ol style="list-style-type: none"> 1. To conduct proceedings in accordance with the Complaints Procedure, giving due consideration to the Monitoring Officer's advice and guidance, and following the principles of natural justice and innocent until proven otherwise; 2. To receive referrals from the Monitoring Officer into allegations of misconduct in accordance with the assessment criteria and Complaints Procedure; 3. To hear and determine complaints about Town and Parish Council Members and Co-opted Members referred to it by the Monitoring Officer ; and; 	<p>Delegation to Monitoring Officer:</p> <ol style="list-style-type: none"> 1. Deal with complaints against Members and co-opted Members of the Council and/or any Town or Parish Council in the Tendring District alleging a breach of the Members' Code of Conduct of the Council/Town or Parish Council ("Code") in accordance with the Complaints Procedure. 2. Assess complaints in accordance with the Assessment Criteria and may consult with a duly appointed Independent Person and determine whether

	<p>4. Any determination by the Sub-Committee which is contrary to the recommendations of the Monitoring Officer will include detailed reasons. The decision of the Sub-Committee will also be reported to the next meeting of full Council.</p>	<p>the complaint:</p> <ul style="list-style-type: none"> • Merits no further action • Merits early informal conciliation • Merits further investigation • Should due to exceptional circumstances be referred to the Standards Committee or Sub-Committee for consideration for further investigation. <p>3. Determine the format of the Complaints Form, Decision Notices and Procedure Flowchart and review where necessary.</p> <p>4. Commission external resources to investigate, undertake consultation with an Independent Person and report on any complaints relating to Member Conduct.</p> <p>5. Submit reports to the Standards Committee or Sub-Committee on the actions taken under these delegated powers and to provide advice and support making recommendations to the relevant Committee on any matters relating to the promotion and maintenance of high standards of conduct.</p>
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ANNEX D CONDUCT COMPLAINTS ASSESSMENT CRITERIA

Complaints which would not normally be referred for investigation or to the Standards Committee or Sub-Committee

1. The complaint is not considered sufficiently serious to warrant investigation;
2. The complaint appears to be simply motivated by malice or is "tit-for-tat";
3. The complaint appears to be politically motivated;
4. It appears that there can be no breach of the Code of Conduct; for example that it relates to the Councillor's private life or is about dissatisfaction with a Council decision;
5. It is about someone who is no longer a Councillor;
6. There is insufficient information available;
7. The complaint has not been received within 3 months of the alleged misconduct unless there are exceptional circumstances, e.g. an allegation of bullying, harassment etc.
8. The matter occurred so long ago that it would be difficult for a fair investigation to be carried out;
9. The same, or similar, complaint has already been investigated and there is nothing further to be gained by seeking the sanctions available to the Standards Committee;
10. It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct; or
11. Where the member complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction.

Complaint which may be referred for investigation and/or to the Standards Committee or Sub-Committee

1. It is serious enough, if proven, to justify the range of sanctions available to the Standards Committee or Sub-Committee; or
2. There are individual acts of minor misconduct which appear to be part of a continuing pattern of behaviour that is unreasonably disrupting the business of the Council and there is no other avenue left to deal with it other than by way of an investigation; or
3. When the complaint comes from a senior officer of the Council, such as the Chief Executive or the Monitoring Officer and it would be difficult for the Monitoring Officer to consider; or
4. The complaint is about a high profile Member such as the Leader of the Council and it would be difficult for the Monitoring Officer to consider; or
5. Such other complaints as the Monitoring Officer considers it would not be appropriate for him/her to consider.

Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, deciding to investigate a complaint or to take further action will cost both public money and officers' time and Members' time. This is an important consideration where the complaint is relatively minor.

ANNEX E STANDARDS COMPLAINTS INVESTIGATION PROCEDURE

Members are reminded that they are required to co-operate with the investigation process as part of their compliance with the Code of Conduct and to ensure that the procedure is undertaken in an efficient and resourceful manner.

1. Planning Stage:

Upon receipt of an instruction to carry out an investigation the Investigator should:-

- Acknowledge receipt of the instruction to conduct the investigation.
- Maintain a written record throughout the investigation.
- Assess whether any additional information is required from the complainant.
- Identify the paragraph(s) of the Members' Code of Conduct that are alleged to have been breached.
- Identify the facts which will need to be determined to establish if the Member has breached the Member Code of Conduct.
- Identify the evidence that is needed to determine the issues.
- Consider how to undertake the evidence gathering.
- Identify how long it is likely to take to conduct the investigation.
- Tendring District Council has imposed a 3 month deadline for an investigation to be completed; this may be reduced by the Monitoring Officer in each individual case. The Investigating Officer must confirm that the deadline is achievable and regularly update the Monitoring Officer, subject member of the complainant and the complainant as to progress.

2. Evidence Gathering Stage:

- Contact the complainant to request any supporting or documentary evidence relating to the complaint.
- Contact the subject member with details of the complaint and seek an explanation.
- If new evidence is obtained through the investigation that the subject member has not been made aware of, this should be provided to the Councillor to respond to either orally or in writing.

3. Interview Stage:

- Identify witnesses.
- Arrange interview dates.
- Conduct interviews (preferably in order of: the complainant, witnesses and subject member and any of their witnesses).
- The Investigating Officer when interviewing the subject member must ask them to respond to each point of the complaint and alleged breach of the Code of Conduct.
- The Investigating Officer should make every effort to gather evidence from the Complainant and subject member by way of a face to face interview.

4. Report Stage:

- Review evidence from interviews and any documentary evidence provided.
- Draft the report to contain:
 - Details of who was interviewed, who supplied information and whether through written documentation or verbally;
 - Agreed facts;
 - Facts not agreed and corresponding conflicting evidence;
 - An assessment on all of the alleged breaches of the Code of Conduct forming the complaint and those identified by the Monitoring Officer or Investigator;
 - Conclusions as to whether a breach has occurred;
 - Where a draft report is issued this will be supplied to both the complainant and subject member for comment, in addition to the Monitoring Officer.

In all cases the Investigator will issue a final report and the Monitoring Officer will then determine appropriate action to be taken in line with the report conclusion.