

Standards Committee



SOUTH
KESTEVEN
DISTRICT
COUNCIL



Wednesday, 6 September 2023 at 2.30 pm
Witham Room - South Kesteven House, St. Peter's Hill,
Grantham. NG31 6PZ

Committee Members: Councillor Harrish Bisnauthsing (Chairman)
Councillor Sarah Trotter (Vice-Chairman)

Councillor Ashley Baxter, Councillor Richard Dixon-Warren, Councillor Zoe Lane,
Councillor Chris Noon, Councillor Max Sawyer, Councillor Vanessa Smith,
Councillor Peter Stephens, Councillor Lee Steptoe and Councillor Mark Whittington

Agenda

1. **Introductions and welcome**
2. **Apologies for absence**
3. **Disclosures of interests**
4. **Councillor Code of Conduct Complaints – Overview of Cases** (Pages 3 - 18)
To provide the Standards Committee with an overview of Councillor Code of Conduct complaints received and processed for the municipal years 2021/22, 2022/23 and 2023/24 up to 29 August 2023.
5. **Procedure for dealing with complaints against Councillors** (Pages 19 - 46)
To provide the Standards Committee with an opportunity to consider proposed amendments to the Council's procedure for dealing with complaints against Councillors.
6. **Training** (Verbal Report)
7. **Any other business, which the Chairman, by reasons of special circumstances, decides is urgent**

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SOUTH
KESTEVEN
DISTRICT
COUNCIL



Standards Committee

Wednesday, 6 September 2023

Report of Graham Watts, Monitoring
Officer

Councillor Code of Conduct Complaints – Overview of Cases

Report Author

Graham Watts, Assistant Director of Governance and Monitoring Officer

✉ graham.watts@southkesteven.gov.uk

Purpose of Report

To provide the Standards Committee with an overview of Councillor Code of Conduct complaints received and processed for the municipal years 2021/22, 2022/23 and 2023/24 up to 29 August 2023.

Recommendations

That the report be noted.

Decision Information

Does the report contain any exempt or confidential information not for publication?	No
What are the relevant corporate priorities?	High performing Council
Which wards are impacted?	All

1. Implications

Taking into consideration implications relating to finance and procurement, legal and governance, risk and mitigation, health and safety, diversity and inclusion, safeguarding, staffing, community safety, mental health and wellbeing and the impact on the Council's declaration of a climate change emergency, the following implications have been identified:

Finance and Procurement

- 1.1 There are no financial implications arising from this report.

Completed by: Richard Wyles, Section 151 Officer

Legal and Governance

- 1.2 There are no significant legal or governance implications not already referred to in the body of this report.

Completed by: Graham Watts, Assistant Director of Governance and Monitoring Officer

2. Background to the Report

- 2.1 The Monitoring Officer at South Kesteven District Council is responsible for considering complaints against Councillors where allegations of a breach of the Code of Conduct are made. This means that any complaints against any of the 56 District Councillors will be assessed and processed by the Monitoring Officer in accordance with the agreed procedure for dealing with complaints against Councillors.
- 2.2 As the designated Principal Authority for the district, the Monitoring Officer at South Kesteven District Council is also responsible for considering complaints against any Parish or Town Councillors where allegations of a breach of the Code of Conduct are made. These complaints are treated in the same way in

accordance with the agreed procedure for dealing with complaints against Councillors.

3. Key Considerations

- 3.1 The Standards Committee will receive updates on the volume and subject of complaints received and processed by the Monitoring Officer where allegations of a breach of the Councillor Code of Conduct are made at every ordinary meeting. As this is the first meeting of the newly established Standards Committee, it was considered prudent to provide an overview of the last two full municipal years as well as the latest position relevant to the current municipal year by way of contextual background information.
- 3.2 In 2021/22, 49 complaints against District Councillors were received, 22 of which finding that a breach of the Code of Conduct had occurred. 21 of these complaints related to the same incident.
- 3.3 For the same municipal year, 21 complaints against Parish/Town Councillors were received resulting in one case finding that a breach of the Code of Conduct had occurred.
- 3.4 In 2022/23, 26 complaints against District Councillors were received, resulting in the finding of one breach.
- 3.5 For the same municipal year, 18 complaints against Parish/Town Councillors were received with no breaches having been found.
- 3.6 Up to 29 August 2023, six complaints against District Councillors have been received with no breaches having been found. However, the Monitoring Officer conducted two investigations outside of receiving a formal complaint which resulting in two breaches of the Code of Conduct having been found.
- 3.7 For the same period, four complaints against Parish/Town Councillors were received with no breaches having been found.
- 3.8 An overview of the volume of complaints, reason for complaints, status of complaints and any necessary actions arising from complaints, including sanctions imposed in the event of a breach, are appended to the report. These are separated into municipal years (2021/22, 2022/23 and 2023/24) as well as being separated into categories of complaints relating to District Councillors and complaints relating to Parish/Town Councillors.

4. Other Options Considered

- 4.1 The report is for noting only.

5. Reasons for the Recommendations

- 5.1 To provide the Standards Committee with an overview of information associated with complaints against District and Parish/Town Councillors where allegations of a breach of the Councillor Code of Conduct are made.

6. Appendices

- 6.1 Appendix A – Overview of complaints 2021/22
- 6.2 Appendix B – Overview of complaints 2022/23
- 6.3 Appendix C – Overview of complaints 2023/24 (up to 29 August 2023)

COUNCILLOR CODE OF CONDUCT COMPLAINTS

1st May 2021 - 30 April 2022 - DISTRICT COUNCILLOR COMPLAINTS

Date received	No further action or Breach	Reason for Complaint	Outcome	Action taken (if necessary)	Closed
05.05.2021	No further action	Declaration of Interest	Assessed and no further action undertaken	N/A	12.05.2021
30.07.2021	Breach	Respect	Informal resolution	Apology issued by Subject Councillor	17.08.2021
11.08.2021	No further action	Honesty	Assessed and no further action undertaken	N/A	02.09.2021
20.08.2021	Breach	Respect	Informal resolution	Apology issued by Subject Councillor	05.10.2021
20.08.2021	Breach	Respect	Informal resolution	Apology issued by Subject Councillor	05.10.2021
23.08.2021	No further action	Respect	Assessed and no further action undertaken	N/A	15.10.2021
24.08.2021	No further action	Respect	Assessed and no further action undertaken	N/A	11.11.2021
02.09.2021	No further action	Respect	Assessed and no further action undertaken	N/A	14.09.2021
10.09.2021	No further action	Respect	Complaint withdrawn	N/A	14.09.2021
10.09.2021	No further action	Respect	Complaint withdrawn	N/A	15.10.2021
15.09.2021	No further action	Lack of response	Assessed and no further action undertaken	N/A	17.09.2021
21.10.2021	Breach	Equality and Diversity	Full Council resolution	Sanctions imposed	06.12.2021
21.10.2021	Breach	Equality and Diversity	Full Council resolution	Sanctions imposed	06.12.2021

1st May 2021 - 30th April 2022 - DISTRICT COUNCILLOR COMPLAINTS

Total Received	No further action	Breach	Withdrawn
49	19	22	8
Note: 21 complaints relate to the same case			
3 complaints relate to the same case			
2 complaints relate to the same case			
2 complaints relate to the same case			
2 complaints relate to the same case			

∞	21.10.2021	Breach	Equality and Diversity	Full Council resolution	Sanctions imposed	06.12.2021	
	21.10.2021	Breach	Equality and Diversity	Full Council resolution	Sanctions imposed	06.12.2021	
	21.10.2021	Breach	Equality and Diversity	Full Council resolution	Sanctions imposed	06.12.2021	
	21.10.2021	Breach	Equality and Diversity	Full Council resolution	Sanctions imposed	06.12.2021	
	21.10.2021	Breach	Equality and Diversity	Full Council resolution	Sanctions imposed	06.12.2021	
	21.10.2021	Breach	Equality and Diversity	Full Council resolution	Sanctions imposed	06.12.2021	
	21.10.2021	Breach	Equality and Diversity	Full Council resolution	Sanctions imposed	06.12.2021	
	21.10.2021	Breach	Equality and Diversity	Full Council resolution	Sanctions imposed	06.12.2021	
	21.10.2021	Breach	Equality and Diversity	Full Council resolution	Sanctions imposed	06.12.2021	
	22.10.2021	Breach	Equality and Diversity	Full Council resolution	Sanctions imposed	06.12.2021	
	22.10.2022	Breach	Equality and Diversity	Full Council resolution	Sanctions imposed	06.12.2021	
	22.10.2021	Breach	Equality and Diversity	Full Council resolution	Sanctions imposed	06.12.2021	
	22.10.2021	Breach	Equality and Diversity	Full Council resolution	Sanctions imposed	06.12.2021	
	24.10.2021	Breach	Equality and Diversity	Full Council resolution	Sanctions imposed	06.12.2021	
	24.10.2021	Breach	Equality and Diversity	Full Council resolution	Sanctions imposed	06.12.2021	
	25.10.2021	Breach	Equality and Diversity	Full Council resolution	Sanctions imposed	06.12.2021	
	25.10.2021	Breach	Equality and Diversity	Full Council resolution	Sanctions imposed	06.12.2021	
	25.10.2021	Breach	Equality and Diversity	Full Council resolution	Sanctions imposed	06.12.2021	
	25.10.2022	Breach	Equality and Diversity	Full Council resolution	Sanctions imposed	06.12.2021	
	27.10.2021	Breach	Equality and Diversity	Full Council resolution	Sanctions imposed	06.12.2021	
	10.11.2021	No further action	Respect and bias	Assessed and no further action undertaken	N/A	22.11.2021	

10.11.2021	No further action	Respect and bias	Assessed and no further action undertaken	N/A	23.11.2021
10.11.2021	No further action	Respect and bias	Assessed and no further action undertaken	N/A	22.11.2021
10.11.2021	No further action	Respect and bias	Complaint withdrawn	N/A	22.11.2021
03.12.2021	No further action	Respect	Complaint withdrawn	N/A	01.02.2022
07.01.2022	No further action	Equality and Diversity	Complaint withdrawn	N/A	12.01.2022
08.01.2022	No further action	Equality and Diversity	Complaint withdrawn	N/A	12.01.2022
14.01.2022	No further action	Declaration of Interest	Assessed and no further action undertaken	N/A	21.01.2022
28.01.2022	No further action	Declaration of Interest	Assessed and no further action undertaken	N/A	03.02.2022
07.03.2022	No further action	Respect	Assessed and no further action undertaken	N/A	12.12.2022
16.03.2022	Breach	Respect	Informal resolution	Apology issued by Subject Councillor	12.07.2022
16.03.2022	No further action	Respect	Complaint withdrawn	N/A	22.07.2022
16.03.2022	Breach	Respect	Informal resolution	Apology issued by Subject Councillor	31.03.2022
16.03.2022	No further action	Respect	Complaint withdrawn	N/A	22.07.2022
21.03.2022	No further action	Integrity	Assessed and no further action undertaken	N/A	31.03.2022
25.03.2022	Breach	Respect	Review Panel resolution	Sanctions imposed	12.12.2023
31.03.2022	No further action	Respect	Informal resolution	Apology issued by Subject Councillor	12.07.2022

1st May 2021 - 30 April 2022 - PARISH/TOWN COUNCILLOR COMPLAINTS

Date received	Rejected or Breach	Reason For Complaint	Outcome	Action taken (if necessary)	Closed
21.06.2021	No further action	Respect and misuse of position	Assessed and no further action undertaken	N/A	12.07.2021
02.07.2021	No further action	Respect	Assessed and no further action undertaken	N/A	22.07.2021
09.07.2021	No further action	Respect	Assessed and no further action undertaken	N/A	19.08.2021
26.07.2021	No further action	Respect	Assessed and no further action undertaken	N/A	06.08.2021
25.08.2021	No further action	Respect	Assessed and no further action undertaken	N/A	13.10.2021
25.08.2021	No further action	Respect	Assessed and no further action undertaken	N/A	13.10.2021
25.08.2021	No further action	Respect	Assessed and no further action undertaken	N/A	13.10.2021
25.08.2021	No further action	Respect	Assessed and no further action undertaken	N/A	13.10.2021
12.09.2021	No further action	Objectivity and openness	Assessed and no further action undertaken	N/A	26.10.2021

1st May 2021 - 30th April 2022 - PARISH/TOWN CLLR COMPLAINTS

Total Received	No further action	Breach	Withdrawn
21	20	1	0
Note:	4 complaints relate to the same case		
	2 complaints relate to the same case		

05.10.2021	No further action	Honesty	Assessed and no further action undertaken	N/A	15.10.2021
08.12.2021	No further action	Misuse of position and declaration of interest	Assessed and no further action undertaken	N/A	07.01.2022
17.12.2021	No further action	Openness	Assessed and no further action undertaken	N/A	18.02.2022
20.12.2021	No further action	Openness	Assessed and no further action undertaken	N/A	07.01.2022
13.01.2022	No further action	Respect	Assessed and no further action undertaken	N/A	07.04.2022
28.01.2022	No further action	Respect	Assessed and no further action undertaken	N/A	03.02.2022
02.02.2022	No further action	Respect	Assessed and no further action undertaken	N/A	04.02.2022
02.03.2022	Breach	Harrassment and bullying	Informal resolution	Apology issued by Subject Councillor	23.03.2022
04.04.2022	No further action	Openness	Assessed and no further action undertaken	N/A	21.04.2022
12.04.2022	No further action	Misuse of position and respect	Assessed and no further action undertaken	N/A	21.04.2022
12.04.2022	No further action	Misuse of position and respect	Assessed and no further action undertaken	N/A	10.05.2022
12.04.2022	No further action	Misuse of position and respect	Assessed and no further action undertaken	N/A	24.05.2022

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COUNCILLOR CODE OF CONDUCT COMPLAINTS

1st May 2022 - 30 April 2023 - DISTRICT COUNCILLOR COMPLAINTS

1st May 2022 - 30th April 2023 - DISTRICT COUNCILLOR COMPLAINTS

Date received	No further action or Breach	Reason For Complaint	Outcome	Action taken (if necessary)	Closed
05.05.2022	No further action	Council procedure rules and respect	Assessed and no further action undertaken	N/A	24.05.2022
05.05.2022	No further action	Council procedure rules and respect	Assessed and no further action undertaken	N/A	24.05.2022
17.05.2022	No further action	Honesty	Informal Resolution	Subject Councillor closed their Twitter account	07.06.2022
31.05.2022	No further action	Respect and disrepute	Informal Resolution	Apology issued by Subject Councillor	07.06.2022
05.07.2022	No further action	Honesty and respect	Assessed and no further action undertaken	N/A	20.07.2022
19.07.2022	No further action	Bullying and harrassment	Assessed and no further action undertaken	N/A	20.07.2022
01.08.2022	No further action	Respect	Complaint withdrawn	Apology issued by Subject Councillor	03.08.2022
01.08.2022	No further action	Respect	Assessed and no further action undertaken	N/A	12.09.2022
01.12.2022	No further action	Respect	Assessed and no further action undertaken	N/A	06.12.2022

Total Received	No further action	Breach	Withdrawn
26	23	1	2
Note: 3 complaints relate to the same case			
2 complaints relate to the same case			
2 complaints relate to the same case			

06.12.2022	No further action	Respect	Complaint withdrawn	N/A	15.12.2022
19.12.2022	No further action	Declaration of Interest	Assessed and no further action undertaken	N/A	16.01.2023
19.12.2022	No further action	Declaration of Interest	Assessed and no further action undertaken	N/A	16.01.2023
19.12.2022	No further action	Declaration of Interest	Assessed and no further action undertaken	N/A	16.01.2023
23.01.2023	No further action	Honesty	Assessed and no further action undertaken	N/A	03.02.2023
27.01.2023	No further action	Honesty and misuse of position	Assessed and no further action undertaken	N/A	03.02.2023
13.02.2023	No further action	Respect	Assessed and no further action undertaken	Subject Councillor had already apologised	17.02.2023
13.02.2023	No further action	Respect	Assessed and no further action undertaken	N/A	17.02.2023
02.03.2023	No further action	Respect	Assessed and no further action undertaken	N/A	21.03.2023
06.03.2023	Breach	Respect	Informal Resolution	Full apology issued by Subject Councillor and attendance at training	10.03.2023
21.03.2023	No further action	Declaration of Interest	Assessed and no further action undertaken	N/A	21.03.2023
21.03.2023	No further action	Declaration of Interest	Assessed and no further action undertaken	N/A	21.03.2023
21.03.2023	No further action	Declaration of Interest	Assessed and no further action undertaken	N/A	21.03.2023
28.03.2023	No further action	Respect and integrity	Assessed and no further action undertaken	N/A	28.03.2023

06.04.2023	No further action	Breach of personal data	Assessed and no further action undertaken	N/A	07.04.2023
16.04.2023	No further action	Honesty	Assessed and no further action undertaken	N/A	17.04.2023
29.04.2023	No further action	Bias and pre-determination	Assessed and no further action undertaken	N/A	02.05.2023

1st May 2022 - 30 April 2023 - PARISH/TOWN COUNCILLOR COMPLAINTS

1st May 2022 - 30th April 2023 - PARISH/TOWN CLLR COMPLAINTS

5

Date received	No further action or	Reason For Complaint	Outcome	Action taken (if necessary)	Closed
21.05.2022	No further action	Openness	Assessed and no further action undertaken	N/A	24.05.2022
06.06.2022	No further action	Respect	Assessed and no further action undertaken	N/A	20.06.2022
19.06.2022	No further action	Equality and diversity	Assessed and no further action undertaken	N/A	20.06.2022
30.06.2022	No further action	Respect	Assessed and no further action undertaken	N/A	22.07.2022
22.07.2022	No further action	Misuse of position and respect	Assessed and no further action undertaken	N/A	29.07.2022
21.09.2022	No further action	Bullying	Assessed and no further action undertaken	N/A	13.10.2022

Total Received	No further action	Breach	Withdrawn
18	17	0	1
Note:	2 complaints relate to the same case		
	2 complaints relate to the same case		
	2 complaints relate to the same case		

29.09.2022	No further action	Predetermination	Assessed and no further action undertaken	N/A	20.10.2022
29.09.2022	No further action	Respect	Assessed and no further action necessary	N/A	20.10.2022
19.10.2022	No further action	Intimidation	Assessed and no further action undertaken	N/A	25.10.2022
11.11.2022	No further action	Harrassment	Assessed and no further action undertaken	N/A	21.11.2022
11.11.2022	No further action	Respect	Assessed and no further action undertaken	N/A	22.11.2022
18.11.2022	No further action	Respect	Assessed and no further action undertaken	N/A	22.11.2022
13.02.2023	No further action	Respect	Assessed and no further action undertaken	N/A	10.03.2023
23.02.2023	No further action	Respect	Withdrawn	N/A	14.03.2023
23.02.2023	No further action	Honesty	Assessed and no further action undertaken	N/A	01.03.2023
28.03.2023	No further action	Respect and misuse of position	Assessed and no further action undertaken	N/A	05.04.2023
04.04.2023	No further action	Respect	Assessed and no further action undertaken	N/A	05.04.2023
27.04.2023	No further action	Bias, misinformation and predetermination	Assessed and no further action undertaken	N/A	04.05.2023

1st May 2023 - Present - DISTRICT COUNCILLOR COMPLAINTS

Date received	No further action or Breach	Reason For Complaint	Outcome	Action taken	Closed
19.05.2023	No further action	Respect	Assessed and no further action necessary	N/A	25.05.2023
05.06.2023	No further action	Equality and Diversity	Assessed and no further action necessary	N/A	06.06.2023
16.06.2023	No further action	Respect	Assessed and no further action necessary	N/A	27.06.2023
16.06.2023	No further action	Respect	Assessed and no further action necessary	N/A	27.06.2023
16.06.2023	No further action	Respect	Assessed and no further action necessary	N/A	27.06.2023
16.06.2023	No further action	Respect	Assessed and no further action necessary	N/A	27.06.2023
20.06.2023	Breach	Publication of confidential information	Apology issued by Subject Councillor	Full apology issued by Subject Councillor and social media post withdrawn	03.07.2023
20.06.2023	Breach	Disclosure of confidential information	Apology issued by Subject Councillor	Full apology issued by Subject Councillor and statement made to recipients of information	03.07.2023

1st May 2023 - Present - DISTRICT COUNCILLOR COMPLAINTS

Total Received	No further action	Breach	Withdrawn
8	6	2	0
Note: 4 complaints relate to the same case			
2 complaints relate to the same case			

1st May 2023 - Present - PARISH/TOWN COUNCILLOR COMPLAINTS

Date received	No further action or Breach	Reason For Complaint	Outcome	Action taken	Closed
03.05.2023	No further action	Respect & Bullying	Assessed and no further action necessary	N/A	06.06.2023
06.06.2023	No further action	Misuse of Position	Assessed and no further action necessary	N/A	07.07.2023
11.07.2023	No further action	Misuse of Position	Assessed and no further action necessary	N/A	13.07.2023
07.08.2023	No further action	Misuse of Position	Assessed and no further action necessary	N/A	11.08.2023

1st May 2023 - Present - PARISH/TOWN COUNCILLOR COMPLAINTS

Total Received	No further action	Breach	Withdrawn
4	4	0	0



SOUTH
KESTEVEN
DISTRICT
COUNCIL



Standards Committee

Wednesday, 6 September 2023

Report of Graham Watts, Monitoring Officer

Procedure for dealing with complaints against Councillors

Report Author

Graham Watts, Assistant Director of Governance and Monitoring Officer

✉ graham.watts@southkesteven.gov.uk

Purpose of Report

To provide the Standards Committee with an opportunity to consider proposed amendments to the Council's procedure for dealing with complaints against Councillors.

Recommendations

That the Standards Committee approves the revised procedure for dealing with complaints against Councillors and recommends to Full Council that this document forms part of the Constitution under Part 5 (Codes and Protocols).

Decision Information	
Does the report contain any exempt or confidential information not for publication?	No
What are the relevant corporate priorities?	High performing Council
Which wards are impacted?	All Wards

1. Implications

Taking into consideration implications relating to finance and procurement, legal and governance, risk and mitigation, health and safety, diversity and inclusion, safeguarding, staffing, community safety, mental health and wellbeing and the impact on the Council's declaration of a climate change emergency, the following implications have been identified:

Finance and Procurement

1.1 There are no financial implications arising from this report.

Completed by: Richard Wyles, Section 151 Officer

Legal and Governance

1.2 There are no significant legal or governance implications not already referred to in the body of this report.

Completed by: Graham Watts, Assistant Director of Governance and Monitoring Officer

2. Background to the Report

- 2.1 The system of regulation of standards relating to Councillor conduct in England is governed by the Localism Act 2011. It is a requirement that the Council must have a Code of Conduct for Councillors, which must be consistent with the 'Seven Principles of Public Life': selflessness, honesty, integrity, objectivity, accountability, openness and leadership.
- 2.2 The Council adopted the Local Government Association Model Code of Conduct in November 2021.

- 2.3 Under Section 28 of the Localism Act 2011, the Council must have in place 'arrangements' under which allegations that an elected or co-opted Councillor of the authority, or of a Town or Parish Council within the principal authority's area, has failed to comply with the authority's Code of Conduct can be considered and decisions made on such allegations. It is for the principal authority to decide the details of those arrangements.
- 2.4 One of the responsibilities for the Standards Committee in accordance with its terms of reference is to 'approve procedures for the conduct of hearings into complaints against Members'.

3. Key Considerations

- 3.1 The Council currently has a procedure in place for dealing with Councillor complaints, as attached at **Appendix A** to the report, which meets the requirements of Section 28 of the Localism Act 2011.
- 3.2 In reviewing the Council's existing procedure alongside the Local Government Association guidance, it is not as comprehensive as it could be or consistent with the principles of the latest guidance.
- 3.3 The Monitoring Officer has undertaken a review of the procedure, taking into account the Local Government Association guidance, and has drafted a new procedure which is attached at **Appendix B** to the report. It is considered that this revised procedure is much easier to follow and understand, setting out clearly the different stages a complaint may progress through. Importantly, it also sets out the procedure that will be followed in the event that a Code of Conduct Hearing is necessary which is missing from the current procedure.
- 3.4 The Standards Committee is invited to consider the revised procedure for dealing with complaints against Councillors.

4. Other Options Considered

- 4.1 To retain the existing procedure for dealing with complaints against Councillors.
- 4.2 To amend the revised procedure for dealing with complaints against Councillors.

5. Reasons for the Recommendations

- 5.1 To provide the Council with a procedure for dealing with complaints against Councillors which is consistent with the latest Local Government Association guidance

6. Consultation

6.1 The Council's Independent Persons have been consulted on the content of the revised procedure for dealing with complaints against Councillors and are supportive of its adoption.

7. Background Papers

7.1 [Guidance on Member Model Code of Conduct Complaints Handling | Local Government Association](#)

8. Appendices

8.1 Appendix A – current procedure for dealing with complaints against Councillors

8.2 Appendix B – revised procedure for dealing with complaints against Councillors

Procedure for dealing with Code of Conduct complaints against Councillors

1. The Code of Conduct

The Localism Act 2011 requires all Local Authorities to adopt a Code of Conduct setting out the standards of behaviour expected from their Councillors.

South Kesteven District Council has adopted a Code of Conduct for its Councillors, which is available on the Council's website and on request from the Monitoring Officer. This Code of Conduct reflects the Model Councillor Code of Conduct for Councillors as recommended by the Local Government Association.

Each of the Parish/Town Councils within South Kesteven may adopt their own Code of Conduct and a copy of their Code of Conduct should be found on the relevant Parish/Town Council website.

The Localism Act 2011 also requires Local Authorities to have in place "arrangements" under which allegations that an elected or co-opted member of the District or Parish/Town Council has failed to comply with the relevant Code of Conduct can be investigated and decisions made on such allegations.

These arrangements set out:

1. How to make a complaint about the conduct of an elected or co-opted member of South Kesteven District Council or of any Parish/Town Councils
2. How the Council will deal with such complaints

2. Making a complaint

Complaints must be submitted in writing to the Council's Monitoring Officer and can be submitted electronically or by post using the link, email address or postal address shown below:

Online e-form: <https://www.southkesteven.gov.uk/?service=COCOFO>

By email: legal@southkesteven.gov.uk

By post: Monitoring Officer, South Kesteven District Council, Council Offices, The Picture House, St Catherine's Road, Grantham, Lincolnshire, NG31 6TT

The Monitoring Officer will not normally consider a complaint unless it is in writing. This is to ensure that all of the relevant information is provided and, where necessary, consent to share information has been obtained so that the complaint can be processed.

If you do not have access to the internet or have difficulty completing the form, please contact 01476 406080 for assistance.

Where a complaint is made against more than one Councillor, it must be clear in your complaint which aspects of the alleged breach of the Code of Conduct relate to each individual Councillor. Otherwise, it may be necessary to submit separate complaints.

If you are making the complaint on behalf of a number of individuals, please nominate one person as the single point of contact to whom all correspondence will be addressed.

3. The complaint process

The Monitoring Officer will acknowledge receipt of the complaint within five working days.

The Monitoring Officer is entitled to dismiss the complaint at the outset if:

- the Subject Councillor is no longer a Councillor.
- the complaint is made anonymously.
- the same, or substantially the same issue has been the subject of a previous Code of Conduct allegation and there is nothing further to be gained.
- the complaint is essentially against the action of the Council as a whole and cannot properly be directed against individual Councillor(s).
- the complaint does not relate to the conduct of a Councillor and is a service complaint or other matter.
- the complaint is against an Officer of the Council.
- The complaint relates to an incident that occurred over 6 months prior to the date of the complaint

If the complaint identifies criminal conduct (including a failure to register Disclosable Pecuniary Interests) or breach of other regulations by any person, the Monitoring Officer will refer the complaint to the Police or other regulatory agencies. No further action will be taken in relation to such complaints until any related criminal/regulatory investigation, proceedings or processes have been concluded.

Anonymous complaints will not normally be investigated, unless there is clear public interest in doing so and the Monitoring Officer considers that a fair investigation can be carried out.

Requests from complainants for the Monitoring Officer to withhold their identity, so that they remain anonymous to the Subject Councillor, are not ordinarily granted. The Monitoring Officer has to balance the right of the Subject Councillor to properly understand the complaint against them and respond to it, with the rights of the complainant. This normally means that the Subject Councillor will need to be told who is making the complaint.

All parties are encouraged to respond promptly to any correspondence in relation to the complaint. All parties will be kept updated as to how the complaint is progressing. If at any stage in the complaint process the complainant fails to respond, the complaint may be treated as withdrawn. If the Subject Councillor fails to respond, the complaint will be determined on the basis of the information available.

4. Will the complaint be investigated?

The Monitoring Officer, or Deputy Monitoring Officer, will review every complaint received against the assessment criteria set out below. This is known as the Assessment Stage and its purpose is to establish if there are valid grounds to investigate the complaint. The below assessment criteria will be used as part of this stage of the process:

Adequate information	<p>The Monitoring Officer must be satisfied that there is sufficient information available at the “initial test and assessment stage” to decide whether the complaint should be referred for investigation or other action.</p> <p>The Monitoring Officer may provide other information which is readily available, and which may assist in the consideration of the complaint “initial test and assessment stage”. This may include details of attendees at events, copies of agendas, reports and minutes of meetings or copies of the Members’ entry in the Register of Members’ Interests. It will not include conducting interviews with witnesses.</p> <p>If insufficient information is available, the Monitoring Officer will not normally refer the complaint for investigation or other action.</p>
Official capacity	The Monitoring Officer must be satisfied that the Subject Councillor was acting in an official capacity or that there was a clear link to the Local Authority.

Timescale	The Monitoring Officer will consider when the events subject to the complaint took place and will not normally investigate or pursue other action if the events occurred more than six months prior to the complaint being submitted other than in exceptional circumstances, such as where the conduct relates to a pattern of behaviour which has recently been repeated.
Seriousness	<p>The Monitoring Officer will not normally refer a matter for investigation or other action if it is considered trivial, malicious, vexatious, politically motivated or tit-for-tat.</p> <p>Where the complaint appears to relate to the “rough and tumble of political debate” and pertains to conduct between Members or Members and co-opted Members rather than between Members and the public or officers, in most instances no further action will be taken.</p>
Public interest	<p>Consideration will be given as to whether the public interest would be served by referring a complaint for investigation or other action.</p> <p>The public interest would not normally be served where, for instance, a member has died, resigned or is seriously ill.</p> <p>If the complaint has already been the subject of an investigation or other action relating to the Code of Conduct or the subject of an investigation by other regulatory authorities, it is unlikely that it will be referred for investigation or other action unless it is evident that the public interest will be served by further action being taken.</p>
Multiple Complaints	A single event may give rise to similar complaints from a number of complainants. Where possible these complaints will be considered by the Monitoring Officer at the same time. Each complaint will, however, be determined separately. If an investigation is deemed to be appropriate the Monitoring Officer may decide that, in the interests of efficiency, only one complaint should go forward for investigation, with the other complainants being treated as potential witnesses in that investigation.

Before reaching a decision, the Monitoring Officer may request further information from the complainant and the Subject Councillor or obtain information which is readily available such as minutes of Council meetings. If the complaint relates to a Parish/Town Councillor, the Monitoring Officer may consult the Parish/Town Council. This will extend the timescale for dealing with the complaint.

The Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. If the Subject Councillor makes a reasonable offer to settle the complaint informally, but the Complainant is not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

The Monitoring Officer will normally reach an assessment within 20 working days of receipt of the complaint, however, in some instances this may take longer. The Monitoring Officer will always, however, seek to assess complaints as soon as possible.

If the Monitoring Officer decides not to investigate the complaint, he/she will explain why. That will be the end of the matter.

The Monitoring Officer may decide that the complaint merits formal investigation.

5. How is the investigation conducted?

If the Monitoring Officer decides that a complaint merits investigation, he/she will investigate, instruct the Deputy Monitoring Officer to investigate the matter or, by exception, appoint an Investigating Officer, who may be another officer of the Council, an officer of another authority or an external investigator to conduct the investigation on his/her behalf.

The Monitoring Officer, Deputy Monitoring Officer or Investigating Officer will consult with the Council's Independent Person as part of the investigation.

The Monitoring Officer, Deputy Monitoring Officer or Investigating Officer will usually need to speak to the complainant to discuss the complaint and may need to see relevant documents or interview other witnesses.

The Monitoring Officer, Deputy Monitoring Officer or Investigating Officer will also normally contact the Subject Councillor and provide them with the same opportunity to identify sources of evidence and witnesses.

At the end of his/her investigation, the Monitoring Officer, Deputy Monitoring Officer or Investigating Officer will produce a draft report and send it, in confidence, to the complainant and to the Subject Councillor, for comment.

The Monitoring Officer, Deputy Monitoring Officer or Investigating Officer will consider any comments the complainant and/or the Subject Councillor make before confirming a final report.

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

The Monitoring Officer will review the report and, if he/she is satisfied with the quality of the investigation undertaken and that the investigation report is sufficient, the complainant and the Subject Councillor will be informed in writing of the outcome confirming that no further action is required. A copy of the final report will be provided to the Subject Councillor at that time, which will remain confidential. If the case concerns a Parish/Town Councillor the Monitoring Officer will make arrangements for a copy of the report to be sent to the Parish/Town Council concerned via the relevant Clerk. That will be the end of the matter.

If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Deputy Monitoring Officer or Investigating Officer to reconsider his/her report.

In considering the Deputy Monitoring Officer or Investigating Officer's report, the Monitoring Officer may again consult with an Independent Person(s) if he/she considers it appropriate to do so.

The Monitoring Officer may consider that there are "learning points" which should be shared with the Subject Councillor or other Members of the Council.

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

The Monitoring Officer will review the report and after again consulting with the Independent Person(s) will either seek local resolution or send the matter for a hearing via a Review Panel or, where the Monitoring Officer and Independent Person(s) agree that a Review Panel is not necessary, a direct referral to Full Council.

Local Resolution

If the Monitoring Officer thinks that the complaint can reasonably be resolved without the need for a hearing he/she will consult with the Independent Person(s) and with the complainant and seek to agree a fair resolution. It is important though that any resolution also helps to ensure higher standards of conduct for the future. Possible local resolutions may include the Subject Councillor accepting that his/her conduct was unacceptable and offering an

apology. If the Subject Councillor complies with the suggested resolution, the Monitoring Officer will take no further action. That will be the end of the matter.

Review Panel

If the complaint is not resolved through local resolution then the Monitoring Officer will refer the report to a Review Panel to determine whether or not the Code of Conduct was breached.

The Review Panel will comprise a minimum of three elected members of the Council's Licensing Committee. The Independent Person(s) will also be in attendance.

This is not a Court process but, in order to be fair to everyone, formalities are followed so that a proper decision can be reached. Each party, such as the complainant, Subject Councillor and any key witness which the Monitoring Officer agrees is relevant will be invited to attend and contribute to the hearing.

The Review Panel may conclude that the Subject Councillor did not fail to comply with the Code of Conduct, and so dismiss the complaint. That will be an end to the matter.

In exceptional circumstances where the Monitoring Officer and Independent Person(s) agree that a Review Panel would not add any value to an investigation, the case will be referred directly to Full Council for consideration.

8. What action can the Review Panel take when a Councillor has failed to comply with the Code of Conduct?

If the Review Panel concludes that the Subject Councillor did fail to comply with the Code of Conduct, the Monitoring Officer will inform the Subject Councillor of this finding and the Panel will then consider what action, if any, should be taken as a result of the failure to comply with the Code of Conduct.

Sanctions may include:

- Censure of the Subject Councillor.
- Removal of the Subject Councillor from any or all Committee or Sub-Committees of the Council, if appropriate.
- That the Political Group Leaders be recommended to remove the Subject Councillor from any or all Committee or Sub-Committees of the Council, if appropriate.
- Removal of the Subject Councillor from any position they hold which involves receipt of a Special Responsibility Allowance, such as Chairman or Vice-Chairman of a Committee, if appropriate.
- That the Political Group Leaders be recommended to remove the Subject Councillor from any position they hold which involves receipt of

a Special Responsibility Allowance, such as Chairman or Vice-Chairman of a Committee, if appropriate.

- That it recommends to the Leader of the Council that the Subject Councillor be removed from Cabinet and associated Cabinet portfolio responsibilities, if appropriate.
- That the Subject Councillor be replaced as Leader of the Council, if appropriate.
- Training for the Subject Councillor.
- Publication of its findings in respect of the Subject Councillor's conduct.

The Monitoring Officer, Review Panel or Council itself have no power to suspend or disqualify the Member or to withdraw or suspend allowances. It is only the above sanctions that they are able to impose.

Within 10 working days the Monitoring Officer will prepare a formal decision notice and send a copy to the complainant, to the Subject Councillor (and to the Parish/Town Council if appropriate).

9. Timescales

The timescales quoted below are indicative. They are not guaranteed and are included here to illustrate the likely duration of the complaints process. Actual timescales may be significantly shorter or longer depending on the complexity and content of the complaint.

Stage in complaints process	Indicative timescales
Acknowledge receipt of complaint or dismissal of invalid complaints	within 5 working days of receipt of complaint
Assessment stage decision	Issued to Subject Councillor and complainant within 25 working days of receipt of complaint
Investigation	A formal investigation normally takes around 8 - 12 weeks
Review Panel	within 25 working days of completion of the final investigation report – which includes: <ul style="list-style-type: none">• 10 working days to prepare hearing papers and hold any pre-hearing meetings• 10 working days for the Subject Councillor to submit a response to the Investigation report and hearing papers

	<ul style="list-style-type: none"> • 5 working days for agenda publication
Review Panel Decision	Issued to Subject Councillor and Complainant and published within 10 working days of the Review Panel

10. Appeals

There is no right of appeal for the Complainant or for the Subject Councillor against a decision of the Monitoring Officer or of the Review Panel.

11. Document Retention

The documentation relating to a complaint will be retained for six years from the conclusion of the complaint, irrespective of the outcome of the complaint, other than documentation submitted to the meeting of Full Council which will feature in the agenda pack and minutes of the relevant meeting.

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Procedure for dealing with complaints against Councillors who are alleged to have breached the Councillor Code of Conduct

1. The Code of Conduct

- 1.1 The Localism Act 2011 requires all Local Authorities to adopt a Code of Conduct setting out the standards of behaviour expected from their Councillors.
- 1.2 South Kesteven District Council has adopted a Code of Conduct for its Councillors, which is available on the Council's website and on request from the Monitoring Officer. This Code of Conduct reflects the Model Councillor Code of Conduct for Councillors as recommended by the Local Government Association.
- 1.3 Each of the Parish/Town Councils within South Kesteven may adopt their own Code of Conduct and a copy of their Code of Conduct should be available on the relevant Parish/Town Council website.
- 1.4 The Localism Act 2011 also requires Local Authorities to have in place "arrangements" under which allegations that an elected or co-opted member of the District or Parish/Town Council has failed to comply with the relevant Code of Conduct can be investigated and decisions made on such allegations.
- 1.5 These arrangements set out:
 - a) How to make a complaint about the conduct of an elected or co-opted member of South Kesteven District Council or of any Parish/Town Councils
 - b) How the Council will deal with such complaints
- 1.6 This document sets out the Council's arrangements for this purpose.

2. Making a complaint

- 2.1 Complaints must be submitted in writing to the Council's Monitoring Officer and can be submitted electronically or by post using the link, email address or postal address shown below:

Online e-form: <https://www.southkesteven.gov.uk/?service=COCOFO>

By email: legal@southkesteven.gov.uk

By post: Monitoring Officer, South Kesteven District Council, Council Offices, The Picture House, St Catherine's Road, Grantham, Lincolnshire, NG31 6TT

2.2 The following information will be required from anyone wishing to make a formal complaint against the conduct of a Councillor:

- name, address and other contact details (email address or telephone number)
- in which capacity they are complaining (member of the public, Councillor, Officer or any other capacity)
- name of the Councillor the complaint is about and the authority or authorities they belong to
- details of the alleged misconduct including, where possible, dates, witness details and other supporting information
- which aspect of the Councillor Code of Conduct the Councillor is alleged to have breached

2.3 The Monitoring Officer will not normally consider a complaint unless it is in writing. This is to ensure that all of the relevant information is provided and, where necessary, consent to share information has been obtained so that the complaint can be processed.

2.4 If you do not have access to the internet or have difficulty completing the form, please contact (01476 406080) for assistance.

2.5 Where a complaint is made against more than one Councillor, it must be clear in your complaint which aspects of the alleged breach of the Code of Conduct relate to each individual Councillor. Otherwise, it may be necessary to submit separate complaints.

2.6 If you are making the complaint on behalf of a number of individuals, please nominate one person as the single point of contact to whom all correspondence will be addressed.

2.7 Requests from complainants for the Monitoring Officer to withhold their identity, so that they remain anonymous to the Subject Councillor, are not ordinarily granted. The Monitoring Officer has to balance the right of the Subject Councillor to properly understand the complaint against them and respond to it, with the rights of the complainant. This normally means that the Subject Councillor will need to be told who is making the complaint.

3. The complaint process

3.1 A complaint against a Councillor will progress through the following stages:

- acknowledgement of the complaint
- reporting of complaint to Subject Councillor
- assessment of complaint by the Monitoring Officer, in liaison with Independent Person
- assessment decision by the Monitoring Officer
- if necessary, formal investigation of the complaint

- consideration of complaint and final decision of outcome by the Standards Committee, a Hearing Review Panel or a meeting of Full Council

3.2 Upon receipt of a complaint the Monitoring Officer will:

- Acknowledge the complaint within five working days
- Inform the Subject Councillor that a complaint has been received against them within five working days and invite their comments, unless there is justification for not doing so

3.3 The Monitoring Officer is entitled to dismiss the complaint at the outset if:

- The Subject Councillor is no longer a Councillor or is seriously ill
- The complaint is made anonymously, unless there are exceptional circumstances which the Monitoring Officer agrees are legitimate
- The same, or substantially the same, issue has been the subject of a previous Code of Conduct allegation against an individual Councillor and there is nothing further to be gained
- The complaint is essentially against the action of the Council as a whole and cannot properly be directed against an individual Councillor(s)
- The complaint does not relate to the conduct of a Councillor and is a service complaint or other matter
- The complaint is against an Officer of the Council
- The complaint relates to an incident that occurred over six months prior to the date of the complaint and, in the opinion of the Monitoring Officer, is not serious enough to justify formal consideration

3.4 If the complaint identifies criminal conduct (including a failure to register Disclosable Pecuniary Interests) or breach of other regulations by any person, the Monitoring Officer will refer the complaint to the Police or other regulatory agencies. No further action will be taken in relation to such complaints until any related criminal/regulatory investigation, proceedings or processes have been concluded.

3.5 All parties are encouraged to respond promptly to any correspondence in relation to the complaint. All parties will be kept updated as to how the complaint is progressing. If at any stage in the complaint process the complainant fails to respond, the complaint may be treated as withdrawn. If the Subject Councillor fails to respond, the complaint will be determined on the basis of the information available.

4. Assessment of complaint

First Assessment Stage

4.1 The first stage of the assessment process will consist of a jurisdictional test which assesses whether:

- The complaint is against one or more named Councillors of South Kesteven District Council or of a Parish or Town Council the authority is responsible for
- The named Councillor was in office at the time of the alleged conduct
- The complaint relates to matters where the Councillor was acting as a Councillor or representative of the authority and it is not a private matter
- The complaint, if proven, would be a breach of the Code of Conduct under which the Councillor was operating at the time of the alleged misconduct

4.2 If the complaint fails one or more of these tests it cannot be investigated as a breach of the Code of Conduct and no further action will be taken in respect of the complaint.

Second Assessment Stage

4.3 The second stage of the assessment process will review the complaint against the following criteria to establish if there are valid grounds to refer the complaint for formal investigation:

Sufficient Evidence	The Monitoring Officer must be satisfied that there is sufficient evidence to demonstrate a potential breach of the Code
Alternative Action	<p>The Monitoring Officer must be satisfied that there are no alternative, more appropriate, remedies that should be explored first</p> <p>The Monitoring Officer will explore the possibility of an informal resolution between the respective parties and consider whether any offer from the Subject Councillor to settle the complaint informally is reasonable</p>
Robust Political Debate	Where the complaint is by a Councillor against another Councillor, a greater allowance for robust political debate may be given, bearing in mind the right to freedom of speech
Seriousness	The Monitoring Officer will consider whether the complaint is considered malicious, vexatious, politically motivated or 'tit-for-tat'
Public Interest	The Monitoring Officer will consider whether it would be in the public interest to refer the complaint for investigation or other action and whether it is serious enough to warrant any available sanctions

4.4 As part of the assessment of the complaint, the Monitoring Officer may request further information from the complainant, the Subject Councillor and any witnesses or obtain information which is readily available. The Monitoring Officer will consult with the Independent Person prior to making their decision.

Assessment Decision

4.5 The Monitoring Officer will normally reach an assessment decision within 15 working days of receipt of the complaint, however, in some instances this may take longer if they are reliant on the receipt of further information. The Monitoring Officer will always, however, seek to assess complaints as soon as possible.

4.6 A Decision Notice setting out the Monitoring Officers decision will be produced, setting out the following:

- A summary of the complaint
- The part(s) of the Councillor Code of Conduct alleged to have been breached
- A summary of any response from the Subject Councillor
- A summary of any witness statements or additional information relied upon during the assessment
- A summary of the Independent Person's considerations
- An overview of the Monitoring Officer's decision
- A record of any further action required

4.7 The Monitoring Officer's decision will either be to:

- Take no further action
- Agree that the complaint can be resolved through informal resolution
- Refer the complaint for formal investigation

4.8 If the Subject Councillor of a complaint is a Parish or Town Councillor a copy of the Decision Notice will be sent to the Parish or Town Clerk, unless the decision is to take no further action.

4.9 If the Monitoring Officer decides not to investigate the complaint, the reasons for the decision will be set out in the Decision Notice. There will be no right of appeal regarding the Monitoring Officer's assessment decision, which will have been made in consultation with the Council's Independent Person.

5. Formal investigation

5.1 The Decision Notice from the assessment stage will highlight which aspect(s) of the original complaint will be subject to formal investigation.

5.2 Having established the scope of the investigation the Monitoring Officer, or a person appointed as an Investigating Officer, will inform:

- The Subject Councillor
- The complainant
- The Council's Independent Person
- The relevant Town or Parish Council should the Subject Councillor be a Town or Parish Councillor

5.3 The Monitoring Officer/Investigating Officer will undertake the investigation in accordance with the following key principles:

- Proportionality – the investigation will be proportionate to the seriousness or complexity of the matter under investigation
- Fairness – the Subject Councillor should know what they are accused of and have the opportunity to make comments on the investigation
- Transparency – as far as practical and having regard to an individual's right to confidentiality, investigations should be carried out as transparently as possible with all parties being kept up to date with progress on the case
- Impartiality – an investigator should not approach an investigation with pre-conceived ideas and should avoid being involved where they have a conflict of interest

5.4 The formal investigation is a process the Monitoring Officer/Investigating Officer follows to gather as much information about the allegation as possible, which can then be used as evidence. This could be documentary evidence, but it may also be necessary for the Monitoring Officer to conduct interviews with the Subject Councillor, complainant and key witnesses to gain as much evidence as is deemed necessary to inform their investigation.

5.5 During the course of the investigation it may be necessary to reappraise if an investigation remains the right course of action, for example:

- The evidence uncovered suggests a case is less serious than was originally apparent and that a different decision might therefore have been made regarding whether to investigate, or not
- Having examined the matter in greater detail it becomes apparent as part of the investigation that the matter under investigation was not carried out by the Subject Councillor in their capacity as a Councillor or representative of the authority but rather in a private capacity
- Something is uncovered which is potentially more serious and may require referral to the Police
- The Subject Councillor has died, is seriously ill or has resigned from the Council and it is considered inappropriate to continue with the investigation
- The Subject Councillor indicates that they wish to make a formal apology which the Monitoring Officer/Investigating Officer considers should draw a line under the matter

Draft Report

- 5.6 The Monitoring Officer/Investigating Officer will produce a draft report of their findings and share this with the Independent Person so that they can be satisfied that the investigation is of an acceptable standard and meet the scope of the aspects of the complaint under investigation.
- 5.7 The Monitoring Officer/Investigating Officer, once satisfied, will send the draft report to the Subject Councillor and complainant with a deadline for providing any comments as to its content.
- 5.8 The report should be treated as an explanation of all the essential elements of the case and a justification for why the Monitoring Officer/Investigating Officer have concluded there has been a breach, or not. The report will cover:
 - Agreed facts
 - Any disputed facts together with the view of the Monitoring Officer/Investigating Officer as to which version is more likely
 - Whether those facts amount to a breach of the Code, or not
 - Reasons for reaching that conclusion
- 5.9 The draft report will be treated as private and confidential by all recipients.
- 5.10 Where criticism is made of a third party, such as a witness, who will not otherwise have the opportunity to comment on the draft report, the Monitoring Officer/Investigating Officer will ensure that the third party has an opportunity to comment on that proposed criticism before the report is published.
- 5.11 The Monitoring Officer/Investigating Officer is under no obligation to accept any comments made but where they do not accept comments they should provide a written explanation as to why. By exception, it may be necessary to issue a second draft of the report if there have been significant changes.

Final Report

- 5.12 The final report will be issued by the Monitoring Officer and must be sent to:
 - The Subject Councillor
 - The complainant
 - The relevant Independent Person
 - The relevant Parish or Town Council of which the subject Councillor is a Member
- 5.13 The report must make one of the following findings on a balance of probabilities:

- That there have been one or more failures to comply with the Code of Conduct
- That there has not been a failure to comply with the Code of Conduct

Findings of Investigation

5.14 If the Monitoring Officer considers that there has been no breach of the Code of Conduct, that will usually be the end of the matter.

5.15 If the Monitoring Officer considers that there has been a breach of the Code of Conduct, they will decide the appropriate course of action to take in consultation with the Independent Person and notify relevant parties. This could include:

- Seeking an informal resolution
- Taking no further action on the basis of it being a technical breach which would not lead to any sanction
- Referring the matter to a Hearing

Publication of the Final Report

5.16 The Final Report will not be published if the matter has been referred to a Hearing as it will be dealt with as part of the Hearing process.

5.17 Where the Monitoring Officer has concluded that there is no breach, that no further action is required or the matter has been resolved in some other way the report will not be published. A statement explaining the outcome and Monitoring Officer's reasoning will be published. A summary of the report will be presented to the Standards Committee, for information purposes only.

6. Formal Hearing

6.1 A formal Hearing should, wherever possible, take place within three months of the date on which the Monitoring Officer/Investigating Officer's report was completed. Where that is not possible, the Monitoring Officer will notify the relevant parties of the reason for the delay and provide an estimated timescale.

6.2 The Hearing will not take place sooner than 14 days after the investigation report has been issued, unless the Subject Councillor agrees. This is to allow them sufficient time to prepare their defence and consider any witnesses they may wish to call.

6.3 The Hearing can be facilitated by the Council's Standards Committee, or a Sub-Committee of the Standards Committee called the Hearing Review Panel. The Monitoring Officer, in consultation with the Independent Person

and Chairman and Vice-Chairman of the Standards Committee, will determine which is most appropriate.

- 6.4 If a Hearing Review Panel is selected for facilitating the Hearing, its membership will be drawn from the Standards Committee on a politically proportionate basis, unless any conflicts of interests or other circumstances prevent this being achieved. The Chairman and Vice-Chairman of the Standards Committee will agree upon the final membership of the Hearing Review Panel.
- 6.5 Once a date has been set for the Hearing, the Monitoring Officer will notify:
 - The Subject Councillor
 - The Investigating Officer if the Monitoring Officer themselves did not undertake the investigation
 - The Independent Person
 - The complainant
 - The clerk of any Parish or Town Council if the complaint relates to a Parish or Town Councillor
- 6.6 The Monitoring Officer will also outline the Hearing procedure, the Subject Councillor's rights and they will additionally ask for a written response from the Subject Councillor to confirm whether they:
 - Want to be represented at the Hearing by counsel, a solicitor or any other person they wish
 - Disagree with any of the findings of fact in the investigation report, including reasons for any of these disagreements
 - Want to give evidence to the Hearing either verbally or in writing
 - Want to call relevant witnesses to give evidence to the Hearing
 - Want to request any part of the Hearing be held in private
 - Want to request any part of the investigation report or other relevant documents be withheld from the public
- 6.7 The Monitoring Officer will give consideration as to any witnesses they wish to call for the Hearing or, if they did not undertake the investigation themselves, seek confirmation from the Investigating Officer.
- 6.8 Pre-hearings will be held between the Monitoring Officer and Members of the Standards Committee/Hearing Review Panel as and when deemed necessary and appropriate. The pre-meeting will not be held in public and will not be used to debate the merits of the case, but will be used to:
 - Consider whether any findings of fact in the investigation report are in dispute and, if so, how relevant they will be to the Hearing
 - Consider any additional evidence considered necessary for the Hearing

- Identify any witnesses that should be invited to the Hearing if not already identified
- Decide whether witnesses called by the Monitoring Officer/Investigating Officer and the Subject Councillor are relevant
- Consider whether any parts of the Hearing should be held in private or any parts of the investigation report or other documents should be withheld from the public prior to the Hearing
- Identify any potential conflicts of interest

6.9 The pre-meeting does not necessarily have to be held as a meeting, with some of the information able to be confirmed through correspondence.

6.10 The Standards Committee/Hearing Review Panel will comply with Council Procedure Rules, Access to Information Procedure Rules and Articles relating to the Standards Committee for the purpose of facilitating the Hearing as set out in the Council's Constitution.

6.11 The Hearing is not a court of law and will not hear evidence under oath, but it will decide factual evidence on the balance of probabilities.

6.12 The procedure to be followed at Hearings is set out at **Appendix 1** to this Protocol.

7. Sanctions

7.1 The Standards Committee or Hearing Review Panel can impose the following sanctions should a breach of the Code of Conduct have occurred:

- Present a report of its findings in respect of the Subject Councillor's conduct to Full Council (or relevant Parish or Town Council)
- Issue a formal Censure Notice (or recommend the same action to the relevant Parish or Town Council)
- Recommend to the Subject Councillor's political group leader, or a recommendation to Full Council, that they be removed from any or all Committees and other bodies to which they are appointed (or recommend the same action to the relevant Parish and Town Council)
- Recommend to the Subject Councillor's political group leader that they be removed from positions of responsibility (or recommend the same action to the relevant Parish or Town Council)
- Instruct the Monitoring Officer to arrange training for the Subject Councillor (or recommend that the relevant Parish or Town Council arrange for suitable training to be held for the Subject Councillor)
- Recommend to Full Council that the Subject Councillor be removed from all outside appointments to which they have been appointed or nominated by the Authority (or recommend the same action to the relevant Parish or Town Council)
- Recommend to Full Council that facilities provided to the Subject Councillor by the Authority be withdrawn for a specified period, such as a computer/tablet, website, email account, social media account

(or recommend the same action to the relevant Parish or Town Council)

- Recommend to Full Council that the Subject Councillor be excluded from the Authority's Officer or other premises for a specified period, with the exception of meeting rooms as necessary for attending the Council's meetings or other approved duties and/or restricts contact with Officers to named Officers only (or recommend the same action to the relevant Parish or Town Council)
- Recommend to Full Council that the Subject Councillor be removed from their role as Leader of the Council, if relevant
- Recommend to the appropriate official of a political group that the Subject Councillor be removed as Political Group Leader or other position of responsibility within the Political Group, if relevant

7.2 The Council, its Monitoring Officer, the Standards Committee or a Review Panel have no power to suspend or disqualify a Councillor who is found to have breached the Councillor Code of Conduct, or withdraw or suspend allowances. It is only the above sanctions that they are able to impose.

Final Decision of Standards Committee or Hearing Review Panel

7.3 A Decision Notice setting out the Standards Committee/Hearing Review Panel's decision will be produced and published.

7.4 If the Standards Committee or Hearing Review Panel finds that the Subject Councillor did not fail to follow the authority's Councillor Code of Conduct and that there was no breach, the Decision Notice will state this and provide reasons for this finding.

7.5 If the Standards Committee or Hearing Review Panel finds that the Subject Councillor failed to follow the Councillor Code of Conduct and that there was a breach, but no further action is required, the Decision Notice will:

- State that the Councillor failed to follow the authority's Councillor Code of Conduct and that there was a breach but no further action needs to be taken
- Outline what happened
- Provide reasons for the decision not to take any action

7.6 If the Standards Committee or Hearing Review Panel finds that a Councillor failed to follow the Code, there was a breach and a sanction was imposed, the Decision Notice will:

- State that the Councillor failed to follow the authority's Councillor Code of Conduct and that there was a breach
- Outline what happened
- Explain what sanction has been imposed
- Provide reasons for the decision

8. Appeals

8.1 There is no right of appeal for the complainant or for the Subject Councillor against a decision of the Monitoring Officer, the Standards Committee or the Hearing Review Panel in relation to any decision they make at the relevant stage of the above process.

9. Local Government Association Guidance

9.1 This Protocol will be followed in conjunction with the latest guidance published by the Local Government Association in respect of dealing with complaints against Councillors.

Procedure to be followed at Formal Hearings

1. Preliminary Procedural Issues

- a) Introductions
- b) Election of Chairman (if Hearing Review Panel)
- c) Declarations of Interests
- d) To consider any requests for the exclusion of the Press and Public

2. Monitoring Officer, Investigating Officer or their representative

- a) Monitoring Officer, Investigating Officer or their representative to present the report and call such witnesses as they consider necessary, and make representations to substantiate their conclusions within the report.
- b) The Standards Committee/Hearing Review Panel to raise any issues or clarify any matters with the Monitoring Officer or Investigating Officer's report and to question and clarify matters with any of the witnesses called (if any).
- c) The Subject Councillor to raise any issues or clarify any matters with the Monitoring Officer or Investigating Officer's report and to question and clarify matters with any of the witnesses called (if any).

3. Subject Councillor or their representative

- a) The Subject Councillor to respond to the investigation report and call such witnesses as they consider necessary (if any) and make representations.
- b) The Monitoring Officer, Investigating Officer or their representative to raise any issues and to question or clarify any matters with the Subject Councillor and to question or clarify any matters with any of the witnesses called (if any).
- c) The Standards Committee/Hearing Review Panel to raise any issues, question or clarify any matters with the Subject Councillor.

4. Independent Person

- a) The Independent Person to provide their views.
- b) The subject Councillor to seek any points of clarification from the Independent Person or ask any questions.
- c) The Monitoring Officer, Investigating Officer or their representative to seek any points of clarification from the Independent Person or ask any questions.
- d) The Standards Committee/Hearing Review Panel to seek any points of clarification from the Independent Person or ask any questions.

5. Standards Committee/Hearing Review Panel Deliberations

- a) The Review Panel to retire, along with the representative from Democratic Services/designated Legal Advisor to the Panel to determine whether there has been a breach of the Code of Conduct.
- b) The Standards Committee/Review Panel to resume the Hearing to report the decision:
 - If further information or clarification is required, this will be reported and a decision taken as to whether an adjournment or postponement is necessary
 - If no breach of the Code of Conduct, the Hearing ends
 - If there has been a breach of the Code of Conduct, the Hearing will continue

6. Breach of the Code of Conduct

- a) Monitoring Officer, Investigating Officer or their representative to outline possible sanctions.
- b) The Subject Councillor to respond with any mitigation.
- c) The Independent Person to provide their views on appropriate sanctions.
- d) The Review Panel determines appropriate sanctions.

7. End of Hearing

A Decision Notice to be produced and published to all parties within 5 working days.