



THE NEWCASTLE CHARTER

Part 5.4G – Protocol – Arrangements for Dealing with Complaints against Councillors

Notes:-

This Part sets out how the Council will deal with complaints against Councillors. It is a local protocol and does not form part of the Code of Conduct for Members under the Localism Act 2011.

These are the arrangements under which allegations that a member has failed to comply with the Code of Conduct can be investigated and decisions can be made, as required by the Localism Act 2011.

Statutory Sources

Localism Act 2011, s28(6)

Authorisation

These arrangements were approved, in principle, by City Council on 13 June 2012. Standards Committee subsequently approved these written arrangements on 20 July 2012.

Standards Committee approved amendments to these written arrangements on 13 October 2017.

Newcastle upon Tyne City Council

Arrangements for dealing with standards allegations against members under the Localism Act 2011

1 Context

In this document, references to “the Council” mean Newcastle upon Tyne City Council and references to “authority” mean either the Council or any one of the parish councils in its area.

These Arrangements explain how you may make a complaint that an elected (or co-opted) member of the Council, or of a parish council in its area, has failed to comply with the relevant authority’s Code of Conduct, and how the Council will deal with your complaint.

The Council is required to have such arrangements in place by section 28 of the Localism Act 2011. It is responsible for dealing with any complaint against a parish councillor in the city as well as complaints against its own members.

As part of the arrangements, the Council must appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on a complaint which has been investigated, and whose views may also be sought by the Council, or the member against whom the complaint has been made, at any stage in the process. The Council has in fact appointed two Independent Persons.

References in these arrangements to “the Subject Member” mean the member against whom the complaint has been made.

2 The Code of Conduct

The Council has adopted a Code of Conduct for its members. It is available for inspection on the Council’s website and on request from its Service Manager Democratic Services or Assistant Director Legal Services.

Each parish council must also adopt a Code of Conduct. The Code of each parish council is available on request from the clerk of the relevant parish council and also on any website operated by the parish council. Details of the parish clerks can be found on the City Council’s website.

3 Making a complaint

If you wish to make a complaint, please write or email to –

The Monitoring Officer
Newcastle City Council
Civic Centre
Newcastle upon Tyne
NE1 8QH

Or –

john.softly@newcastle.gov.uk

The Monitoring Officer is a senior officer of the authority who has statutory responsibility to maintain the register of members' interests and to administer complaints of member misconduct.

(In these arrangements, references to "the Monitoring Officer" mean either the Monitoring Officer personally or any other person (including the Deputy Monitoring Officer) who s/he has authorised to act on his/her behalf in relation to any particular complaint)

To make sure we have all the information we need to process your complaint, please complete and send us the model Complaint Form. This can be downloaded from the Council's website and is available on request from its Service Manager Democratic Services or Assistant Director Legal Services.

Please include your name and a contact address or email address, so that we can acknowledge receipt of your complaint.

If you want to keep your name or address confidential, please explain why in the space provided on the complaint form, in which case we will not disclose your name or address to the member against whom you make the complaint, without first consulting you. Anonymous complaints will not usually be investigated, unless there are compelling reasons to do so.

The Monitoring Officer will acknowledge receipt of your complaint within 5 working days.

The Monitoring Officer will also, within 5 working days, normally provide a copy of your complaint to the member against whom it is made and disclose your identity (unless you have requested confidentiality and the Monitoring Officer thinks it is appropriate to keep your identity confidential). In exceptional cases, where disclosure of the details might prejudice a future investigation, the Monitoring Officer may delay doing this.

The Monitoring Officer will also ask both you and the member who you have complained against not to make public the complaint until the Monitoring Officer has decided how it should be dealt with and any investigation into it is completed.

4 Will your complaint be investigated?

The Monitoring Officer will review every complaint received and, after consulting the Independent Persons where appropriate, decide whether it merits formal investigation. This decision will normally be taken within 10 working days of receiving your complaint. The Monitoring Officer will inform you of this decision and the reasons for it.

Before making this decision, the Monitoring Officer may ask you, or the member who you have complained against, for more information. If your complaint is against a parish councillor, the Monitoring Officer may also inform the Parish Council (or its clerk) of your complaint and seek their views before deciding about a formal investigation.

In appropriate cases, the Monitoring Officer may try to resolve your complaint informally, without a formal investigation. Informal resolution might involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the Council. Where the member, or the Council, makes an offer of local resolution which you are not willing to accept, the Monitoring Officer will take this into account (in consultation with the Independent Persons) before deciding whether the complaint merits formal investigation.

If your complaint alleges criminal conduct, the Monitoring Officer may call in the Police and other regulatory agencies.

The Monitoring Officer may ask the Standards Committee to decide whether a formal investigation should be carried out where s/he feels this decision might more appropriately be made by the Committee.

5 How is the investigation conducted?

The Council has agreed a procedure to investigate misconduct complaints (set out in Appendix 1).

If the Monitoring Officer decides a formal investigation is needed, s/he will appoint an Investigating Officer, who may be a solicitor or barrister employed by the Council or an officer of another authority or an external investigator.

The Investigating Officer will immediately contact you to let you know s/he has been appointed. S/he may also well want to speak to you to clarify details of your complaint, whether you have any supporting documents and what witnesses need to be interviewed.

The Investigating Officer will also normally write to the member against whom you have complained and ask for their explanation of events, and any relevant documents or witnesses s/he wishes to rely on. (In exceptional cases, where it is considered appropriate to keep your identity confidential, or where disclosure of details might prejudice the investigation, this information may be withheld from the member).

At the end of the investigation, the Investigating Officer will produce a draft report and send a copy of it (in confidence) to you and to the member concerned. You will each then have an opportunity to identify any matter which you disagree with and to give your reasons why.

Having received, and taken account of, any comments which you may make on the draft report, the Investigating Officer will finalise the report and send it to the Monitoring Officer.

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

The Monitoring Officer will review the Investigating Officer's final report and send it to the Independent Persons for their views on it. If, after considering any views from the Independent Persons, the Monitoring Officer is satisfied with the conclusion that there has been no breach of the Code, s/he will write to you and to the member concerned (and to the Parish Council where the complaint is against a parish councillor) notifying you that s/he is satisfied that no further action is required, and give you both a copy of the final report.

If the Monitoring Officer is not satisfied (again after consulting the Independent Persons) that the Investigating Officer's conclusion is necessarily correct or well-founded, the Monitoring Officer may either (a) ask the Investigating Officer to reconsider his/her report or (b) deal with the report under paragraph 7 below. The Monitoring Officer shall in any event have the right to deal with the report under paragraph 7 below if s/he considers a hearing by members is nevertheless appropriate in all the circumstances.

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

The Monitoring Officer will review the Investigating Officer's report and, after seeking the views of the Independent Persons, will then either send the matter to the Standards Committee for local hearing or seek a local resolution.

7.1 Local Resolution

The Monitoring Officer may consider the matter can still be amicably and reasonably resolved without the need for a hearing. In such a case, s/he will consult (a) the Independent Persons (b) the Chair of the Standards Committee and (c) you as the complainant.

The Monitoring Officer will only seek a local resolution at this stage if you agree to this and after taking into account the views of the Independent Persons and the Chair of Standards Committee.

A local resolution might involve the member accepting that his/her conduct was unacceptable and offering an apology, and/or other appropriate remedial action by the Council.

If the member complies with the suggested resolution, and you as the complainant agree to it, the Monitoring Officer will report the matter to the Standards Committee (and, if appropriate, the Parish Council) for information, but will take no further action. If you do not agree the proposed resolution, the Monitoring Officer will refer the matter for a local hearing in any event.

7.2 Local Hearing

If the Monitoring Officer (after consulting the Independent Persons) considers that a local resolution is not appropriate, or you or the member do not agree the proposed local resolution, then the Monitoring Officer will refer the Investigating Officer's report to the full Standards Committee which will conduct a local hearing to decide whether the member has failed to comply with the Code of Conduct and, if so, what action to take.

The Council's agreed procedure for local hearings is at Appendix 2.

In summary, the Monitoring Officer will conduct a "pre-hearing process", to try and identify what matters will be in dispute at the hearing to ensure it is properly organised. At the hearing itself, the Investigating Officer will present his/her report, and produce such evidence as s/he considers appropriate to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. The Investigating Officer may ask you as the complainant to attend and give evidence to the Standards Committee. The member will then have an opportunity to give his/her evidence and call witnesses and make representations to the Committee about the complaint.

The Standards Committee, with the benefit of any advice from the Independent Persons, may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint.

If the Standards Committee concludes that the member did fail to comply with the Code, the Chair will inform the member of this finding and the Committee will then consider what action, if any, it should take. Before deciding this, it will give the member an opportunity to make representations to the Committee and will also consult the Independent Persons.

8 What action can the Standards Committee take where a member has failed to comply with the Code of Conduct?

The Council has delegated to the Standards Committee such powers as it has to take action against any individual member as may be necessary to promote and maintain high standards of conduct. Accordingly the Standards Committee may –

- 8.1 Issue a formal censure;
- 8.2 Recommend to the Council, or to the Parish Council, the issue of a formal censure by the Council or by the Parish Council;
- 8.3 Publish its findings in respect of the member's conduct;
- 8.4 Report its findings to Council, or to the Parish Council, for information;
- 8.5 Recommend to the Council (or the Parish Council) that the member be removed from any or all Committees or Sub-Committees (subject to the approval of the member's Political Group if applicable);
- 8.6 Recommend to the Council, or to the Parish Council, that the member be removed from being the chair or vice-chair of any Committees or Sub-Committees;
- 8.7 Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 8.8 Instruct the Monitoring Officer to, or recommend that the Parish Council should, offer training for the member;
- 8.9 Recommend to the Council, or to the Parish Council, that the member be removed from all outside appointments to which he/she has been appointed or nominated by the Council or by the Parish Council;

The Standards Committee has no power to suspend or disqualify the member or to withdraw a member's allowances.

9 What happens at the end of the hearing?

At the end of the hearing, the Chair will state the decision of the Standards Committee and any actions which the Committee has resolved to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice, and send a copy to you and the relevant member (and the Parish Council if appropriate) and make that decision notice available for public inspection.

10 What is the Standards Committee?

The Standards Committee is a Committee of the Council. The Council has decided it should comprise seven elected members of the Council (including no more than one Cabinet member) appointed on the nomination of party group leaders in proportion to the strengths of each party group on the Council. The Committee also includes two independent co-opted members (one of whom is the Chair of the Committee) and two co-opted parish council representatives. All the co-opted members are non-voting members of the Committee.

The views of the Independent Persons will be sought and taken into account before the Standards Committee takes any decision about a breach of the Code of Conduct or what sanctions to impose.

11 Who are the Independent Persons?

The Council has appointed two Independent Persons. They are people who applied for the post following public advertisement.

An Independent Person cannot be someone who is (or has been within the past 5 years) a member, co-opted member or officer of the Council or one of the parish councils in its area, or is a relative or close friend of such a person.

12 Revision of these arrangements

The Council has given the Standards Committee delegated power to adopt and amend these arrangements from time to time if it thinks appropriate.

13 Appeals

There is no right of appeal (either for you, as complainant, or for the member whom you have complained about) against any decision made under these arrangements except as follows:

- If you are aggrieved by a decision by the Monitoring Officer to either:

(i) not investigate your complaint, or

(ii) not refer it to Standards Committee where it has been investigated with a finding of no failure to comply with the Code,

then you can request the Monitoring Officer to reconsider such decision.

The Monitoring Officer will then consult the Independent Persons and the Chair of the Standards Committee before deciding whether to (a) uphold his/her original decision or (b) investigate the complaint or (as the case may be) refer the investigation finding to Standards Committee for it to decide if a hearing is nevertheless appropriate.

- If a member is aggrieved by a finding of Standards Committee that s/he has breached the Code of Conduct (or any sanction imposed as a result), s/he can request a review by an Independent Person of another local authority whose views, if critical of the original finding or sanction imposed, will result in the Standards Committee being required to reconsider its original decision.

The Monitoring Officer will arrange with a neighbouring local authority that one of its Independent Persons be made available for this purpose.

If you feel that the authority has failed to deal with your complaint properly, you can also make a complaint to the Local Government Ombudsman.

Appendix 1: Procedure for Investigations Appendix 2: Procedure for Hearings

Standards Arrangements

Appendix 1 - Procedure For Investigations

Introduction

If the Monitoring Officer decides that a complaint merits formal investigation, s/he will arrange for an Investigating Officer to investigate and prepare a report.

This Appendix explains the procedure which will normally be followed in such an investigation, although the Investigating Officer may vary it in any particular case if s/he considers this desirable in the interests of justice or fairness or the effective conduct of the investigation.

It also explains how the investigation, depending on its conclusions, may lead to a formal hearing by the Committee.

1. Investigation - General

1.1 Appointment of Investigating Officer

Within 3 working days of deciding that the complaint should be investigated, the Monitoring Officer will appoint an Investigating Officer to investigate and report on it. The Investigating Officer may be the Monitoring Officer or any other Council officer or appropriate external person nominated by him/her.

1.2 Notification to the Subject Member

As soon as reasonably possible after appointment, the Investigating Officer shall send a copy of the complaint to the Subject Member and invite his/her initial comments on it.

1.3 Request for Information from the Complainant

At the same time, the Investigating Officer shall notify the Complainant that s/he is investigating the complaint and tell him/her how it will be dealt with.

1.4 Parish Council

The clerk to the relevant parish council will also be notified by the Investigating Officer of any decision to investigate a complaint against a parish councillor.

2. Conduct of the Investigation

2.1 Purpose of the Investigation

The purpose of the investigation is to enable the Investigating Officer to prepare a report for the Monitoring Officer or the Standards Committee (as appropriate) with sufficient information for the Monitoring Officer or the Committee to determine whether the Subject Member has acted in breach of the Code of Conduct and, where there has been a breach, whether any action should be taken, and if so, what action.

2.2 Investigation Process

The Investigating Officer will conduct the investigation in the manner s/he considers best able to ascertain all relevant facts and achieve the purpose of the investigation, having

regard to the rules of natural justice and the need for fairness. The Investigating Officer will complete his/her investigation as expeditiously as possible.

2.3 Deferring an Investigation

The Monitoring Officer may defer an investigation if s/he considers it appropriate, for example because it might prejudice some other investigation or court proceedings into the matter.

3. The Draft Report

- 3.1 On completing his/her investigation, the Investigating Officer shall prepare a draft report, marked 'confidential'.
- 3.2 The draft report will state that it does not necessarily represent the Investigating Officer's final finding, and that s/he will prepare a final report once s/he has considered any comments received on the draft report.
- 3.3 The Investigating Officer shall send a copy of the draft report, in confidence, to the Subject Member and the Complainant, and request that they send any comments on it to him/her in writing within 10 working days.

4 The Final Report

- 4.1 After the expiry of the period referred to in paragraph 3.3 (or such extended period as the s/he may allow), the Investigating Officer shall reconsider and (if appropriate) amend his/her draft report in the light of any comments received, and expeditiously produce a final report, which will be given to the Monitoring Officer as soon as it is completed. This report will state that it represents the Investigating Officer's final findings.

5 A Finding of No Evidence of Failure to Comply with the Code - Procedure

- 5.1 If the Investigating Officer finds no evidence of a failure to comply with the Code and the Monitoring Officer (after consulting the Independent Persons and taking into account any views they may give on the report) is satisfied with the Investigating Officer's conclusion, the Monitoring Officer will normally:
 - (a) close the matter,
 - (b) provide a copy of the report and findings to the Complainant, the Subject Member, the Independent Persons and the clerk of the relevant parish council (if the Subject Member is a parish councillor), and
 - (c) report the findings to the Standards Committee for information.
- 5.2 If the Monitoring Officer (after consulting the Independent Persons) is not satisfied that the Investigating Officer's conclusion is necessarily correct or well-founded, or for any other reason, the Monitoring Officer may either (a) ask the Investigating Officer to reconsider his/her report or (b) deal with the matter under paragraph 6 below as if there had been a finding of evidence of failure to comply with the Code.

6. A Finding of Evidence of a Failure to Comply with the Code- Procedure

If the Investigating Officer finds evidence of a failure to comply with the Code then, after reviewing the report:

- 6.1 The Monitoring Officer will:
- (a) provide a copy of the report and findings to the Complainant, the Subject Member, the Independent Persons, the Chair of the Standards Committee and the clerk of the relevant parish council (if the Subject Member is a parish councillor); and may
 - (b) in appropriate cases, and only following consultation with the Independent Persons and the Chair of the Standards Committee, seek local resolution to the satisfaction of the Complainant and then provide a summary report to the Standards Committee for information (and also to the clerk of the relevant parish council if applicable).
- 6.2 Where such local resolution is not appropriate, or not possible, the Monitoring Officer will arrange for a hearing by following the procedure set out in Appendix 2.

Standards Arrangements

Appendix 2 - Procedure For Hearings

1. Introduction

This explains the procedure which will normally be followed for the hearing of a Code of Conduct complaint after a formal investigation. References to “the Subject Member” mean the member against whom the complaint has been made.

Pre-hearing process

2. Purpose of Pre-hearing process

2.1 The pre-hearing process deals with procedural issues only and should be completed within 20 working days of the Monitoring Officer deciding a hearing should be held.

2.2 Its purpose is to:

- clarify if the Subject Member disagrees with any of the findings of fact in the Investigation Report and, if so, (a) whether this is likely to be relevant to any matter the hearing needs to decide and (b) whether evidence about them will need to be heard at the hearing.
- decide if any part of the hearing is likely to be held in private and whether any parts of the Investigation Report (or other documents) should be withheld from the public prior to the hearing, on the grounds that they contain “exempt” material.

3. Notification to the Subject Member and Request for Information

3.1 Within 5 working days of deciding that a hearing is appropriate, the Monitoring Officer shall send a copy of the Investigation Report to the Subject Member and also notify the Subject Member of:

- (i) the procedure which will be followed;
- (ii) a proposed date for the hearing, being a date which appears convenient for both the Investigating Officer and the Subject Member to attend;
- (iii) the fact that if the Subject Member seeks to dispute at the hearing any matter in the Investigation Report without having previously raised this during the pre-hearing process, the Committee may either (a) adjourn the hearing to arrange for any necessary witnesses to attend or (b) refuse to allow the Subject Member to dispute that matter and reach their decision on the basis of the matter as set out in the Investigation Report.

3.2 At the same time, the Monitoring Officer will ask the Subject Member to indicate in writing within 5 working days whether s/he:

- (i) Disputes any of the findings of fact in the Investigation Report, including reasons for any such dispute;
- (ii) Wishes to be represented at the hearing by a solicitor, barrister or any other person. (If the Subject Member wants to have a non-legal representative, s/he must obtain the Committee’s consent);

- (iii) Intends to give evidence to the hearing, either verbally or in writing;
- (iv) Intends to call any witnesses to give evidence to the hearing and, if so, who;
- (v) Is able, and intends, to attend the hearing on the proposed date;
- (vi) Wants any part of the hearing to be held in private and, if so, why;
- (vii) Wants any part of the Investigation Report (or other relevant documents) to be withheld from the public and, if so, why;

NOTE: If the Subject Member fails to notify the Monitoring Officer within the above timescale whether he/she intends to call any witnesses to give evidence to the hearing, the Subject Member will only be allowed to call any witnesses at the hearing at the discretion of the Chair.

4. Notification to the Investigating Officer and Request for Information

Within 2 working days of receiving the Subject Member's written response to the request in paragraph 3.2, the Monitoring Officer will send a copy of it to the Investigating Officer and invite him/her to comment on it within 5 working days and to also say whether s/he wants:

- (i) To call any witnesses to give evidence at the hearing and, if so, who
- (ii) Any part of the hearing to be held in private or any part of the Investigation Report (or other relevant documents) to be withheld from the public and, if so, which parts and why.

5. Hearing

5.1 General

5.1.1. The hearing will be held within 40 working days of the Monitoring Officer deciding that a hearing is appropriate.

5.1.2 The Committee will aim to complete the hearing in one sitting.

5.1.3 There will be a presumption it will be held in public where possible to ensure the process is open and fair. However, background papers relating to complaints will remain confidential where they contain exempt or confidential information as defined under Part 5A Local Government Act 1972 and the public may be excluded from the hearing where such information is discussed.

5.2 Hearing Procedure

The hearing procedure is set out in Schedule 1.

6. Notice of the Committee's findings

6.1 Within 10 working days after the hearing, the Committee will give a copy of its full written decision ("Decision Notice") to

- (a) the Subject Member
- (b) any parish council concerned,
- (c) the Complainant and

(d) the Independent Persons.

- 6.2 Subject to 6.3, it is open to the Committee to publicise its decision, and the reasons for it, as it thinks fit but it will normally do so by posting the Decision Notice on the Council's website and in its Customer Service Centres.
- 6.3 If the Committee finds that the Subject Member did not breach the relevant Code of Conduct, the Decision Notice must state that fact and give reasons for that finding. In this case, the Subject Member is entitled to require that no Decision Notice or any other summary of the decision be published.
- 6.4 If the Committee finds that the Subject Member failed to follow the Council's Code of Conduct, but that no action is needed, the Decision Notice must state that fact, outline what happened and give reasons for the decision.
- 6.5 If the Committee finds that the Subject Member failed to follow the Council's Code of Conduct and takes some action, the Decision Notice must state that, outline what happened, give reasons for the decision and state the action that has been taken.

Schedule 1 to Appendix 2

Hearing Procedure

Interpretation

In this Schedule and in Schedule 2 -

1. 'Member' means the Subject Member, including his/her nominated representative where the context reasonably allows this.
2. 'Investigating Officer' means the person appointed by the Monitoring Officer to undertake the investigation or his or her nominated representative.
3. 'Committee' means the Standards Committee.
4. 'Council' means Newcastle City Council.
5. 'Legal Advisor' means the officer responsible for providing legal advice to the Committee. This may be the Monitoring Officer, another legally qualified officer of the Council or someone appointed for this purpose from outside the Council.
6. 'Code of Conduct' means the Code of Conduct with which the complaint alleges the Member has failed to comply.
7. 'Independent Persons' means the persons appointed by the Council under s28 Localism Act 2011.

Representation

8. The Member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the Committee, another person.

Legal advice

9. The Committee may take legal advice, in private if necessary, from its Legal Advisor at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Committee should be shared with the Member and the Investigating Officer if they are present.

Non attendance by the Member

10. If the Member does not attend the hearing, the Committee may consider the Investigating Officer's report in the Member's absence. If the Committee is satisfied with the Member's reason for not being able to attend the hearing, it may arrange for the hearing to be held on another date. Where the Committee proceeds in the Member's absence, this procedure shall be adapted as necessary, giving any representative of the Member who is present such rights as would have been given to the Subject Member.

Setting the scene

11. After everyone involved in the hearing has been formally introduced, the Chair should explain how the Committee will conduct the hearing.

Preliminary procedural issues

12. The Committee should then resolve any issues or disagreements about how the hearing should proceed, which have not been resolved during the pre-hearing process.

Making findings of fact

13. After dealing with any preliminary issues, the Committee should then move on to consider whether there are any significant disagreements about the facts contained in the Investigating Officer's report.
14. If there is no disagreement about the facts, the Committee can move on to the next stage of the hearing.
15. If there is a disagreement, the Investigating Officer should be invited to make any necessary representations to support the relevant findings of fact in the report. With the Committee's permission, the Investigating Officer may call any necessary supporting witnesses to give evidence. The Committee may give the Member an opportunity to challenge any evidence put forward by any witness called by the Investigating Officer by the cross-examination of the witness either directly by the Member (or his/her representative) or through the Chair.
16. The Member should then have the opportunity to make representations to support his/her version of the facts and, with the Committee's permission, to call any necessary witnesses to give evidence.
17. At any time, the Committee may question any of the people involved or any of the witnesses, and may allow the Investigating Officer to challenge any evidence put forward by witnesses called by the Member.
18. If the Member disagrees with most of the facts, it may make sense for the Investigating Officer to start by making representations on all the relevant facts, instead of discussing each fact individually.
19. If the Member disagrees with any relevant fact in the Investigating Officer's report, without having given prior notice of the disagreement, s/he must give good reasons for not mentioning it before the hearing. If the Investigating Officer is not present, the Committee will consider whether it would be in the public interest to continue in their absence.

After considering the Member's explanation for not raising the issue at an earlier stage and any comments of the Investigating Officer or Monitoring Officer, the Committee may then:

- (a) Continue with the hearing, relying on the information in the Investigating Officer's report;
 - (b) Allow the Member to make representations about the issue, and invite the Investigating Officer (or Monitoring Officer) to respond and call any witnesses, as necessary;
 - (c) Postpone the hearing to arrange for appropriate witnesses to be present, or for the Investigating Officer to be present if they are not already.
20. The Committee will usually consider the representations and evidence in private.
 21. The Chair will then announce the Committee's findings of fact.

Did the Member fail to follow the Code of Conduct?

22. The Committee will then consider whether, based on the facts it has found, the Member has failed to follow the Code of Conduct.
23. The Member should be invited to give relevant reasons why the Committee should decide that s/he has not failed to follow the Code of Conduct.
24. The Committee should then consider any verbal or written representations from the Investigating Officer.
25. The Committee may, at any time, question anyone involved on any point they raise in their representations.
26. The views of the Independent Persons, if present, will be sought and the Member and Investigating Officer will be given the opportunity to make representations on any such views which may be given.
27. The Member should be invited to make any concluding representations to the Committee.
28. The Committee will usually then consider their final decision in private.
29. The Chair will then announce to those present at the hearing the Committee's decision as to whether the Member has failed to comply with the Code of Conduct.

If the Member has not failed to follow the Code of Conduct

30. If the Committee decides that the Member is not in breach of the Code of Conduct, the Committee can move on to consider whether it should make any recommendations to the Authority on any other matters arising.

If the Member has failed to follow the Code of Conduct

31. If the Committee decides that the Member has been in breach of the Code of Conduct, it will consider any verbal or written representations from the Investigating Officer and the Member as to:
 - (a) whether the Committee should take any action; and
 - (b) what form any action should take.
32. The Committee may question the Investigating Officer, Monitoring Officer and Member, and take legal advice, to ensure it has the information it needs to make an informed decision. It shall also invite, and take into account, the views of any Independent Person who is present.
33. The Committee will then deliberate in private to consider whether to take any action, and, if so, what the action should be. The actions available to the Committee are set out in Schedule 2.
34. The Chair will announce the Committee's final decision on appropriate action to those present.

Recommendations to the Authority

35. After considering any verbal or written representations from the Monitoring Officer and/or the Investigating Officer, the Committee will consider whether it should make any recommendations to the Council and/or any relevant parish council, with a view to better promoting high standards of conduct among their members in light of the facts of the case which has been heard.

The written decision

36. The Committee will announce its decision on the day. It will issue a full written decision as soon as reasonably possible after the end of the hearing.

Further information

37. At any stage prior to the conclusion of the hearing, the Committee may adjourn the hearing (on one occasion only) to require the Monitoring Officer to seek further information or undertake further investigation on any point specified by the Committee.

Schedule 2 to Appendix 2

Actions available to the Committee

1. Issuing a formal censure.
2. Publishing its findings in respect of the Member's conduct on the Council's website.
3. Reporting its findings to Council, or to the Parish Council, for information.
4. Recommending to Council, or to the Parish Council, the issue of a formal censure by the Council or by the Parish Council.
5. Instructing the Monitoring Officer to, or recommending that the Parish Council, arrange training for the Member.
6. Recommending to the Council, or to the relevant Parish Council, that the Member be removed from any or all Committees or Sub-Committees (subject to the approval of the member's Group if applicable).
7. Recommending to the Council, or to the Parish Council, that the Member be removed from being the chair or vice chair of any Committees or Sub-Committees
8. Recommending to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities.
9. Recommending to the Council, or to the Parish Council, that the Member be removed, from one or more outside appointments to which he/she has been appointed or nominated by the Council or by the Parish Council.