



ADUR & WORTHING  
C O U N C I L S

Date Not Specified

<b>Joint Governance Sub-Committee</b>	
<b>Date:</b>	<b>20 August 2019</b>
<b>Time:</b>	<b>6.30 pm</b>
<b>Venue:</b>	<b>QEII Room, Shoreham Centre, Shoreham-by-Sea</b>

<p><b>Committee Membership:</b></p> <p><b>Adur District Council:</b> Councillors; David Balfe, Kevin Boram (Adur Chairman) and Brian Coomber</p> <p><b>Worthing Borough Council:</b> Councillors; Rebecca Cooper, Lionel Harman (Worthing Chairman) and Steve Wills</p>
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## Agenda

### Part A

**1. Election of a Chairman**

To elect a Chairman for the duration of the meeting.

**2. Declarations of Interest**

Members and Officers must declare any disclosable pecuniary interests in relation to any business on the agenda. Declarations should also be made at any stage such an interest becomes apparent during the meeting.

If in doubt contact the Legal or Democratic Services for this meeting.

**3. Procedure for the Meeting** (Pages 1 - 2)

To agree the procedure for the meeting, a copy of the proposed procedure is attached as item 3.

**4. Allegation of a Breach of the Code of Conduct by Cllr Sean McDonald**  
(Pages 3 - 32)

To consider a report by the Monitoring Officer, copy attached as item 4.

**5. Exclusion of the Press and Public**

In the opinion of the Proper Officer the press and public should be excluded from the meeting for consideration of the following items. Therefore the meeting is asked to consider passing the following resolution:

‘that under Section 100A(4) of the Local Government Act 1972, the public and press be excluded from the meeting from the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in the paragraph of Part 1 of Schedule 12A to the Act indicated against the item.’

**Part B Exempt Reports - Not for Publication**

**6. Allegation of a Breach of the Code of Conduct by Cllr Sean McDonald - Exempt Appendix 3 & 4** (Pages 33 - 62)

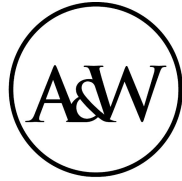
To consider a report by the Monitoring Officer, copy attached as item 6.

**Recording of this meeting**

The Council will be voice recording the meeting, including public question time. The recording will be available on the Council's website as soon as practicable after the meeting. The Council will not be recording any discussions in Part B of the agenda (where the press and public have been excluded).

For Democratic Services enquiries relating to this meeting please contact:	For Legal Services enquiries relating to this meeting please contact:
Neil Terry Senior Democratic Services Officer 01903 221364 neil.terry@worthing.gov.uk	Susan Sale Solicitor to the Councils & Monitoring Officer 01903 221119 susan.sale@adur-worthing.gov.uk

**Duration of the Meeting:** Four hours after the commencement of the meeting the Chairperson will adjourn the meeting to consider if it wishes to continue. A vote will be taken and a simple majority in favour will be necessary for the meeting to continue.



Joint Governance Sub-Committee  
20 August 2019  
Agenda Item 3

## ADUR & WORTHING COUNCILS

### **Joint Governance Sub-Committee – Procedure for Hearing**

1. Chairperson to introduce everyone.
2. Chairperson to explain procedure.

#### The Council

3. Monitoring officer (MO) (or their representative) to outline the Council's case.
4. Monitoring Officer to call First Witness;
  - Monitoring Officer to ask questions of First Witness;
  - Subject Member (or representative) to ask any relevant questions of Witness, through the Chairperson;
  - Committee Members to ask any relevant questions of the Witness.
5. Monitoring Officer to call Second Witness
  - Monitoring Officer to ask questions of Second Witness;
  - Subject Member (or representative) to ask any relevant questions of Witness, through the Chairperson;
  - Committee Members to ask any relevant questions of the Witness.
6. Monitoring Officer to call Third Witness
  - Monitoring Officer to ask questions of Third Witness.
  - Subject Member (or representative) to ask any relevant questions of Witness, through the Chairperson.
  - Committee Members to ask any relevant questions of the Witness.
7. Subject Member (or representative) to ask questions of the Monitoring Officer, through the Chairperson.
8. Committee Members to ask questions of the Monitoring Officer.

### The Subject Member

9. Subject Member (or representative) to outline their case.
10. Subject Member (or representative) to call First Witness;
  - Subject Member (or representative) to ask questions of Witness;
  - MO (or representative) to ask any relevant questions of First Witness, through the Chairperson;
  - Committee Members to ask relevant questions of Witness.
11. Subject Member to call Second Witness;
  - Subject Member (or representative) to ask questions of Witness;
  - MO (or representative) to ask any relevant questions of Second Witness, through the Chairperson;
  - Committee Members to ask relevant questions of Witness.
12. Monitoring Officer to ask questions of the Subject Member, through the Chairperson.
13. Committee Members to ask questions of the Subject Member.

### Final submissions

14. Monitoring Officer (or representative) to be offered opportunity of final comment.
15. Subject Member (or representative) to be offered opportunity of final comment.

### Deliberations & Decision

16. Committee Members, including Independent Person, retire to deliberate upon decision, with Legal Advisor to the Committee.
17. All parties return to hear decision, or be advised when decision will be made.
18. Views of the Independent Person presented.
19. Chairman to present Committee's decision, with reasons.

### Sanctions

*(If the Committee determine that there is no breach of the Code of Conduct, the matter will be dismissed. If they determine that there has been a breach of the Code of Conduct, the procedure below will apply).*

20. Legal Representative to outline possible sanctions.



ADUR & WORTHING  
COUNCILS

Joint Governance Sub-Committee  
20 August 2019  
Agenda Item 4

Ward(s) Affected: n/a

## **Allegation of a Breach of the Code of Conduct by Cllr Sean McDonald**

### **Report by the Monitoring Officer**

#### **Executive Summary**

##### **1. Purpose**

To hear and determine a complaint by Mr Jason Brown (the Complainant) about the conduct of Councillor Sean McDonald, which it is alleged was in breach of the Worthing Borough Council Code of Conduct for Members.

Having heard and determined the matter, to either dismiss the complaint if no breach is found by the Sub-Committee, or if a breach is upheld, to consider any further action that should be taken, or sanction imposed, upon the Subject Member.

##### **2. Recommendations**

2.1 The Joint Governance Sub-Committee is recommended to determine the complaint that Cllr McDonald has breached the Worthing Borough Council Code of Conduct and resolve either that a breach is proven or not proven.

2.2 Should the Joint Governance Sub-Committee determine that Cllr McDonald has breached the Worthing Borough Council Code of

Conduct, they are recommended to determine any further action that should be taken, including any sanction to be imposed.

### **3. Context**

- 3.1 Worthing Borough Council has a Code of Conduct for Members, in compliance with its statutory obligations. The Code of Conduct was adopted on 1st May 2015 and is reproduced at Appendix 1 to this report.
- 3.2 The Code of Conduct is engaged and applies to all Elected Members of Worthing Borough Council when they are conducting the business of Worthing Borough Council, acting in their official capacity as a Member of Worthing Borough Council or acting, claiming to act, or giving the impression they are acting as a representative of the Council.
- 3.3 Relevant provisions of the Code include the following:
- 2.1 Selflessness: Holders of public office should act solely in terms of the public interest.
  - 2.2 Integrity: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their duties.
  - 2.7 Leadership: Holders of public office should promote and support these principles by leadership and example.
  - 4.2.1 (a) a Member must treat others with respect.
  - 4.2.1 (b) a Member must not conduct themselves in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct of Members.
- 3.4 On 25 January 2019 the Council's Monitoring Officer (MO), received a formal complaint from Mr Jason Brown (the Complainant), an employee of the Sussex Community NHS Foundation Trust, alleging that Cllr McDonald (the Subject Member) had breached the Worthing Borough Council Code of Conduct for Members.

In summary, Mr Brown's complaint was that Cllr McDonald had made unfounded allegations and sent emails that were intimidating in nature in relation to parking issues that occurred on an NHS Site in Worthing.

- 3.5 The MO carried out an initial assessment of the complaint in accordance with the Council's Standards Procedure Rules, which are produced at Appendix 2 to this report. She considered whether Cllr McDonald was acting in his capacity as a Councillor at the time of the alleged misconduct, or giving the impression or holding himself out as so acting. She found that he was and therefore the Code was engaged at the material time. The MO further considered whether, if proven, the conduct would amount to a breach of the Code and found that it would. The MO determined the assessment stage by determining the complaint for an investigation, as she considered this was appropriate in all the circumstances. In reaching this determination, consultation took place with Mr Simon Norris-Jones, the Council's Independent Person, who agreed with the determination.
- 3.6 The MO appointed Edwina Adefehinti as Investigating Officer, to undertake an investigation into the complaint, and to produce an Investigator's report summarising her findings and making recommendations. The Investigator's report is produced at Appendix 3 to this report.
- 3.7 Cllr McDonald, the Subject Member, has submitted a witness statement from Ann Findlay, which is attached as appendix 4 to this report.

#### **4. Issues for consideration**

- 4.1 The Sub-Committee is required to hear the evidence (both verbal at the hearing and written evidence submitted in advance from both the Subject Member (and/or his representative) and the Monitoring Officer, and any witnesses that may be called by either party.
- 4.2 The Sub-Committee is required to determine whether the allegation of breach of the Code by Cllr McDonald is proven, or not, on the balance of probability.
- 4.3 Should the Sub-Committee determine that the complaint of breach of the Code of Conduct by Cllr McDonald is not proven, they are required to dismiss the complaint.
- 4.4 Should the Sub-Committee determine that Cllr McDonald has breached the Code of Conduct, they are required to determine whether any action in relation to the breach should be taken, and if appropriate, determine any sanctions that should be imposed upon the Subject Member.

4.5 Any sanctions imposed must be reasonable and proportionate to the circumstances of the matter. Action that could be taken or sanctions that could be imposed by the Sub-Committee, should they find a breach of the Code of Conduct, include:-

- Determining to take no action
- Censure or issuing a formal reprimand
- Publication of the Decision
- Recommendation by the Joint Governance Sub-Committee to the Group Leader or the Council that the Subject Member be removed from a Committee
- Recommendation by the Joint Governance Sub-Committee to the Group Leader or the Council that the Subject Member be removed from an outside body appointment
- Withdrawal of facilities
- Recommendation that the Subject Member provide a formal written apology.

## **5. Engagement and Communication**

5.1 Consultation has taken place with the Council's Independent Person at the assessment stage of the complaint.

5.2 The Joint Governance Sub Committee are further required to seek, and take account of, the views of the Independent Person is making their determination of this complaint.

## **6. Financial Implications**

6.1 There are no specific financial implications arising out of the recommendations in this report.

## **7. Legal Implications**

7.1 The Localism Act 2011 introduced new processes for maintaining good standards of conduct and ethics in local government.

7.2 Section 27 Localism Act 2011 places local authorities under a duty to promote and maintain high standards of conduct.



- 7.3 Section 27 Localism Act 2011 requires local authorities to adopt a Code of Conduct. Worthing Borough Council has adopted a Code of Conduct which forms part of its Constitution and is reproduced as Appendix 1 to this report.
- 7.3 Section 28 Localism Act 2011 requires that local authorities have in place arrangements for investigating allegations of breaches of the Code. Adur & Worthing Councils have adopted Standards Procedure Rules which govern the procedure for investigating such allegations; they form part of each Council's Constitution and are attached as Appendix 2 to this report.
- 7.4 Section 28 (7) provides that a local authority's arrangements must include the appointment of at least one Independent Person whose views must be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate. The Joint Governance Sub-Committee is therefore statutorily obliged to take account of the views of the Independent Person present at the hearing.
- 7.5 The Local Authorities (Executive Arrangements)(Meeting and Access to Information)(England) Regulations 2012 provide some circumstances where information may be deemed to be exempt, and therefore potentially not disclosed to the public subject to the public interest test. Consequently, some information in the appendices to the report may have been redacted where it contains exempt information, which is not material nor relevant to the Committee's decision.

## **Background Papers**

- Worthing Borough Council Constitution
- Localism Act 2011

## **Officer Contact Details:-**

Susan Sale  
Solicitor to the Council & Monitoring Officer  
01903 221119  
susan.sale@adur-worthing.gov.uk

## **Sustainability & Risk Assessment**

### **1. Economic**

Matter considered and no issues identified.

### **2. Social**

#### **2.1 Social Value**

Matter considered and no issues identified.

#### **2.2 Equality Issues**

Issues relating to equalities, including parking for disabled persons, are addressed within the report.

#### **2.3 Community Safety Issues (Section 17)**

Matter considered and no issues identified.

#### **2.4 Human Rights Issues**

The Subject Member has the right to a fair hearing before the Standards Sub-Committee. The hearing will be conducted in accordance with the principles of natural justice.

### **3. Environmental**

Matter considered and no issues identified.

### **4. Governance**

The meeting of the Sub-Committee of the Joint Governance Committee will be held in accordance with the Councils' constitutional and governance arrangements.

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## THE CODE OF CONDUCT FOR MEMBERS

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### 1.0 INTRODUCTION

- 1.1 This Code applies to every Member of Adur District Council and every Member of Worthing Borough Council, when that Member acts in their role as a Member. It is each Member's responsibility to comply with the provisions of this Code.
- 1.2 Each Member is a representative of Adur District Council or Worthing Borough Council and the public will view that Member as such, and therefore, a Member's actions impact upon the Council as a whole and its reputation; a Member's actions can have both positive and negative impacts on the Councils.
- 1.3 This Code of Conduct is based upon the 'Nolan Principles - The Seven Principles of Public Life', which are set out at paragraph 2.0, and also encompasses the legislative framework of the Localism Act 2011, where provision is made by the Secretary of State for criminal sanctions to apply in certain circumstances.

### 2.0 THE NOLAN PRINCIPLES: SEVEN PRINCIPLES OF PUBLIC LIFE

- 2.1 **Selflessness:** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.
- 2.2 **Integrity:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
- 2.3 **Objectivity:** In carrying out public business, including making public appointments, awarding contracts or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
- 2.4 **Accountability:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- 2.5 **Openness:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands it.

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

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

### 3.0 INTERPRETATION

In this Code -

3.1 'Meeting' means any meeting of:

- The Full Council;
- The Executive of the Council;
- Any Committee, Sub-Committee, Joint Committee of the Council; and
- Any other meeting involving Members and/or Officers and/or the public,

whether or not the press and public are excluded from the meeting in question by virtue of a resolution of Members.

3.2 'Member' includes a Co-opted Member (voting and non-voting), an Elected Member and an appointed Member.

### 4.0 SCOPE AND GENERAL OBLIGATIONS

#### 4.1 Scope

4.1.1 This Code applies to all Members of Adur District Council and all Members of Worthing Borough Council.

4.1.2 It is each individual Member's responsibility to comply with the provisions of this Code.

4.1.3 The Code applies whenever a Member:

- Conducts the business of Adur District Council or Worthing Borough Council; or
- Acts, claims to act, or gives the impression they are acting, as a representative of Adur District Council or Worthing Borough Council, or in their official capacity as a Member of Adur District Council or Worthing Borough Council.

4.1.4 Where a Member acts as a representative of Adur District Council or Worthing Borough Council:

- on any other body, they must, when acting for that other body, comply with Adur District Council or Worthing Borough Council's Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

## 4.2 General Obligations

4.2.1 When acting as a Member of Adur District Council or Worthing Borough Council a Member must:

- (a) Treat others with respect;
- (b) Not conduct themselves in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct of Members;
- (c) Ensure that they are aware of and comply with the requirements that the Bribery Act 2010 places on a Member and on the Council as a whole;
- (d) Not disclose the information given to them in confidence by anyone, or information acquired by them which they believe, or ought reasonably to be aware, is of a confidential nature, except where:
  - (i) they have the consent of a person authorised to give it;
  - (ii) they are required by law to do so;
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is:
    - (aa) reasonable and in the public interest; and
    - (bb) made in good faith and in compliance with the reasonable requirements of the Council; and
    - (cc) they have consulted the Monitoring Officer prior to its release;
- (e) Not prevent another person from gaining access to information to which that person is entitled by law;
- (f) Not conduct themselves in a manner which is contrary to the Council's duty under the equalities legislation.

4.2.2 When using, or authorising the use by others, of the resources of Adur District Council or Worthing Borough Council, a Member must:

- (a) Act in accordance with the Council's reasonable requirements, procedures, policy and Constitution, including the requirements of the Council's Internet and Email Policy;
- (b) Make sure that such resources are not used improperly for political purposes (including party political purposes); and

- (c) Have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986, and the Protocol on the Pre-Election period.

## **5.0 DISCLOSABLE PECUNIARY INTERESTS UNDER THE LOCALISM ACT 2011**

Disclosable Pecuniary Interests (DPI's) and their application are governed by the Localism Act 2011.

### **5.1 Notification of Disclosable Pecuniary Interests**

- 5.1.1 Within 28 days of becoming a Member, each Member must notify the Monitoring Officer of any disclosable pecuniary interests they may have.
- 5.1.2 A 'disclosable pecuniary interest' is an interest of a Member or their partner (which means spouse or civil partner, a person with whom they are living as husband or wife or a person with whom they are living as if they are civil partners) within the description at Appendix 1 of this Code of Conduct.

### **5.2 Register of Interests**

- 5.2.1 Any interests notified to the Monitoring Officer will be included in the Register of Interests. A copy of the Register will be available for public inspection and will be published on the Councils' website.

### **5.3 Sensitive Interests**

- 5.3.1 Where a Member considers that disclosure of the details of a disclosable pecuniary interest on a copy of the Register made available for inspection and published, could lead to them, or a person connected with them, being subject to violence or intimidation, then copies of the Register that are available for inspection and any published version of the Register will exclude details of the interest, but state that the Member has a disclosable pecuniary interest, the details of which are withheld under Section 32(2) of the Localism Act 2011.

### **5.4 Non-Participation in Case of Disclosable Pecuniary Interest**

- 5.4.1 If a Member is present at a meeting of Adur District Council or Worthing Borough Council or any Committee, Sub-Committee or Joint Committee of the Council and has a disclosable pecuniary interest in any matter to be considered or being considered at the meeting:
  - (a) That Member may not participate in any discussion of the matter at the meeting; and

- (b) That Member may not participate in any vote taken on the matter at the meeting; and
- (c) If the interest is not registered, the Member must disclose the interest in the meeting; and
- (d) If the interest is not registered and is not the subject of a pending notification, the Member must notify the Monitoring Officer of the interest within 28 days of the meeting.

5.4.2 In addition, the Member is required to leave the room where the meeting is held while any discussion or voting takes place.

5.4.3 Where an Executive Member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by him/her, the Executive Member must:

- (a) Notify the Monitoring Officer of the interest; and
- (b) Not take any steps or further steps in the matter.

5.4.4 Where a Member has a disclosable pecuniary interest in any business of the Councils, they may attend that meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise, and the Member leaves the room where the meeting is held immediately after making representations, answering questions or giving evidence, prior to any debate, discussion or vote on the matter.

## **5.5 Dispensations**

5.5.1 The Monitoring Officer may grant a Member a dispensation, but only in limited circumstances, to enable them to participate and vote on a matter in which they have a disclosable pecuniary interest.

## **5.6 Offences**

5.6.1 It is a criminal offence to:

- (a) Fail to notify the Monitoring Officer of any disclosable pecuniary interests within 28 days of a Member's election;
- (b) Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register;
- (c) Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the Register that they have disclosed to a meeting;

- (d) Participate in any discussion or vote on a matter in which a Member has a disclosable pecuniary interest;
- (e) As an Executive Member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest; and
- (f) Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting.

5.6.2 The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale (£5,000) and disqualification from being a Councillor for up to 5 years.

## **6.0 OTHER INTERESTS: PERSONAL AND PECUNIARY**

### **6.1 Notification of Other Interests**

6.1.1 In addition to the disclosable pecuniary interests notifiable under the Localism Act 2011 as set out in Paragraph 5 above, a Member must, within 28 days of:

- (a) this Code being adopted by or applied to your Council; or
- (b) that Member's election or appointment to office (where that is later),

notify the Monitoring Officer in writing of the details of their other personal and pecuniary interests where they fall within the following descriptions, for inclusion in the Register of Interests.

6.1.2 A Member must, within 28 days of becoming aware of any new interest or change of any interest, notify the Monitoring Officer of the details of that new interest or change.

### **6.2 Personal Interests**

6.2.1 A Member has a personal interest in any business of the Council where that business:

- (a) relates to, or is likely to affect, any body of which they are a Member or in a position of general control or management and to which they are appointed or nominated by the Council;
- (b) relates to, or is likely to affect, any body:
  - (i) exercising functions of a public nature;
  - (ii) directed to charitable purposes; or
  - (iii) one of whose principle purposes includes the influence of public opinion or policy (including any political party or trade union) of



which they are a member or in a position of general control or management.

6.2.2 A Member also has a personal interest in any business of the Council where a decision in relation to that business might reasonably be regarded as affecting their wellbeing or financial position or the wellbeing or financial position of a relevant person to a greater extent than the majority of other council tax payers, rate payers or inhabitants of the Ward affected by the decision.

6.2.3 A relevant person is:

- (a) A member of their family or any person with whom they have a close association; or
- (b) Any person or body who employs or has appointed such persons defined in paragraph 6.2.3(a) above, any firm in which such persons are a partner, or any company of which they are directors;
- (c) Any person or body in whom such persons defined in paragraph 6.2.3(a) above, have a beneficial interest in a class of securities exceeding the nominal value of £25,000 or 1% of the total of that class of securities.

### **6.3 Pecuniary Interests**

6.3.1 Where a Member has a personal interest in any business of your Council, they also have a pecuniary interest in that business where the interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest and where that business:

- (a) affects the Member's financial position or the financial position of a person or body described in paragraph 6.2.2 above; or
- (b) relates to the determining of any approval, consent, licence, permission or registration in relation to them or any person or body described in paragraph 6.2.2 above.

### **6.4 Disclosure and Non-Participation**

6.4.1 Where a Member has a personal interest described in paragraph 6.2 above, which relates to themselves, in any business of the Council and where they are aware or ought reasonably to be aware of the existence of the personal interest and they attend a meeting of the Council at which the business is considered, they must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

6.4.2 Where a Member has a personal interest in any business of their Authority which relates to or is likely to affect a relevant person as described in

paragraph 6.2.2, they need only disclose to the meeting the existence and nature of that interest when they address the meeting on that business.

- 6.4.3 Where a Member has a personal interest, but by virtue of paragraph 6.6, sensitive information relating to it is not registered in their Council's Register of Members' Interests, they must indicate to the meeting that they have a personal interest, but need not disclose the sensitive information to the meeting.
- 6.4.4 Where a Member has a personal interest in any business of their Council and they have made an Executive Decision in relation to that business, they must ensure that any written statement of that decision records the existence and nature of that interest.
- 6.4.5 Subject to paragraphs 6.4.7 and 6.4.8 below, where a Member has a pecuniary interest in any business of the Council:
- (a) they may not participate in any discussion of the matter at the meeting;
  - (b) they may not participate in any vote taken on the matter at the meeting;
  - (c) if the interest is not registered, they must disclose the interest at the meeting; and
  - (d) if the interest is not registered and is not the subject of a pending notification, they must notify the Monitoring Officer of the interest within 28 days.
- 6.4.6 In addition, they are to leave the room where the meeting is held while any discussion or voting takes place.
- 6.4.7 Where a Member has a pecuniary interest in any business of the Authority, they may attend a meeting, but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under statutory right or otherwise, and they leave the room where the meeting is held immediately after making representations, answering questions and/or giving evidence.
- 6.4.8 Subject to a Member disclosing the interests at the meeting, they may attend a meeting and vote on a matter where they have a pecuniary interest that relates to the functions of the Council in respect of:
- (a) Housing, where they are a tenant of your Council, provided that those functions do not relate particularly to their tenancy or lease;
  - (b) Statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where they are in receipt of, or are entitled to, the receipt of such pay;

- (c) An allowance, payment or indemnity given to Members;
- (d) Any ceremonial honour given to Members; and
- (e) Setting Council Tax or a precept under the Local Government Finance Act 1972.

6.4.9 Where an Executive Member may discharge a function alone and they become aware of a pecuniary interest in a matter being dealt with, or to be dealt with, by them, they must notify the Monitoring Officer of the interest and they must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

## **6.5 Register of Interests**

6.5.1 Any other interests notified to the Monitoring Officer will be included in the Register of Interests. A copy of the Register will be available for public inspection and will be published on the Council's website.

## **6.6 Sensitive Interests**

6.6.1 Where a Member considers that disclosure of the details of a personal or disclosable pecuniary interest on a copy of the Register made available for inspection and published, could lead to them, or a person connected with them, being subject to violence or intimidation, then copies of the Register that are available for inspection and any published version of the Register will exclude details of the interest, but state that the Member has a personal or disclosable pecuniary interest, the details of which are withheld under Section 32(2) of the Localism Act 2011.

## **6.7 Interest arising in relation to Overview and Scrutiny Committees**

6.7.1 In any business before an Overview and Scrutiny Committee or Joint Overview and Scrutiny Committee (or of a Sub-Committee or Panel of such a Committee), where:

- (a) that business relates to a decision made (whether implemented or not) or action taken by the Executive or another of the Council's Committees, Sub-Committees or Joint Committees; and
- (b) at the time the decision was made or action was taken, a Member was a Member of the Executive, Committee, Sub-Committee or Joint Committee mentioned in paragraph (a) and was present when that decision was made or action was taken,

that Member may only attend a meeting of the Overview and Scrutiny Committee or Joint Overview and Scrutiny Committee for the purpose of answering questions or giving evidence relating to the business, and must leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

## **6.8 Pre-determination or Bias**

- 6.8.1 Where a Member has been involved in campaigning in their political role on an issue which does not impact on their personal and/or professional life, they should not be prohibited from participating in a decision in their political role as a Member. However, they must not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
- 6.8.2 When making a decision, a Member should consider the matter with an open mind and on the facts before the meeting at which the decision is to be taken.

## **6.9 Compliance with Constitution, Rules, Standards and Guidance**

- 6.9.1 Failure to comply with the requirements of the Council's Constitution or any rule, protocol, corporate standards or guidance issued pursuant to this Constitution shall be deemed to be a breach of this Code.

## **7.0 REGISTRATION OF GIFTS AND HOSPITALITY**

- 7.1 To preserve public confidence, Members are strongly encouraged not to accept any gifts from customers or contractors. It may constitute a serious criminal offence for a Member to corruptly receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything, or showing favour or disfavour to any person, in their official capacity.
- 7.2 If a Member does accept any gift, of any value, they must comply with the Council's requirements to register or declare interests. If a Member does accept any hospitality, or other benefit, by virtue of being a Member, they must comply with the Council's requirements to register such hospitality, regardless of value. Any such gift or hospitality received must be registered within 28 days of receipt. Such declaration and registration should be made to the Director for Communities for inclusion in the Register held by Democratic Services Officers.
- 7.3 It is good practice for a Member to declare any offers of gifts, hospitality or other benefit, received, even if not accepted.

## Disclosable Pecuniary Interests under the Localism Act 2011

Interests	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant Council) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a Member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant Council: <ul style="list-style-type: none"> <li>(a) Under which goods or services are to be provided or works are to be executed; and</li> <li>(b) Which has not been fully discharged.</li> </ul>
Land	Any beneficial interest in land which is within the area of the relevant Council.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant Council for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge): <ul style="list-style-type: none"> <li>(a) The landlord is the relevant Council; and</li> <li>(b) The tenant is a body in which the relevant person has a beneficial interest.</li> </ul>
Securities	Any beneficial interest in securities of a body where: <ul style="list-style-type: none"> <li>(a) That body (to M's knowledge) has a place of business or land in the area of the relevant Council; and</li> <li>(b) Either: <ul style="list-style-type: none"> <li>(i) The total nominal value of the securities exceeds £25,000 or 100<sup>th</sup> of the total issued share capital of that body; or</li> </ul> </li> </ul>

	(ii) If the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds 100 <sup>th</sup> of the total issue share capital of that class.
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These descriptions on interests are subject to the following definitions:

- (a) 'Body in which the relevant person has a beneficial interest': means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;
- (b) 'Director': includes a member of the committee of management of an industrial and provident society;
- (c) 'Land': includes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;
- (d) 'M': means the Member;
- (e) 'Member': includes a Co-opted Member;
- (f) 'Relevant Council': means the Council of which M is a Member;
- (g) 'Relevant Period': means the period of 12 months ending with the day on which M gives a notification for the purposes of Section 30(1) of the Localism Act 2011;
- (h) 'Relevant Person': means M or any other person referred to in Section 30(3)(b) of the Localism Act 2011; and
- (i) 'Securities': means shares, debentures, debenture stock, loans, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a Building Society.

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## STANDARDS PROCEDURE RULES

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### 1.0 INTRODUCTION

- 1.1 It is expected that Elected and Co-opted Members of the Borough, District and Parish Councils will uphold the highest standards of conduct expected of holders of public office. However, in the event that there is a complaint, it is important that this is handled effectively to ensure public confidence is maintained.
- 1.2 Section 28(6) and (7) of the Localism Act 2011 requires the Councils to put in place 'arrangements' under which allegations that a Member or Co-opted Member of the Borough, District or Parish Council has failed to comply with the relevant Authority's Code of Member Conduct when they are acting in that capacity:
- (a) can be investigated; and
  - (b) decisions made on such allegations.
- 1.3 These 'arrangements' must provide for the Authority to appoint at least one Independent Person whose views:
- (a) must be sought, and taken into account by the Authority before it takes a decision on an allegation which it has decided shall be investigated, (i.e. at the assessment stage);
  - (b) may be sought by the Authority at any other stage, including the Committee or Sub-Committee hearing the matter; and
  - (c) may be sought by a Member or Co-opted Member of the Borough/District/Parish Council if that person's behaviour is the subject of an allegation (i.e. by the Subject Member).
- 1.4 The purpose of these arrangements is to comply with the requirements of the Localism Act 2011 in relation to complaints about an Elected or Co-opted Member of Adur District Council / Worthing Borough Council / Sompting Parish Council or Lancing Parish Council and what happens if someone makes a complaint.

## **2.0 INTERPRETATION**

- 2.1 'Subject Member' means the Elected or Co-opted Member of the Authority who is the subject of the allegation made by the complainant, unless otherwise stated.
- 2.2 'Complainant' means the person who has submitted the complaint.
- 2.3 'Investigating Officer' means the person appointed by the Monitoring Officer to undertake an investigation and may include the Monitoring Officer and/or his or her Deputy or representative.
- 2.4 'The matter' is the subject matter of the allegation.
- 2.5 'The Standards Sub-Committee' refers to the Sub-Committee of the Joint Governance Committee, to which it has delegated the conduct of the hearing. It comprises of an equal number of Elected Members from Worthing Borough Council and from Adur District Council.
- 2.6 'Independent Person' means a person appointed by the Councils under the Localism Act 2011, Sections 28(1) to advise the Joint Governance Committee and its Sub-Committee and who has the functions set out in the Localism Act Section 28(7).
- 2.7 'Parish Representative' means a Parish Councillor appointed by the Council to advise the Joint Governance Committee and its Sub-Committee in relation to cases involving Parish Councillors. A Parish Representative will not give advice or sit in relation to a complaint about the conduct of a Parish Councillor of their own Authority.
- 2.8 'Monitoring Officer' means a statutory officer appointed by the Councils under the Local Government and Housing Act, Sections 5 and 5A, who has a role in the promotion and maintenance of high standards of conduct within Local Authorities and includes his or her deputy or representative.

## **3.0 COMPLAINTS IN WRITING**

- 3.1 A complaint must be in writing and must allege a breach by the Member or Co-opted Member, of the relevant Council's Code of Conduct for Members, when the Member was acting in his/her capacity as a Councillor. The Monitoring Officer will be permitted to seek additional information from the complainant and/or the Subject Member.
- 3.2 A complaint should be made on the official complaint form, which can be found on the Councils' website.
- 3.3 A complaint must relate to an individual who was a Member or Co-opted Member of the Council at the time of the matter complained of. The Monitoring Officer cannot deal with complaints about the Borough, District or Parish



generally, or their staff or services; the Council's complaints procedure should be used for such issues. The Monitoring Officer cannot deal with complaints about an individual's conduct before he or she was Elected, Co-opted or appointed, nor after he or she ceased to be a Member.

#### **4.0 ACKNOWLEDGEMENT AND NOTIFICATION**

- 4.1 Within seven working days of receipt of the complaint, the Monitoring Officer will acknowledge receipt of the complaint and notify the Subject Member as to the existence of the complaint, the name of the complainant (unless it is not in the public interest to do so) and provide them with a copy of the complaint.
- 4.2 It is likely that the Monitoring Officer will also notify the Subject Member's Group Leader and the Councils' Chief Executive of the complaint and a summary of it.

#### **5.0 ASSESSMENT OF COMPLAINTS**

- 5.1 The Monitoring Officer has initial responsibility for considering written complaints by way of allegations against Members for breach of the relevant Code of Members' Conduct. This is known as assessment. The purpose of assessment is to determine whether or not, on the basis of information supplied by the Complainant, if the matter were proved, it would amount to a breach of the Code of Members' Conduct. No investigation or hearings are conducted at this stage.
- 5.2 The Monitoring Officer will consult with one of the Independent Persons on each complaint received, as to whether in their view it could amount to a breach of the Code of Conduct. The Parish Representative will also be consulted in relation to complaints concerning Parish Councillors, and their views will be sought as to whether the complaint merits formal investigation. Their views will be included in the Monitoring Officer's decision report.
- 5.3 If the Monitoring Officer requires further information in order to reach a decision, they may come back to the complainant for such information and may also request information from the Subject Member.
- 5.4 If the Subject Member was not acting in their capacity as a Member at the time of the matter complained of, or if the complaint does not disclose a potential breach of the Code of Members' Conduct, then the complaint will be rejected.
- 5.5 Complaints which in the opinion of the Monitoring Officer are trivial, simply malicious, vexatious, politically motivated or tit-for-tat are also likely to be rejected.
- 5.6 If the complaint does disclose a possible breach of the Code of Members' Conduct and has not been rejected under paragraphs 5.4 or 5.5 above, the Monitoring Officer will consider whether or not the complaint can be more

appropriately dealt with by way of informal resolution. If satisfied that this is the appropriate way forward then the Monitoring Officer will contact the complainant and the Subject Member and seek to arrive at an informal resolution of the complaint. Such informal resolution may involve the Member accepting that his or her conduct was unacceptable and offering an apology or other remedial action. Where the Subject Member makes a reasonable offer of local resolution but the complainant is not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

- 5.7 If the complaint identifies criminal conduct or breach of other regulations by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies. If the complaint identifies a safeguarding issue the Monitoring Officer has the power to refer it to other appropriate agencies.

## **6.0 HOW THE MONITORING OFFICER ASSESSES THE COMPLAINT**

- 6.1 In reaching a decision on the complaint, the Monitoring Officer will take into account the following considerations, depending on the nature of the complaint and the need to adopt a proportionate response:

- (a) The extent to which the Subject Member is alleged to have failed to treat others with respect;
- (b) The extent to which the Subject Member is alleged to have acted in a way that may cause the Authority to breach an equality enactment;
- (c) Whether the allegation relates to bullying, intimidating or attempting to intimidate a person involved in an allegation against a Member;
- (d) Whether in disclosing confidential information, the Subject Member failed to take on or heed advice;
- (e) The implications for public perception on the reputation of the Council;
- (f) The implication for staff relations;
- (g) The seniority or position of influence of the Member and public trust and confidence;
- (h) The consequences, or the likely consequences, of the Member's alleged actions;
- (i) The extent to which the Subject Member is alleged to have used his or her position as a Member improperly to confer or secure an advantage or disadvantage;
- (j) The extent to which the Subject Member is alleged to have misused or abused the resources of the Council;
- (k) The detriment caused by acting against advice when reaching decisions;
- (l) The extent to which a failure to register or declare interests results from a failure or refusal to seek or to follow advice;
- (m) Whether the matter of complaint has already been the subject of a previous investigation, or an investigation by another regulator, e.g. the Local Government Ombudsman or the District Auditor or the subject of proceedings in Court;

- (n) Whether the complaint is about something that happened so long ago that there would be little public benefit in taking action now;
- (o) Whether the complaint is too trivial to warrant further action;
- (p) Whether the complaint appears to be simply malicious, vexatious, politically motivated or tit-for-tat;
- (q) The public benefit in directing an investigation or other steps and the costs and Officer and Member time which could be incurred on an investigation or other steps;
- (s) Whether there is enough information currently available to justify a decision to refer the matter for investigation or to seek an informal resolution;
- (t) Whether the complaint is about someone who has died, resigned, is seriously ill or is no longer a Member of the Council concerned and it is not in the public interest to pursue;
- (u) Whether the complaint is such that it is unlikely that an investigation will come to a firm conclusion on the matter and where independent evidence is likely to be difficult or impossible to obtain;
- (v) Whether the Subject Member has already provided a satisfactory remedy (e.g. apologising);
- (w) Whether the matter is suitable for informal resolution and the Member complained of is amenable to such an approach.

## **7.0 WHAT THE MONITORING OFFICER CAN DO**

7.1 When the Monitoring Officer has considered the complaint, he/she can:

- (a) Decide to take no further action in respect of the complaint, whilst providing reasons for such a decision;
- (b) Ask the complainant for additional information, with reasons;
- (c) Refer your complaint for investigation;
- (d) Determine to use other steps rather than investigation, i.e. to resolve the complaint informally without the need for a formal investigation; or
- (e) Refer the complaint to the Police or other regulatory agency if the complaint identifies criminal conduct or a breach of other regulations by any person.

7.2 There is no right of appeal against the Monitoring Officer's decision on assessment.

## **8.0 A DECISION TO TAKE NO FURTHER ACTION**

8.1 Reasons for taking no further action include:

- (a) That the subject matter of the allegation is outside the jurisdiction of the Joint Governance Committee;
- (b) That the allegation does not appear to disclose a failure by the Member to comply with the Code of Members' Conduct when acting in that capacity;

- (c) The information submitted by the complainant is insufficient to enable the Monitoring Officer to reach a decision;
- (d) The matter of the complaint has already been the subject of a previous investigation or of an investigation by another regulator or the subject of proceedings in Court;
- (e) The complaint is about something that happened so long ago, that there would be little public benefit in taking action now;
- (f) The complaint is too trivial to warrant further action;
- (g) The complaint appears to be simply malicious, vexatious, politically motivated or tit-for-tat.

## **9.0 INFORMAL RESOLUTION**

- 9.1 If the Monitoring Officer decides to take steps other than dismissing the complaint or referring it for investigation, they will notify the Complainant, the Subject Member and the Independent Person. A decision to take other steps precludes an investigation or other disciplinary action.
- 9.2 If the Subject Member makes a reasonable offer of resolution but the Complainant is not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint merits a formal investigation.

## **10.0 INVESTIGATIONS**

- 10.1 Should the Monitoring Officer, after having consulted with the Independent Person, and having concluded their assessment and considered informal resolution, decide that the matter should be investigated, they may conduct that investigation themselves, or delegate to another Investigating Officer, to investigate the matter on behalf of the Monitoring Officer. Such Investigating Officer may be a Deputy Monitoring Officer, another Officer of the Council, or an external appointment.
- 10.2 The investigation will be concluded in private and will result in an Investigator's Report, which will be shared with the Complainant, the Subject Member and the Independent Person. If the investigation identifies, in the view of the Monitoring Officer, that there is evidence that it is more likely than not, that the Subject Member has breached the Code of Conduct, then a meeting will be called of the Standards Sub-Committee of the Joint Governance Committee, to hear and determine the matter.
- 10.3 The Subject Member will be informed of the decision of the Monitoring Officer to call such a meeting. The Subject Member has the right to consult with the Independent Member who the Monitoring Officer has assigned to the case, and who has been involved in the assessment stage. The outcome of the investigation is reported to the Standards Sub-Committee, and may result in a hearing before that Sub-Committee, which is likely to be held in public.

## **11.0 THE STANDARDS SUB-COMMITTEE OF THE JOINT GOVERNANCE COMMITTEE**

11.1 The Joint Governance Committee operates in accordance with the Joint Committee Agreement between Adur District Council and Worthing Borough Council. The terms of reference of the Joint Governance Committee are set out in Part 3 of each Council's Constitution.

11.2 A Sub-Committee of the Joint Governance Committee will be convened to hear and determine any individual complaints that a Member has breached the Code of Conduct, which are referred to it by the Monitoring Officer.

11.3 The Sub-Committee will consist of 6 Members: 3 Members of each of Adur District Council and Worthing Borough Council reflecting the political balance of each of the Councils. It is permissible to have a maximum of 1 Member of each Authority's Executive on the Sub-Committee.

11.4 The Sub-Committee may co-opt 1 Independent Person for each matter, to advise the Sub-Committee on Standards matters. Usual practice is for the Independent Person who was involved in the assessment of the complaint to be co-opted onto the Committee for that particular meeting where the complaint will be heard and determined.

The Independent Person co-opted onto the Sub-Committee will not be entitled to vote at the meeting.

The Independent Person will be entitled to retire to the adjournment room when the Sub-Committee consider and determine their decision.

The views of the Independent Person should be given in front of the Monitoring Officer and the Subject Member, and the public and press if present.

11.5 The Sub-Committee will co-opt one Member of the Parish Council to the Sub-Committee when meeting to hear and determine a complaint that a Parish Councillor has breached the Parish Code of Conduct. The Co-opted Parish Councillor will not be from the same Parish Council as the Parish Councillor subject to the complaint.

The Co-opted Parish Councillor will not be entitled to vote at the meeting.

The Parish Councillor will be entitled to retire to the adjournment room when the Sub-Committee consider and determine their decision.

The views of the Parish Councillor should be given in front of the Monitoring Officer and the Subject Members, and the public and press if present.

11.6 The Sub-Committee has the power to co-opt, in an advisory capacity only, any person who is an Independent Person at another Local Authority to advise the Sub-Committee on such terms as the Joint Governance Committee may

determine and agree with the person concerned and the Local Authority and in accordance with the Localism Act 2011 and any relevant regulations.

- 11.7 Decisions made at a Sub-Committee of the Joint Governance Committee shall be by way of a show of hands. Where the Sub-Committee is determining, following an investigation, whether or not the Code of Members' Conduct has been breached, the decision shall be made by a simple majority, subject to paragraph 11.8 and 11.9 below.
- 11.8 Where the Sub-Committee is determining, following an investigation, whether or not a breach of the Code has occurred and they fail to reach a decision upon the matter by a majority of their votes, this is an unresolved decision. An unresolved decision shall be referred to the Chairmen of the Joint Governance Committee with a view to resolution by discussion and negotiation and, where appropriate, referral to the Joint Governance Committee for a decision.
- 11.9 Where the Sub-Committee is determining, following an investigation, whether or not a breach of the Code has occurred and there is a simple majority vote which indicated that there has been a breach of the Code, then if the majority of those Members who are Members of the same Council as the Subject Member voted against such a resolution, the matter shall not be determined but shall stand deferred to a meeting of the full Council of that Council for determination.

## **12.0 PROCEDURE FOR MEETING OF THE SUB-COMMITTEE OF THE JOINT GOVERNANCE COMMITTEE SITTING TO HEAR AND DETERMINE AN ALLEGATION OF A BREACH OF THE CODE OF CONDUCT**

- 12.1 Firstly the Chairperson will introduce all parties and Members and Co-opted Members of the Committee and will explain the procedure for the meeting.
- 12.2 The Committee will give consideration to excluding the press and public from the meeting but only do so in exceptional circumstances. It is generally considered that the public interest in the matter will outweigh the interests of the individual, bearing in mind the individual is a holder of public office. Advice will be taken from the Legal Advisor to the Committee on this point.
- 12.3 The Subject Member is entitled to be represented at the hearing.
- 12.4 The Monitoring Officer, or their representative, will outline the Council's case and call witnesses, who are likely to include the Investigating Officer (if different from the Monitoring Officer) and the complainant. After each witness is called they should come forwards to give their evidence and return to the gallery once they have given their evidence and answered any questions.
- 12.5 After each individual witness gives evidence for the Council, the Subject Member (or their representative) may ask questions of the Monitoring Officer or the Witness, through the Chairperson, immediately after they have given evidence. Following which, Committee Members may ask any questions of the

Monitoring Officer or the Councils' witnesses immediately after the Subject Member has done so.

- 12.6 The Subject Member or their representative will then outline their case and call witnesses. After each witness is called they should come forwards to give their evidence and return to the gallery once they have given their evidence and answered any questions.
- 12.7 The Monitoring Officer (or their representative) may ask any questions of the Subject Member and their witnesses, through the Chairperson, immediately after they have given evidence. Following which, the Committee Members may ask questions of the Subject Member or their witnesses immediately after the Monitoring Officer has done so.
- 12.8 The Monitoring Officer will then be offered an opportunity of a final comment and summing up. Then the Subject Member will be offered an opportunity of a final comment and summing up.
- 12.9 The views of the Independent Person (and the Parish Representative when considering a Parish complaint) will be sought and will be given with the Monitoring Officer, Subject Member and any press and public present.
- 12.10 Members of the Sub-Committee will adjourn into private session to determine the matter. The Legal Advisor to the Committee will be present throughout any discussion, as will the Independent Person (and the Parish Representative when considering a Parish complaint).
- 12.11 The Sub-Committee will reconvene to take a vote in public, deliver their decision and provide reasons.
- 12.12 There is no right of appeal against the decision of the Sub-Committee.
- 12.13 It should be noted that if the Subject Member accepts that there has been a breach of the Code of Conduct as alleged and evidenced in the Investigating Officer's report then the Sub-Committee may determine that the procedure above is not appropriate; they may dispense with the calling of witnesses, formally find a breach of the Code of Conduct and deal with the issues set out at paragraph 13 below.

### **13.0 MITIGATION**

- 13.1 Having heard the Sub-Committee's decision, if a breach has been found, the Legal Advisor to the Sub-Committee will outline the possible sanctions available.
- 13.2 The Monitoring Officer or their Representative has the opportunity to make representations relating to appropriate sanctions, to the Sub-Committee. The Subject Member or his Representative then have an opportunity to address the Sub-Committee on mitigation and sanctions.

- 13.3 The views of the Independent Person and the Parish Representative (if a Parish matter) will be sought and given in the meeting.
- 13.4 The Sub-Committee will then retire into private session, with the Legal Advisor, to come to a decision about sanctions. The decision together with reasons will then be announced in the meeting by the Chairperson of the Sub-Committee.
- 13.5 The decision of the Sub-Committee will be confirmed in writing within 5 working days.
- 13.6 The rules of natural justice apply to the hearing and determination of the Sub-Committee.

#### **14.0 SANCTIONS**

- 14.1 The Sub-Committee has no power to suspend or disqualify a Member.
- 14.2 Any sanction imposed must be proportionate and reasonable to the circumstances of the matter.
- 14.3 Any sanction imposed may not prevent the Member from being able to perform their duties as a Member.
- 14.4 Any sanctions imposed in respect of a Parish Councillor can only be recommendations from the Sub-Committee to the Parish Council. The District and Borough has no power to impose sanctions on a Parish Councillor and any recommendation would need to be agreed by the Parish.
- 14.5 Sanctions may include:
- Censure
  - Publishing a decision that the Member has been found to have breached the Code of Conduct
  - Recommending to the Group Leader or the Council that the Member be removed from any or all Committees or Sub-Committees.
  - Instructing the Monitoring Officer to arrange training
  - Recommending to the Group Leader or the Council that the Member be removed from outside body appointments
  - Withdrawal of facilities.

#### **15.0 WITHDRAWAL OF A COMPLAINT**

- 15.1 Once a valid complaint has been submitted it can only be withdrawn before assessment by the Monitoring Officer. Withdrawal requires the consent of the Monitoring Officer in consultation with the Independent Person and the Parish Representation, as appropriate. Consent will normally be given. However, in



considering a request from the complainant to withdraw the complaint, the Monitoring Officer will consider:

- (a) The reasons for the requests;
- (b) Whether the public interest in pursuing action outweighs the request;
- (c) If the public interest suggests the matter should proceed, the extent to which it can proceed without the complainant's involvement;
- (d) Whether there is an identifiable reason for the request, e.g. improper pressure that has been brought to bear.

After assessment by the Monitoring Officer, a complaint cannot formally be withdrawn without the Monitoring Officer or the Standards Sub-Committee, in consultation with the Independent Person and Parish Representative, as appropriate, depending upon the stage to which the action has reached, taking into account the request for the matter not to proceed further.

## **16.0 VARIATION**

- 16.1 The Monitoring Officer may vary this procedure in any particular instance where he or she is of the opinion that such variation is desirable and does not conflict with the statutory requirements, nor the principles of natural justice.

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# Agenda Item 6

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

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of the Local Government Act 1972.

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