

BEDFORD BOROUGH COUNCIL

Arrangements for dealing with standards allegations under the Localism Act 2011

1. Introduction

- 1.1 Bedford Borough Council is committed to ensuring that its Members maintain the highest possible standards of conduct and has adopted a Code of Conduct which sets out the standards of behaviour it expects all Members of the Council to observe whenever they are carrying out Council business. Codes of Conduct have also been adopted by all Parish Councils in the Borough's area. The Borough Council's Code of Conduct is available on the Council's website at www.bedford.gov.uk or can be obtained using the telephone and e-mail contacts given below. Parish Council's Codes of Conduct are available on their websites or from the Parish Clerk.
- 1.2 We hope that the standards we set mean that it will never be necessary for you to complain about the way in which a Member behaves. However, we recognise that sometimes standards can fall short of what would reasonably be expected. These arrangements tell you what to do if you want to make a complaint that a Councillor has breached their Code of Conduct and how the Council will deal with it.

2. Context

- 2.1 These "Arrangements" set out how you may make a complaint that an elected or co-opted member of Bedford Borough Council or of a town or parish council within its area has failed to comply with their Council's Code of Conduct, and sets out how the Council will deal with allegations of a failure to comply with its Code of Conduct.
- 2.2 Under Section 28(6) and (7) of the Localism Act 2011, the Borough Council must have in place "arrangements" under which allegations that:
- a member or co-opted member of the Council or
 - a member or co-opted member of a town or parish council within its area, or
 - of a Committee or Sub-Committee of any such Council,
- has failed to comply with their Council's Code of Conduct can be investigated and decisions made on such allegations.
- 2.3 The arrangements must provide for the Council to appoint at least one Independent Person, whose views it must seek before taking a decision on an allegation which it has decided shall be investigated, and whose views may be sought by the Council at any other stage, or by a member or co-opted member of the Borough Council or any town or parish council in its area against whom an allegation has been made.

3 The Code of Conduct

- 3.1 The Council has adopted a Code of Conduct for members, which is attached as Appendix 1 to these arrangements. The Code is available for inspection on the Council's website and at Borough Hall, Cauldwell Street, Bedford MK42 9AP. (A paper copy of the code may be obtained by telephoning 01234 228799, or by sending an email to: standards@bedford.gov.uk).
- 3.2 Each Town and Parish council is also required to adopt a Code of Conduct. If you wish to inspect a Town/Parish Council's Code of Conduct, you should inspect any website they operate or request the Town/Parish Clerk to allow you to inspect their Council's Code of Conduct. Town/ Parish Clerk contact details may be obtained from Bedford Borough Council (01234 228799, or by sending an email to: standards@bedford.gov.uk

4 How to make a Complaint

- 4.1 If you wish to make a complaint that an elected or co-opted Member of Bedford Borough Council or any of the Town/Parish Councils in its area has breached their Council's Code of Conduct , you need to send your complaint, in writing, to the following address:-

The Monitoring Officer
Bedford Borough Council
Borough Hall
Cauldwell Street
Bedford
MK42 9AP

- 4.2 The Monitoring Officer is a senior officer of the Borough Council who has statutory responsibility for administering the system for dealing with complaints of member misconduct and is also responsible for maintaining a register of members interests.
- 4.3 In order to ensure that the Monitoring Officer has all the information which he needs to be able to process your complaint, please use the Council's complaint form (see Appendix 2), which can be downloaded from the Council's website, or is available on request from Reception at Borough Hall or by emailing standards@bedford.gov.uk). If you have any questions or difficulties filling in the complaint form, please contact the Council's Monitoring Officer by telephoning 01234 718206 or e-mailing standards@bedford.gov.uk
- 4.4 Please make sure that you provide us with your name and a contact or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form. We will then not disclose your name and address to the member against whom you have made a complaint, without your prior consent. Please note that the Council does not normally investigate anonymous complaints, unless there is a clear public interest in doing so. Please send any documents that

support your complaint with your form. Please let us know if you want us to return any of these documents to you.

- 4.5 If you cannot write your complaint in English, we can arrange to have it translated for you.
- 4.6 The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.

5 Will your complaint be investigated?

- 5.1 The Monitoring Officer will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. This decision will normally be taken within 14 days of receipt of your complaint. Where the Monitoring Officer has taken a decision, s/he will inform you of his/her decision and the reasons for that decision. In some circumstances, the Monitoring Officer may decide that it would be more appropriate for an Assessment Panel of the Council's Standards Committee to decide whether or not a complaint should be investigated, in which case you will be advised that this is happening. (*note: the Assessment Panel comprises three Members of the Council's Standards Committee drawn from at least two of the Political Groups on the Council*).
- 5.2 If the Monitoring Officer requires additional information in order to come to a decision, s/he may contact you to obtain that information, and/or may also request information from the member against whom your complaint is directed. Where your complaint relates to a Member of a Town or Parish Council, the Monitoring Officer may also inform the Town or Parish Council of your complaint and seek their views before deciding whether the complaint merits formal investigation.
- 5.3 In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may 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 a reasonable offer of local resolution, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.
- 5.4 If your complaint identifies criminal conduct or a breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and/or other relevant regulatory agencies.

6 How is the investigation conducted?

- 6.1 The Council has adopted a procedure for the investigation of misconduct complaints, which is attached as Appendix 3 to these arrangements.

- 6.2 If the Monitoring Officer decides that a complaint merits formal investigation, s/he will appoint an Investigating Officer, who may be another senior officer of the Council, an officer of another Council or an external investigator. The Investigating Officer will decide whether s/he needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents they need to see, and who they need to interview.
- 6.3 The Investigating Officer will normally write to the member against whom you have complained, provide them with a copy of your complaint, and ask them to provide their explanation of events, and to identify what documents the Investigating Officer needs to see and who they need to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the Member might prejudice the investigation, your name and address can be deleted from the papers given to the Member, or notifying the Member can be delayed until the investigation has progressed sufficiently.
- 6.4 At the end of the investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.
- 6.5 Having received and taken account of any comments which you and/or the Member about whom you have complained, may make on the draft report, the Investigating Officer will then send their final report to the Monitoring Officer.
- 7 What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**
- 7.1 The Monitoring Officer will review the Investigating Officer's report. If s/he is satisfied that the Investigating Officer's report is sufficient, s/he will write to you and to the member concerned and to the Town/Parish Council, if your complaint relates to a Member of a Town or Parish Council, notifying you that s/he is satisfied that no further action is required, and will give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, s/he may ask the Investigating Officer to reconsider their report.
- 8 What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?**
- 8.1 The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person, seek local resolution.

Local Resolution

- 8.2 The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, s/he will consult the Independent Person and you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. A local resolution may include the member accepting that their conduct was unacceptable and offering an apology, and/or other remedial action by the Council. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee and, where the complaint is about a member of a Town/Parish Council, the Town/Parish Council for information, but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate, the Monitoring Officer will refer the matter for a local hearing.

Local Hearing

- 8.3 If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will submit the Investigating Officer's report to the Hearings Panel which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.
- 8.4 The Council has agreed a procedure for local hearings, which is attached as Appendix 4 to these arrangements.
- 8.5 If the Investigating Officer's report is referred for a local hearing, the Monitoring Officer will conduct a "pre-hearing process", requiring the member to give their response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present their report, call such witnesses as they consider necessary and make representations to substantiate their conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearings Panel. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why they consider that they did not fail to comply with the Code of Conduct.
- 8.6 The Hearings Panel, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and dismiss the complaint. If the Hearings Panel concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the member of this finding and the Hearings Panel will then consider what action,

if any, it should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the member an opportunity to make representations to the Panel and will consult the Independent Person. Following this, it will decide what action, if any, to take in respect of the matter.

9 What action can the Hearings Panel take where a member has failed to comply with the Code of Conduct?

9.1 The Council has delegated to the Hearings Panel powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. The Hearings Panel may –

9.1.1 Censure or reprimand the member;

9.1.2 Publish its findings in respect of the member's conduct;

9.1.3 Report its findings formally to the Council or in the case of a member of a Town or Parish council, to their Town or Parish Council for information;

9.1.4 Recommend to the member's Political Group Leader (or in the case of members who are not a member of a political group, recommend to the Council or to Committees) that the Member be removed from any or all Committees or Sub-Committees of the Council;

9.1.5 Recommend to any Town/Parish Council Member's own Council that they be removed from any or all Committees or Sub-Committees of their Council;

9.1.6 Recommend to the Elected Mayor that the member concerned be removed from the Executive, or removed from particular Portfolio responsibilities;

9.1.7 Instruct the Monitoring Officer or recommend to the relevant Town/Parish Council that they arrange training for the Member;

9.1.8 Recommend to the Borough Council, its Elected Mayor or to the relevant Town/Parish Council that the Member be removed, from all outside appointments to which they have been appointed or nominated by the Borough Council or by their Town/Parish Council;

9.1.9 Recommend to the Elected Mayor or to the Member's Town/Parish Council that it withdraws facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or

9.1.10 Exclude, or recommend that the Town/Parish Council exclude, the member from the Council's offices or other premises, with the exception of meeting rooms when they are attending Council,

Executive, Committee and Sub-Committee meetings as either a Member of the body concerned or for the purposes of making representations on behalf of their constituents.

- 9.2 The Hearings Panel has no power to suspend or disqualify any member or to withdraw any of their allowances.

10 What happens at the end of the hearing?

- 10.1 At the end of the hearing, the Chair will announce the decision of the Hearings Panel as to whether the member failed to comply with the Code of Conduct and as to any actions which the Hearings Panel has resolved to take.
- 10.2 As soon as reasonably practicable after the hearing, the Monitoring Officer will prepare a formal decision notice in consultation with the Chair of the Hearings Panel, and send a copy to you, to the member concerned and, where relevant, to their Town/Parish Council. The decision notice will be available for public inspection and will also be reported to the next convenient meeting of the Borough Council.

11 Who are the Hearings Panel?

- 11.1 The Hearings Panel is a Sub-Committee of the Council's Standards Committee. The Standards Committee has decided that it will comprise 3 members of the Committee, drawn from at least 2 different political parties.
- 11.2 The Independent Person is invited to attend all meetings of the Hearings Panel and his/her views are sought and taken into consideration before the Hearings Panel takes any decision on whether the member's conduct constitutes a failure to comply with the Code of conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct. This is a legal requirement.

12 Who is the Independent Person?

- 12.1 The Independent Person is a person who has applied for the role following advertisement of a vacancy for that post, and is then appointed by a positive vote from a majority of all the members of Council.
- 12.2 No-one can be appointed as an Independent Person if s/he:
- 12.2.1 Is, or has been within the past 5 years, a member, co-opted member or officer of the Borough Council;
- 12.2.2 Is or has been within the past 5 years, a member, co-opted member or officer of a Town/Parish Council within the Bedford Borough area, or
- 12.2.3 Is a relative, or close friend, of a person within paragraph 12.2.1 or 12.2.2 above. For this purpose, "relative" means –

- i) A spouse or civil partner;
- ii) Someone living with the other person as husband and wife or as if they were civil partners;
- ii) A grandparent of the other person;
- iv) A lineal descendent of a grandparent of the other person;
- v) A parent, sibling or child of a person within paragraphs (i) or (ii)
- vi) A spouse or civil partner of a person within paragraphs (iii), (iv) or (v);
or
- vii) Someone who is living with a person within paragraphs (iii), (iv) or (v) as husband and wife or as if they were civil partners.

13 Revision of these arrangements

- 13.1 The Council may by resolution agree to amend these arrangements, and has delegated to the Monitoring Officer, following consultation with the Chair of the Standards Committee, the authority to depart from these arrangements where s/he considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

14 Appeals

- 14.1 There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Hearings Panel
- 14.2 If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman whose contact details are as follows:

Appendix 1 Bedford Borough Council's Code of Conduct for Members

Appendix 2 Complaint Form

Appendix 3 Procedure for Investigations

Appendix 4 Procedure for Hearings

THE NEW CODE OF CONDUCT
FOR BEDFORD BOROUGH COUNCIL
(EFFECTIVE FROM 1 JULY 2012)

Part 1

General Provisions

Introduction and Interpretation

1. (1) This Code adopted under section 28 of the Localism Act 2011 applies to **you** when you act in the capacity as a member of Bedford Borough Council.
- (2) You should read this Code together with the “Nolan” principles set out in 28(1) of the Localism Act 2011 (these are attached as an annex to this Code)
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code -
“meeting” means any meeting of -
 - (a) the Council;
 - (b) the executive of the Council;
 - (c) any of the Council’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees;“member” includes a co-opted member and an appointed member.

General Obligations

2. (1) You must treat others with respect.
- (2) You must not -
 - (a) do anything which may cause the Council to breach any of the public sector equality duty under section 149 of the Equality Act 2010.
 - (b) bully any person;
 - (c) intimidate or attempt to intimidate any person who is or is likely to be -

- (i) a complainant,
- (ii) a witness, or
- (iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a member (including yourself) has failed to comply with his or her Council's code of conduct; or

- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

3. You must not -

- (a) disclose information given you to in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where -

- (i) you have the consent of a person authorised to give it;
- (ii) you are required by law to do so;
- (iii) the disclosure is made to a third party for the purpose of obtaining professional 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; or

- (b) prevent another person from gaining access to information to which that person is entitled by law.

4. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.

5. You -

- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

- (b) must, when using or authorising the use by others of the resources of the Council -

- (i) act in accordance with the Council's reasonable requirements;

- (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- 6. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by -
 - (a) the Council's chief finance officer; or
 - (b) the Council's monitoring officer,where that officer is acting pursuant to his or her statutory duties.
- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council.

Part 2

Interests

Local Interests

- 7. (1) You have a local interest (which is an interest other than disclosable pecuniary interest) in any business of the Council where either -
 - (a) it relates to or is likely to affect -
 - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council;
 - (ii) any body -
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),of which you are a member or in a position of general control or management.

- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward affected by the decision.

(2) In sub-paragraph (1)(b), a relevant person is -

- (a) a member of your family or any person with whom you have a close association; or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

Disclosable Pecuniary Interests

8. You have a disclosable pecuniary interest for those subjects in the first column below as set out in the description in the second column.

<i>Subject:</i>	<i>Description:</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on by you for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from Bedford Borough Council) made or provided to you within 12 months ending with the day on which you notified the Council's Monitoring Officer of any disclosable pecuniary interests in respect of any expenses you incurred in carrying out your duties as a member, or towards your election expenses. (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 that Bedford Borough Council has with you or your partner ¹ (or a body ² in which you or your partner ¹ have a

¹ your partner for this purpose includes —

- (i) any spouse or civil partner you might have,
- (ii) any person with whom you might be living as husband and wife, or
- (iii) any person with whom you might be living with as if you and the person are civil partners.

² "Body" means a firm in which you are a partner or a body corporate of which you are a director (which includes a member of the committee of management of an industrial and provident society), or in the securities of which you have a beneficial interest.

	beneficial interest) provided you are aware of the interest of your partner and— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged;
Land ³	Any beneficial interest in land which is within Bedford Borough.
Licences	Any licence (alone or jointly with others) to occupy land ² within Bedford Borough for a month or longer.
Corporate tenancies	Any tenancy where to your knowledge— (a) the landlord is Bedford Borough Council; and (b) the tenant is a body in which you or your partner ¹ have a beneficial interest.
Securities ⁴	Any beneficial interest in securities of a body where— (a) that body (to your knowledge) has a place of business or land within Bedford Borough and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (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 one hundredth of the total issued share capital of that class.

³ “Land” includes an easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income.

⁴ “securities” means shares, debentures, debenture stock, loan stock, 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.

Disclosure of Local and / or Disclosable Pecuniary Interests

9. (1) Subject to sub-paragraphs (2) to (5), where you have a local and / or disclosable pecuniary interest in any business of the Council and you attend a meeting of the Council at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the local and / or disclosable pecuniary interest.
- (3) Where you have a local and / or disclosable pecuniary interest but, by virtue of paragraph 12, sensitive information relating to it is not within copies of the register that are made available for inspection, and any published version of the register, you must indicate to the meeting that you have a local and / or disclosable pecuniary interest, but need not disclose the sensitive information to the meeting. Copies made
- (4) Subject to paragraph 13(2), where you have a local and / or disclosable pecuniary interest in any business of the Council and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (5) In this paragraph, “executive decision” is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

Executive Members at Overview and Scrutiny Meetings

10. If you have not been appointed as a member of an Overview and Scrutiny Committee you may attend meetings of such Committees to observe their proceedings but where any such committee (or any Sub-Committee of such a Committee) is conducting business which
- (a) Relates to a decision made (whether implemented or not) or action taken by the Council’s executive or another of the Council’s committees, sub-committees, joint committees or joint sub-committees; and
- (b) At the time the decision was made or action was taken, you were a member of the Executive, Committee, Sub-Committee, Joint Committee or Joint Sub-Committee concerned and you were present when that decision was made or action was taken.

You may only attend the meeting for the purpose of making representation, answering questions and/or giving evidence about the matter concerned.

C:\Users\stapl\Downloads\procedure-for-breach-of-code-o.doc

Effect of Disclosable Pecuniary Interests on Participation

11. (1) Where you have a disclosable pecuniary interest in any business of the Council -
- (a) you must withdraw from the room or chamber where a meeting considering the business is being held -
 - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
 - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;
- unless you have obtained a dispensation from the Council's standards committee or the Council's monitoring officer;
- (b) you must not exercise executive functions in relation to that business; and
 - (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a disclosable pecuniary interest in any business of the Council, you may attend a meeting (including a meeting of the overview and scrutiny committee of the Council or of a sub-committee of such a committee) 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.

Part 3

Registration of Members' Interests

12. (1) Subject to paragraph 13, you must, within 28 days of -
- (2) (a) this Code being adopted by the Council; or
 - (b) your election or appointment to office (where that is later),
- register in the Council's register of members' interests (maintained under section 29(1) of the Localism Act 2011) details of your local interests and your disclosable pecuniary interests by providing written notification to the Council's monitoring officer.

- (3) Subject to paragraph 13, you must, within 28 days of becoming aware of any new local interests and any new disclosable pecuniary interests or change to either any local interest or any disclosable pecuniary interest registered under paragraph (2), register details of the new interest or change by providing written notification to the Council's monitoring officer.

Sensitive Interests (Section 32 Localism Act 2011)

13. (1) You have a sensitive interest (under section 32(1) Localism Act 2011) whether or not you have a local interest or a disclosable pecuniary interest and the nature of your interest is such that you and the Monitoring Officer consider that disclosure of the details of the interest could lead to you or a person connected with you being subjected to violence or intimidation.
- (2) If you have any sensitive interest entered in the register of interests held by the Monitoring Officer, copies of the register that are made available for inspection, and any published version of the register, must not include details of your sensitive interest (but may state that you have an interest the details of which are withheld under section 32(2) Localism Act 2011).
- (3) If you have any sensitive interest entered in the register of interests held by the Monitoring Officer, you are not required to disclose the interest but merely the fact that you have a local interest or a disclosable pecuniary interest in the matter concerned.

THE NOLAN PRINCIPLES OF PUBLIC LIFE

Selflessness

1. 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 material benefits for themselves, their family, or their friends.

Integrity

2. 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.

Objectivity

3. 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.

Accountability

4. 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.

Openness

5. 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.

Honesty

7. 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.

Leadership

8. Holders of public office should promote and support these principles by leadership and example.



BEDFORD BOROUGH COUNCIL
COMPLAINT ABOUT BREACH OF THE
CODE OF CONDUCT

YOUR DETAILS

1. Please provide us with your name and contact details

Title:	
First name:	
Last name:	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile telephone:	
Email address:	

Please note: Your address and contact details will not usually be released unless necessary or to deal with your complaint.

However, we will tell the following people that you have made this complaint:

- The member(s) you are complaining about
- The parish or town clerk (if your complaint is about a Parish or a Town Councillor)

We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate to be able to deal with it. If you have serious concerns about your name, and a summary, or details of

your complaint, being released please complete section 5 of this form.

2. Please tell us, by ticking the relevant box, which of the following best describes you:

- ☐ Member of the public
- ☐ An elected or co-opted member of an authority
- ☐ An independent member of the standards committee
- ☐ Member of Parliament
- ☐ Local authority monitoring officer
- ☐ Other council officer or authority employee
- ☐ Other

MAKING YOUR COMPLAINT

3. Please provide us with the name of the member(s) you believe have breached the Code of Conduct and the name of their authority:

Title	First name	Last name	Name of Council

4. Please explain in the space provided below (or on separate sheets) what the member has done that you believe breaches the Code of Conduct. If you are complaining about more than one member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account by the Assessment Panel when it decides whether to take any action on your complaint. For example:

- You should be specific, wherever possible, about exactly what you are alleging the member said or did.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.

- You should provide any relevant background information and documents that support your complaint. If you want us to return any of these documents after we have dealt with your complaint please tell us.

Please use this box to provide us with the details of your complaint. Continue on a separate sheet if there is not enough space.

ONLY COMPLETE THIS NEXT SECTION IF YOU ARE REQUESTING THAT YOUR IDENTITY IS KEPT CONFIDENTIAL

5. In the interests of fairness and natural justice, we believe members who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint unless you have good reason to believe that:

- you will be at risk of physical harm if your identity is disclosed
- you suffer from a serious health condition and there are medical risks associated with your identity being disclosed (please note that in such circumstances the Committee is likely to request medical evidence of your condition)
- you are an employee who works closely with the member(s) your complaint is about and are concerned about the consequences for your employment if your identity is disclosed.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The Monitoring Officer and the Independent Person will consider the request alongside the substance of your complaint. We will then contact you with the Monitoring Officer's decision. If the Monitoring Officer refers your complaint to an Assessment Panel, that Panel will decide whether your request for confidentiality should be granted. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

ADDITIONAL HELP

6. Complaints must be submitted in writing. This includes fax and electronic submissions. However, in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

We can also help if English is not your first language.

If you need any support in completing this form, please let us know as soon as possible by telephoning the Council's Monitoring Officer on 01234 718206 Textphone (Minicom): 01234 221827 or emailing standards@bedford.gov.uk

Please sign your completed form in the space provided below and also give the date on which you completed it.

Signature_____Date_____

Your completed form and any background information/documents you wish to submit in support of your complaint should be sent to:

The Monitoring Officer
Bedford Borough Council
Borough Hall
Cauldwell Street
Bedford
MK42 9AP

Procedure for Local Investigation of Complaints

Introduction and Summary

1. This note sets out the procedure which will be followed in the local investigation of allegations of misconduct by Members. No significant departure will be made from this procedure unless and until the Monitoring Officer has first notified the Member against whom the allegation has been made of the proposed variation to the procedure and the reasons for that variation.
2. This procedure applies to breaches of the Council's Code of Conduct for Members.
3. Where the Monitoring Officer receives an allegation that a Member has breached the Code of Conduct for Members, s/he will decide, following consultation with the Independent Person
 - (i) whether or not the complaint merits formal investigation and if so, arrange for an investigation to be carried out; or
 - (ii) to seek a resolution to the complaint where practicable without the need for a formal investigation.

The Monitoring Officer has discretion to refer decisions on investigations to an Assessment Panel of the Standards Committee and will do so where he feels it would be inappropriate for him to take the decision. In such cases, the Assessment Panel will seek the views of the Independent Person before determining how to respond to the complaint.

4. If the complaint is found not to merit investigation or informal resolution, the Monitoring Officer will advise the complainant and will explain the reasons for that determination.
5. If the complaint is referred for investigation, the Monitoring Officer will arrange for an Investigator to investigate the allegation and submit a report on the matter to the Monitoring Officer in the first instance.
6. Where the Investigator has found, after investigation, that the Member has not failed to comply with the Council's Code of Conduct for Members, the Monitoring Officer has authority to close the complaint. In such cases a copy of the report and findings will be provided to;
 - The complainant
 - the member against whom the complaint was made and
 - the Independent Person

The findings will also be reported for information to the next available meeting of the Standards Committee.

- 7 Where the Investigator finds evidence of a failure to comply with the Code of Conduct for Members, the Monitoring Officer has authority, in consultation with the Independent Person, to seek a local resolution where he considers this to be appropriate and he is able to do so to the satisfaction of the complainant. In such cases a summary report will be submitted to the Standards Committee following resolution of the complaint.
- 8 Where a local resolution is not appropriate or not possible, the Monitoring Officer will report the investigation findings to a Hearings Panel of the Standards Committee for a local hearing. Such Panels are authorised by the Council to apply, or recommend, a range of sanctions in respect of members who are found to have failed to comply with their Council's Code of Conduct.
- 9 In this process;
 - (i) the function of the Investigator is to identify, as far as possible, all the information relevant to the allegation and present it in his/her report, to enable the an informed decision to be made as to whether the Member has failed to comply with their Council's Code of Conduct for Members, and upon any consequential action; and
 - (ii) the function of any Hearings Panel is to act in an inquisitorial manner, rather than an adversarial manner, seeking the truth in relation to the conduct of the Member on the balance of the information available to it.
 - (iii) Either the Monitoring Officer or a hearings panel may commission further investigation or information if they need to do so in order to come to a decision.

1 Interpretation

- (a) 'Member' means the member of a Council who is the subject of the allegation that has been made that they have breached their Council's Code of Conduct , unless stated otherwise. It also includes the member's nominated representative.
- (b) 'Investigator' means the person appointed by the Monitoring Officer to investigate and report on the complaint.
- (c) 'The Matter' is the subject matter of the Investigator's report.
- (d) 'The Committee' refers to the Standards Committee or to any Hearings Panel which has delegated power to conduct a hearing.

2 Appointment of Investigator

C:\Users\stapl\Downloads\procedure-for-breach-of-code-o.doc

Following a determination by either the Monitoring Officer or an Assessment Panel after consultation with the Independent Person that an allegation of a breach of the Code of Conduct should be investigated, the Monitoring Officer will appoint an Investigator to conduct an investigation of the allegation and report thereon to the Monitoring Officer in the first instance. The Investigator may be an officer of the authority, an officer of another local authority, or an external Investigator.

The Investigator may appoint persons to provide assistance in the conduct of the investigation and may obtain any professional advice as may be necessary to conduct the investigation.

3 Notifications

(a) Notification to the Member

The Monitoring Officer will within 5 working days of the determination notify in writing the Member against whom the allegation is made:

- (i) that the allegation has been referred for investigation;
- (ii) of the identity of the person making the allegation (unless identification of the complainant might prejudice the investigation or put the complainant at risk);
- (iii) of the conduct which is the subject of the allegation;
- (iv) of the section(s) of the Code of Conduct which appear to be relevant to the allegation;
- (v) why the particular referral decision has been made;
- (vi) of the procedure which will be followed in respect of the allegation;
- (vii) of the identity of the Investigator; and
- (viii) of the name and contact details of a nominated "Independent person" the member is able to consult;
- (ix) that the Council has agreed to provide an indemnity/ insurance under Regulations made under Section 101 of the Local Government Act 1972 to Borough Council Members, to meet the costs which they may incur investigations, hearings or other proceedings relating to alleged breaches of the Council's Code of Conduct for Members up to a maximum of £5000 for each case. This is on the basis that any such indemnity or insurance is subject to a requirement (to which the Member must unconditionally agree in advance) to repay any sums received in

the event that the Member is found to have failed to comply with the Code of Conduct.

The Monitoring Officer shall provide the Member with a copy of any report received from the Investigator.

(b) Notification to the Standards Committee

At the same time as notifying the Member, the Monitoring Officer will notify in confidence each member of the Standards Committee in writing;

- that an investigation is to be commenced;
- of any other authority concerned.

(c) Notification to the Parish/Town Council Clerk

Where the allegation relates to the conduct of a member of a Parish or Town Council in his/her capacity as such, at the same time as notifying the Member, the Monitoring Officer will notify the Clerk of the Parish or Town Council concerned in confidence in writing that an investigation is to be commenced.

(d) Notification to the Person who made the Allegation

At the same time as notifying the Member, the Monitoring Officer will notify the person who made the allegation in confidence in writing that an investigation is to be commenced.

4 Initial response of the Member

In notifying the Member of receipt of the allegation, the Monitoring Officer shall request the Member to respond to the Investigator in writing within ten working days of notification as follows:

- (i) advising the Investigator whether the Member admits or denies the alleged breach of the Code of Conduct which is the subject of the allegation;
- (ii) listing any documents which the Member would wish the Investigator to take into account in any investigation of the allegation, where possible providing copies of these documents, and informing the Investigator where the original documents may be inspected,
- (iii) providing the Investigator with the name, address and telephone number (or other appropriate contact details) of any person or organisation whom the Member would wish the Investigator to interview in the course of any investigation of the allegation,
- (iv) providing the Investigator with any information which the Member would wish the Investigating Officer to seek from any person or

organisation.

Supporting information from the person who made the allegation

In notifying the person who made the allegation as above, the Monitoring Officer will request the person to respond to the Investigator within ten working days:

- (i) listing any documents which the person would wish the Investigator to take into account in any investigation of the allegation, where possible providing copies of these documents, and informing the Investigator of where the original documents may be inspected,
- (ii) providing the Investigator with the name, address and telephone number (or other appropriate contact details) of any person or organisation whom the person would wish the Investigator to interview in the course of any investigation of the allegation, and
- (iii) providing the Investigator with any information which the person would wish the Investigator to seek from any person or organisation.

5. Conduct of Investigation

(a) Purpose of the Investigation

- (i) The purpose of the investigation is to enable the Investigator to prepare and submit to the Monitoring Officer in the first instance a report which provides sufficient information to determine whether the Member has acted in breach of their Council's Code of Conduct; and
- (ii) where there has been a breach of the Code of Conduct, whether any action should be taken in respect of the Member or in consequence of the breach, and what any such action should be.

(b) Complaints

- (i) The Investigator will explain to the person making the allegation, the Member and any witnesses that should there be any complaint received about the conduct of an investigation or a "service complaint", :
 - There is an independent service complaints procedure that they can use;
 - That the complaint will be dealt with under the Council's Corporate Complaints Procedure.
 - Once the complaint has gone through the Council's Corporate Complaints Procedure no further communication will be entered into with the Council.

- The complainant (against the Investigator) may then take the matter up with the Local Government Ombudsman.
- (ii) Service criticisms occur when a party criticises the actions of an Investigator. Such criticisms may include:
 - Administrative errors, for example misspelling a name
 - Failure to communicate
 - Criticism of the manner in which the investigator behaved
 - Criticism of the length of time it took to conduct the investigation
- (iii) Differences of interpretation during an investigation or on any draft or final report will not be considered as part of a complaint. In instances where there is a mix of “interpretation and reasoning” matters and service complaints, the Investigator or the Monitoring Officer will write to the complainant outlining which matters will be considered under the Council’s Corporate Complaints Procedure and which will not.
- (iv) An investigation can continue while a complaint under the Council’s Corporate Complaints Procedure is being addressed. There may be circumstances where the complaint is so substantive that it would not be appropriate for the same Investigator to continue. Such cases will, however, be extremely rare and will be for the Monitoring Officer to determine.

(c) Termination of the Investigation

The Investigator may terminate the investigation at any point, where s/he is satisfied that s/he has sufficient information to enable a report to be made and to enable a considered decision to be reached on the allegation.

(d) Evidence of Possible New Breaches

Where, in the course of the investigation, the Investigator becomes aware of any other matter, which appears to him/her to indicate a breach of the Code of Conduct by the Member other than the breach which s/he is currently investigating, the Investigator shall in the case of a:

- (i) Member of the Borough Council, report the matter to the Monitoring Officer who will provide the Member with details of the matter in the form set out in paragraphs 3(a)(iii) and (iv) above and invite the Member to provide a statement as to why the additional matter does not constitute a breach of the Code of Conduct. The Monitoring Officer following consultation with the Independent Person, will then determine whether this additional matter should be included in the investigation;

- (ii) Parish/Town Council Member, notify the Clerk to the Town/Parish Council of the additional matter, and take no further action in respect thereof;

(d) Following notification to the Member, the Investigator will identify

- an initial list of persons to be interviewed,
- organisations/individuals from whom information is to be sought; and
- documents to be inspected as part of the investigation.

Where the Member has provided the Investigator with the information requested in accordance with Paragraphs 4(ii) and (iii) above, the Investigator shall include in this list each document, person and organisation referred to in that response, unless s/he is of the opinion that the inclusion of that document, person or organisation would unreasonably delay the completion of the investigation rather than contribute to the accuracy of the Investigator's final report. The Investigator may supplement or amend this list at any stage of the investigation.

(e) Production of documents, information and explanations

In the course of the investigation, the Investigator and any person authorised on his/her behalf may:

- (i) make such enquiries of any person or organisation, and request any person or organisation to provide any document or information which is in his/her or its possession or control, or provide any explanation, as s/he thinks necessary for the purposes of carrying out the investigation;
- (ii) require the Council which the Member belongs to, to provide any document it possesses or controls, which s/he thinks necessary for the purposes of carrying out the investigation.

In doing so they should ask all persons contacted to respect the confidentiality of the enquiry.

(f) Interviews

- (i) Requesting attendance

In the course of the investigation the Investigator may request any person to attend and appear before him/her or otherwise provide such information, document or explanation for the purpose of Paragraph 4(e) s/he thinks necessary for the purposes of carrying out the investigation.

- (ii) Representation

Apart from any Member of the Borough Council who is entitled to representation on the basis set out in paragraph 3(a)(viii), any other

person who appears before the Investigator may arrange to be accompanied at his/her own expense by a solicitor, other adviser or friend but who should not be a member of the Standards Committee, a council officer or a potential witness.

(iii) Notes of interviews

Following the interview, the Investigator shall produce a written note of any material points of the interview, provide two copies of that note to the person interviewed and ask them to return one copy signed as a correct record of the interview, with such corrections or amendments as they may feel necessary for that purpose

(g) Costs

The Investigator may, where s/he considers it to be appropriate to facilitate the investigation, pay any person to provide any document, information, advice or explanation in response to his/her request, such fees or allowances as s/he considers appropriate, subject to the maxima set by the Borough Council.

(h) Discontinuation or deferral of Investigation

(i) If the person who is the subject of the allegation

- (a) has died;
- (b) is seriously ill; or
- (c) has resigned from the Council,

the investigation will be discontinued.

(ii) An investigation will be deferred in any of the following circumstances:

- (a) there are ongoing criminal proceedings or a police investigation into the member's conduct;
- (b) the investigation cannot proceed without either an investigation of similar alleged conduct or the need to come to conclusions of fact about events which are also the subject of some other investigation or court proceeding; or
- (c) the investigation might prejudice another investigation or court proceeding.

(iii) An investigation may also be deferred in any of the following circumstances:

- (a) there is an ongoing investigation by another regulatory body;

- (b) a key witness is seriously ill; or
- (c) a key party is genuinely unavailable.

In any of these circumstances the Monitoring Officer will inquire into the nature of the other investigation or proceedings or other relevant circumstances. The Monitoring Officer will inform all relevant parties of any deferral.

Where an investigation is deferred because there exists parallel investigations, the Monitoring Officer will seek regular updates on the progress of that investigation and will in any event keep the deferral under regular review.

Once it is decided to begin the investigation again the Monitoring Officer will notify all relevant parties.

6 The Draft Report

- (a) When the Investigator is satisfied that s/he has sufficient information to meet the requirement set out in Paragraph 4(a), or has obtained as much information as is likely to be reasonably capable of being obtained, s/he shall prepare a draft report setting out:
 - (i) who the report is for
 - (ii) who the report is by
 - (iii) the date of the report
 - (iv) the full allegation and who it was made by
 - (v) the relevant provisions of legislation and of the Code of Conduct that were considered in the investigation
 - (vi) his/her conclusion as to whether there has been a failure to comply with the Code of Conduct of any authority
 - (vii) the finding
 - (viii) the Member's details:
 - when the Member was elected
 - the Member's term of office
 - any other relevant authorities they are a member of
 - details of any committees on which the Member has served
 - where relevant, the date the Member ceased to be a member

- the date the Member signed an undertaking to abide by the Code
 - full details of any training the Member has received on the Code
- (ix) the relevant information, advice and explanations which s/he has obtained in the course of the investigation;
- (x) a list of any documents relevant to the matter;
- (xi) a list of those persons whom s/he has interviewed and those organisations from whom s/he has sought information;
- (xii) a note of any person or organisation who has failed to co-operate with the investigation and the manner in which they have failed to co-operate;
- (xiii) his/her conclusion as to whether the Member has or has not failed to comply with the Code of Conduct for Members of any authority, and
- (xiv) any recommendations which the Investigator is minded to make to any authority concerned for reviewing or reconsidering any decision which was the subject of the breach of the Code of Conduct:
- to rectify any deficiency in the authority's decision-making procedures; or
 - to prevent or deter any breach of the Code of Conduct; or
 - to remedy the position of any person who may have suffered detriment or injustice as a result of the breach.

Where the allegation relates to a Parish/Town Council Member, any such recommendations would be ones the Investigator would recommend to be made to the Parish/Town Council.

- (b) The draft report should also state that the report does not necessarily represent the Investigator's final finding, and that the Investigator will present a final report to the Committee once s/he has considered any comments received on the draft report.
- (c) The Investigator shall then send a copy of his/her draft report in confidence to the Member and the person making the allegation, and request that they send any comments thereon to him/her within 10 working days.
- (d) The Investigator may send a copy of, or relevant extracts from, his/her draft report in confidence to any person on whose evidence s/he has relied in compiling the draft report, and request that they send any

comments thereon to him/her within 10 working days.

7 Receipt of further Evidence

- (a) Where the Investigator receives any new evidence relevant to an investigation, whether submitted from or on behalf of either the Member or the person making the allegation, and which the Investigator considers should be included in the report but is not sufficient to make a substantial change to the report he/she will send a copy of the new evidence to other party with a request for their comments within the next 5 working days.

8 The Second Draft Report

- (a) Where the Investigator receives any substantial new evidence, whether submitted from or on behalf of either the Member or the person making the allegation, which causes the Investigator to make any major change to the draft report the Investigator shall prepare a second draft report incorporating those changes.
- (b) The Investigator shall then send a copy of his/her second draft report in confidence to the Member and the person making the allegation, and request that they send any comments thereon to him/her within 10 working days.
- (c) The Investigator may also send a copy of, or relevant extracts from, his/her second draft report in confidence to any person on whose evidence s/he has relied in compiling the second draft report, and where he/she considers appropriate also to any person on whose evidence s/he relied in compiling the draft report and request that they send any comments thereon to him/her within 10 working days.

9 The Final Report

- (a) After the expiry of the 10 working days (or such extended period as the Investigator may allow), the Investigator shall reconsider and amend his/her draft report in the light of any comments received, and produce and send to the Monitoring Officer his/her final report. The final report should state that the report represents the Investigator's final findings, and must have appended to it copies of any documents which the Investigator has relied on in reaching his/her conclusions, such as background documents of telephone conversations, letters, and notes of interviews with witnesses;
- (b) The Monitoring Officer shall then send a copy of the final report **to the Member**, advising that where the final report concludes that:
 - (i) there **has not been a failure** to comply with the Code of Conduct for Members, s/he will close the complaint, provide a copy of the report and findings of the investigation to the complainant and the Independent Person and report the findings to the next available

meeting of the Standards Committee, for information.

- (ii) there **has been a failure** by the Member to comply with the Code of Conduct for Members, as appropriate, the Monitoring Officer, following consultation with the Independent person will, where appropriate, seek a local resolution to the satisfaction of the complainant (in which case a summary report will be submitted for information to the Standards Committee following the resolution of the complaint). Where the Monitoring Officer, following consultation with the Independent Person, considers a local resolution is not appropriate or possible, s/he will report the findings to a Hearings Panel of the Standards Committee for local hearing.
- (c) Where a report is referred to a Hearings Panel, the Monitoring Officer shall ensure that, when the agenda for the Panel meeting together with the final report is sent out to the Members of the Panel, the agenda and the final report are also sent to:
 - (i) The person who made the complaint;
 - (ii) The Member who is the subject of the complaint;
 - (iii) The Clerk to the Parish or Town Council (if any); and
 - (iv) The Investigating Officertogether with a note explaining the circumstances under which the Panel may conduct a hearing into the allegations, and the procedure for the hearing.
- (d) Any hearing shall be conducted no later than 3 months from the date on which the Monitoring Officer receives the report of the Investigator;
- (e) the Monitoring Officer will conduct Pre-Hearing enquiries of the Member as s/he considers appropriate in each case; and
- (f) the Investigator shall be responsible for presenting the report to the Committee and introducing any witnesses whom s/he considers that the Committee should hear in order to be able to give the matter proper consideration.
- (g) The hearing will be conducted in accordance with the Council's approved procedure for hearings before a Hearing Panel, subject to any variation the Chair agrees to where s/he is of the opinion that such a variation is necessary in the interests of fairness.

HEARINGS PROCEDURE

BEDFORD BOROUGH COUNCIL

APPROVED PROCEDURE FOR HEARINGS BEFORE A HEARINGS PANEL

1 Interpretation

- (a) 'Member' means the Member of a Council who is the subject of the allegation being considered by the Panel, unless stated otherwise. It also includes the Member's nominated representative.
- (b) 'Investigator' means the Investigating Officer instructed by the Monitoring Officer to investigate the allegation that the Member concerned has breached their Council's Code of Conduct and includes his/her nominated representatives.
- (c) 'The Matter' is the subject matter of the Investigator's report.
- (d) 'The Committee' refers to the Standards Committee or to any Hearings Panel to which the conduct of the hearing has been delegated.
- (e) 'The Committee Support Officer' means an officer of the Borough Council responsible for supporting the Committee's discharge of its functions and recording the decisions of the Committee.
- (f) '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 authority, or someone appointed for this purpose from outside the authority.
- (g) 'The Chair' refers to the person presiding at the hearing.

2 Modification of Procedure

The Chair may agree to vary this procedure in any particular instance where s/he is of the opinion that such a variation is necessary in the interests of fairness.

3 Representation

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

The Council has agreed to provide an indemnity/insurance under Regulations under Section 101 of the Local Government Act 2000 to Borough Council Members, including co-opted Members to meet the costs which they may incur in respect of investigations, hearings or other proceedings relating to alleged

breaches of the Council's Code of Conduct for Members. This is on the basis that any such indemnity or insurance would be subject to a requirement (to which the Member must unconditionally agree in advance) to repay any sums received in the event that the Member is found to have failed to comply with the Code of Conduct.

4 Legal Advice

The Panel may take legal advice 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 Panel should be shared with the Member and the Investigator if they are present.

5 Setting the Scene

At the start of the hearing, the Chair shall ensure that each of the Members of the Panel, the Member (if present), the Investigator (if present) and any other Officers present are introduced, and shall then explain the procedure which the Panel will follow in the conduct of the hearing.

6 Preliminary procedural issues

The Panel will then deal with the following preliminary procedural matters in the following order:

(a) Disclosures of interest

The Chairman shall ask Members of the Committee to disclose the existence and nature of any interests which they have in the matter, and to withdraw from consideration of the matter if so required.

(b) Quorum

The Chair shall confirm that the meeting is quorate.

(c) Hearing procedure

The Chair shall confirm that all present know the procedure which the Panel will follow in determining the matter.

(d) Proceeding in the absence of the Member

If the Member is not present at the start of the hearing:

(i) the Chair will ask the Monitoring Officer whether the Member has indicated his/her intention not to attend the hearing;

(ii) the Panel will then consider any reasons which the Member has provided for not attending the hearing and shall decide whether it is satisfied that there is sufficient reason for such

failure to attend;

- (iii) if the Panel is satisfied with such reasons, it shall adjourn the hearing to another date;
- (iv) if the Panel is not satisfied with such reasons, or if the Member has not given any such reasons, the Panel shall decide whether to consider the matter and make a determination in the absence of the Member or to adjourn the hearing to another date.

(e) Exclusion of Press and Public

The Panel may exclude the press and public from its consideration of a matter where it appears likely that confidential or exempt information will be disclosed in the course of this consideration.

Where it appears that exempt or confidential information will be disclosed in the course of the consideration, the Chairman shall ask the Member, the Investigator and the legal advisor to the Panel whether they wish to ask the Panel to exclude the press or public from all or any part of the hearing. If any of them so request, the Chairman shall ask them to put forward reasons why they consider exclusion to be in the public interest and ask for responses from the others and the Panel shall then determine whether to exclude the press and public from all or any part of the hearing.

Where the Panel does not resolve to exclude the press and public, the agenda and any documents which have been withheld from the press and public in advance of the meeting shall then be made available to the press and public.

7 Making findings of fact

The Panel will then address the issue of whether or not there are any significant disagreements about the facts contained in the Investigator's report so that it can accept any facts in the Investigator's report agreed by the Member and make findings with regard to those facts not agreed.

- (a) The Chair shall ask the Member to confirm that s/he maintains the position on any finding of fact in the Investigator's report as set out during the pre-hearing process. If there is:
 - (i) No disagreement about any facts, the Panel can move on to the next stage of the hearing, to consider whether there has been a failure to comply with the Code of Conduct under 8 below.
 - (ii) Disagreement about the facts, the Panel will consider the position set out in the Pre-Hearing Process Summary.

(b) Pre-Hearing Process Summary

- (i) The Chair will ask the legal advisor or the Committee Support Officer to present his/her report, highlighting any points of difference identified in the Pre-Hearing Process Summary in respect of which the Member has stated that s/he disagrees with any finding of fact in the Investigator's report. The Chair will then ask the Member to confirm that this is an accurate summary of the issues and ask the Member to identify any additional points upon which s/he disagrees with any finding of fact in the Investigator's report.
- (ii) If the Member identifies additional finding(s) of fact in the Investigator's report with which s/he disagrees, the Chair shall ask the Member to explain why s/he did not identify these points as part of the pre-hearing process. The Chair shall then ask the Investigator (if present) whether s/he is in a position to deal with those additional points of difference directly or through any witnesses who are in attendance or whose attendance at the hearing can conveniently be arranged. Where the Panel is not satisfied with the Member's reason for failing to identify each additional point of difference as part of the pre-hearing process, it may decide that it will continue the hearing but without allowing the Member to challenge the veracity of those findings of fact in the Investigator's report which the Member did not identify a point of difference in the pre-hearing process, or it may decide to adjourn the hearing to allow the Investigator and/or any additional witnesses to attend the hearing.

(c) Presenting the Investigator's report

- (i) If the Investigator is present, the Chair will then ask the Investigator to present his/her report, having particular regard to any relevant points of difference in the facts identified by the Member and why the Investigator reached his/her findings of fact. The Investigator may call witnesses as necessary to address any points of difference.
- (ii) If the Investigator is not present, the Panel shall only conduct a hearing if they are satisfied that there are no substantial points of difference or that any relevant points of difference can be satisfactorily resolved in the absence of the Investigator. In the absence of the Investigator, the Committee shall determine on the advice of the Monitoring Officer which witnesses, if any, to call. Where such witnesses are called, the Chair shall draw the witnesses' attention to any relevant section of the Investigator's report and ask the witness to confirm or correct the report and to provide any relevant evidence.

- (iii) Cross-examination shall be permitted, at the conclusion of the Investigator's report and/or of the evidence of each witness, following which the Chair will ask Members of the Panel whether they have any questions of the Investigator or witness as appropriate.
- (d) The Member's response
 - (i) The Chairman shall then invite the Member to respond and to present his/her version of the facts in the Investigator's report and to call any witnesses as necessary to address any points of difference.
 - (ii) Cross-examination shall be permitted, at the conclusion of the Member's evidence and/or of the evidence of each witness, following which the Chairman will ask Members of the Panel whether they have any questions of the Member or witness as appropriate.
- (e) Witnesses
 - (i) The Panel shall be entitled to refuse to hear evidence from the Investigator, the Member or a witness unless they are satisfied that the witness is likely to give evidence which they need to hear in order to be able to determine the findings as to the relevant facts within the Investigator's report.
 - (ii) Any Member of the Panel may address questions to the Investigator, to the Member or to any witness.
- (f) Additional Evidence

At the conclusion of the evidence, the Chair shall check with the Members of the Panel that they are satisfied that they have sufficient evidence to come to a considered conclusion on the matter.
- (g) If the Panel at any stage prior to determining the findings of fact as set out in the Investigator's report are of the opinion that they require additional evidence on any point in order to be able to come to a considered conclusion on the matter, the Panel may (on not more than one occasion) adjourn the hearing and make a request to seek and provide such additional evidence and to undertake further investigation on any point specified by the Panel.
- (h) Determination as to finding(s) of fact
 - (i) At the conclusion of the Member's response, the Chair shall ensure that each Member of the Panel is satisfied that s/he has sufficient information to enable him/her to determine findings of fact.

- (ii) The Panel shall then retire to another room to consider in private its findings as to the facts as set out in the Investigator's report.
- (iii) The Panel shall take its decision on its findings as to the facts on the balance of probability based on the evidence it has received at the hearing.
- (iv) In carrying out its function to make a finding on the facts, the Committee may at any time, return to the main hearing room in order to seek additional evidence from the Investigator, the Member or a witness, or to seek the legal advice from its legal advisor. If it requires any further information, it may adjourn and instruct an officer or request the Member to produce such further evidence to the Panel.
- (v) The Panel shall then return to the main hearing room and the Chair will state the Panel's principal findings with regard to the facts as set out in the Investigator's report.

8 Whether the Member has failed to follow the Code of Conduct?

The Panel will then address the issue of whether or not, on the basis of the facts it has established, the Member has failed to follow the Code of Conduct in the manner set out in the Investigator's report:

- (a) The Chair will invite the Member to give relevant reasons why the Panel should not decide that the Member has failed to follow the Code of Conduct.
- (b) The Chairman will then invite the investigator if present to respond and to give relevant reasons why the Panel should decide that the Member has failed to follow the Code of Conduct.
- (c) The Panel may, at any time, question anyone involved on any point they have raised in their representations.
- (d) The Chair will then invite the Member to make any final relevant points for the Panel to consider in making its determination on whether the Member has failed to follow the Code of Conduct.
- (e) The Chair will then ensure that each Member of the Panel is satisfied that s/he has sufficient information to enable him/her to take an informed decision on whether or not, on the basis of the facts it has established, the Member has failed to follow the Code of Conduct in the manner set out in the Investigator's report.
- (f) The Panel will then retire to another room to consider in private the representations made and determine its findings on the balance of probability whether the Member has failed to follow the Code of

Conduct. The Panel may, at any time, return to the main hearing room in order to seek additional representations from the investigator, the Member or a witness, or to seek legal advice from its legal advisor.

- (g) At the conclusion of the Panel's consideration, the Panel will consider whether it is minded to make any recommendations to the authority with a view to promoting high standards of conduct among Members.
- (h) The Panel shall then return to the main hearing room and the Chair will state the Panel's principal findings of fact and their determination as to whether the Member failed to comply with the Code of Conduct as set out in the investigator's report.

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

If the Panel determines that the Member has not failed to follow the Code of Conduct in the manner set out in the investigator's report:

- (a) If the Panel apprehends, from the evidence which they have received during the hearing, that a Member has failed to comply with the Code of Conduct (other than the matter which the Panel has just determined), the Chair shall outline the Panel's concerns and state that the Panel has referred this additional or alternative failure to the Monitoring Officer for consideration as to whether that matter should be investigated.
- (b) The Chair should then set out any recommendations which the Panel is minded to make to the authority with a view to promoting high standards of conduct among Members and seek the views of the Member, the investigator and the legal advisor before the Panel finalises any such recommendations.

10 Action consequent upon a failure to comply with the Code of Conduct

- (a) The Chair shall ask the Investigator (if present) whether, in his/her opinion the Member's failure to comply with the Code of Conduct is such that the Panel should impose or recommend a sanction and, if so, what would be the appropriate sanction.
- (b) The Chair will then ask the Member to respond to the investigator's advice.
- (c) The Chair will then ensure that each Member of the Panel is satisfied that s/he has sufficient information to enable him/her to take an informed decision as to whether to impose or recommend a sanction and (if appropriate) as to the form of the sanction.
- (d) Any Member of the Panel may address questions to the investigator or to the Member as necessary to enable him/her to take such an informed decision.

- (e) The Chair should then set out any recommendations the Committee is minded to make to the Council with a view to promoting high standards of conduct among Members and seek the views of the Member, the Investigator and the legal advisor.

The Panel shall then retire to another room to consider in private whether to impose or recommend a sanction, (where a sanction is to be imposed or recommended) what sanction to impose or recommend.

(Note: the sanctions available to the Panel are set out in the annex to this Procedure).

- (g) shall return to the main hearing room and the Chairman shall state the Panel's decisions as to whether to impose/recommend a sanction and (where a sanction is to be imposed or recommended) the nature of that sanction, and when it should take effect, together with the principal reasons for those decisions.

11 The close of the hearing

- (a) The will announce its decision on the day of the hearing and provide the Committee Support Officer with a short written statement of their decision, which the Committee Support Officer will deliver to the Member as soon as practicable after the close of the hearing;
- (b) The Chairman will thank all those present who have contributed to the conduct of the hearing and formally close the hearing.
- (c) Following the close of the hearing, the Committee Support Officer will agree a formal written notice of the Committee's determination and shall arrange for the distribution and publication of that notice