

Appendix 6

Members' Code of Conduct and Dealing with Complaints about Member Conduct

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CODE OF CONDUCT FOR ELECTED MEMBERS

As a member or co-opted member of Chorley Council I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority. I confirm that I will act in a way that complies with these principles and accept that they form part of my obligations on how I discharge my role as a Councillor.

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

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.

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.

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.

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.

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.

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

As a Member of Chorley Council, my conduct will in particular address the statutory principles of the code of conduct by:

Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.

Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.

Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the Borough or the good governance of the authority in a proper manner.

Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.

Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.

Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents. I will co-operate with all investigations of complaints made under the councils code of conduct.

Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it.

Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.

Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government. I will not make any trivial or malicious allegations against another councillor.

Always treating people with respect, including the organisations and public I engage with and those I work alongside.

Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.

Not bullying or harassing any person (including any council employee) and I will not intimidate or improperly seek to influence any person. I accept bullying may be characterised as: offensive, intimidating, malicious or insulting behaviour; or an abuse or misuse of power in a way that intends to undermine, humiliate, criticise unfairly or injure someone. Harassment may be characterised as unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual.

I will also comply with my obligations under the Act in relation to the registration and disclosure of interests and in Chorley Council this will be done as follows:

I will, within 28 days of taking office as a member or co-opted member, notify Chorley Council's Monitoring Officer of any disclosable pecuniary interest as defined by Regulations made by the Secretary of State, where the pecuniary interest is mine, my spouse's or civil partner's or is a pecuniary interest of someone with whom I am living as husband and wife or as if we were civil partners.

In addition, I will, within 28 days of taking office as a member or co-opted member, notify Chorley Council's Monitoring Officer of any disclosable pecuniary or non-pecuniary interest which Chorley Council has decided should be included in the register.

If an interest has not been entered onto Chorley Council's register, then I will disclose the interest to any meeting of the authority at which I am present, where I have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.¹

Following any disclosure of an interest not on the authority's register or the subject of pending notification, I will notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, I will not participate in any discussion of, vote on, or discharge any function related to any matter in which I have a pecuniary interest as defined by Regulations made by the Secretary of State. Additionally, I will observe the restrictions Chorley Council place on my involvement in matters where I have a pecuniary or non pecuniary interest as defined by your authority.

¹ A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

DISCLOSABLE PECUNIARY INTERESTS

This note explains the requirements of the Localism Act 2011 (Ss 29-34) and The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, in relation to disclosable pecuniary interests.

These provisions are enforced by criminal sanction. They come into force on 1 July 2012.

1 Notification of disclosable pecuniary interests

Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any ‘disclosable pecuniary interests’.

A ‘disclosable pecuniary interest’ is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) within the following descriptions:

(In the extracts from the Regulations below, ‘M’ means you and ‘relevant person’ means you and your partner, as above)

<i>Subject</i>	<i>Prescribed description</i>
<i>Employment, office, trade, profession or vocation</i>	<i>Any employment, office, trade, profession or vocation carried on for profit or gain.</i>
<i>Sponsorship</i>	<i>Any payment or provision of any other financial benefit (other than from the relevant authority) 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.</i>
<i>Contracts</i>	<i>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.</i>
<i>Land</i>	<i>Any beneficial interest in land which is within the area of the relevant authority.</i>
<i>Licences</i>	<i>Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.</i>
<i>Corporate tenancies</i>	<i>Any tenancy where (to M’s knowledge)— (a) the landlord is the relevant authority; and</i>

(b) the tenant is a body in which the relevant person has a beneficial interest.

Securities

Any beneficial interest in securities of a body where—

(a) that body (to M’s knowledge) has a place of business or land in the area of the relevant authority; 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.

These descriptions on interests are subject to the following definitions:

“the Act” means the Localism Act 2011;

“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;

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes 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;

“M” means a member of a relevant authority;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“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) or section 31(7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

“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.

2 Register of interests

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 authority's website.

Members are reminded of their duty to disclose details of any gifts or hospitality they have received in their capacity as a councillor which exceeds the value of £25. This disclosure is made through the register of interests form.

3 Sensitive interests

Where you consider that disclosure of the details of a disclosable pecuniary interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a disclosable pecuniary interest, the details of which are withheld under Section 32(2).

4 Non participation in case of disclosable pecuniary interest

A) If you are present at a meeting of the authority, or any committee, sub-committee, joint committee or joint sub-committee of the authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting,

1. You may not participate in any discussion of the matter at the meeting.
2. You may not participate in any vote taken on the matter at the meeting.
3. If the interest is not registered, you must disclose the interest to the meeting.
4. If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

Note: In addition, Procedure Rule 5, in Appendix 3 to this Constitution requires you to leave the room where the meeting is held while any discussion or voting takes place.

B) 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 her/him, the executive member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

5 Dispensations

The authority may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

6 Offences

It is a criminal offence to

- Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election
- Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register

- Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting
- Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest
- 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.
- 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

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

ARRANGEMENTS FOR DEALING WITH COMPLAINTS ABOUT THE CONDUCT OF ELECTED MEMBERS

Introduction

1. This procedure applies when a complaint is received that a Member, Co-opted Member or Parish Member has or may have failed to comply with the relevant Code of Conduct for Members.
2. The person making the complaint will be referred to as “the Complainant” and the person against whom the complaint is made will be referred to as the “Subject Member.”
3. No Member or Officer will participate in any stage of the arrangements if he or she has, or may have, any personal conflict of interest in the matter.

4. Making a complaint

A complaint must be made in writing by post or email to: –

The Monitoring Officer
Chorley Council
Town Hall
Market Street
Chorley
PR7 1DP

OR

chris.moister@chorley.gov.uk

The Monitoring Officer will acknowledge receipt of the complaint within 5 working days of receiving it and, at the same time, write to the Subject Member with details of the allegations (subject to any representations from the Complainant on confidentiality, which are accepted as valid by the Monitoring Officer). The Subject Member may, within 5 working days of receipt, make written representations to the Monitoring Officer which he must take into account when deciding how the complaint will be dealt with. Representations received after this time may be taken into account, at the discretion of the Monitoring Officer, but will in any event not be considered after the Monitoring Officer has issued his Initial Complaint Assessment.

Complaints in relation to conduct by Parish Councillors towards the Parish Clerk

Where a complaint relates to the conduct of a Parish Councillor towards the Parish Clerk, the complaint should be submitted by the chair or the parish council as a whole. In exceptional circumstances complaints will be accepted when made by the Clerk themselves.

5. Early Resolution

The Monitoring Officer is authorised to determine whether complaints fall within the scope of a standards complaint (without the need for the initial assessment stage) and to deal with them accordingly. The Monitoring Officer is further authorised to resolve minor complaints without the need for the initial assessment stage, eg where minor complaints are resolved by explanation or an apology from the Member. Action in this situation will be subject to agreement with the Independent Person.

6. Complaint Initial Assessment

The Monitoring Officer will review the complaint and, after consultation with the Independent Person, take a decision (a Complaint Initial Assessment) as to whether it merits formal investigation, or another course of action. This decision will normally be taken within 21 days of receipt of a complaint.

If the complaint fails one or more of the following tests, it will be rejected:

- The complaint must be against one or more named Members or co-opted Members of the Council or a parish council within its district;
- The Subject Member must have been in office at the time of the alleged conduct and the Code of Conduct was in force at the time;
- The complaint, if proven, would be a breach of the Code of Conduct under which the subject Member was operating at the time of the alleged misconduct.

Public Interest Test

If appropriate, the Monitoring Officer will then go on to consider the following questions in deciding whether a complaint should be accepted for investigation, dealt with informally, or rejected:

- a. Is there evidence which supports the complaint?
- b. Is the conduct something which it is possible to investigate?
- c. Is an investigation proportionate and in the public interest?

In assessing the public interest the following will be considered:

- Whether a substantially similar allegation has previously been made by the Complainant, or the complaint has been the subject of an investigation by another regulatory authority;
- Whether the complaint is about something that happened so long ago that those involved are unlikely to remember it clearly enough to provide credible evidence, or where the lapse of time means there would be little benefit or point in taking action now, complaints older than 6 months will not normally be investigated;
- Whether the incident witnessed by a third party and the independence of that third party.
- Whether the allegation is anonymous;
- Whether the allegation discloses a potential breach of the Code of Conduct, but the complaint is not serious enough to merit any action and:-
 - (i) the resources needed to investigate and determine the complaint are wholly disproportionate to the allegations;
 - (ii) whether, in all the circumstances, there is no overriding public benefit in carrying out an investigation;

- Whether the complaint appears to be malicious, vexatious, politically motivated or tit-for-tat;
- Whether the complaint although in itself minor in nature suggests that there is a wider problem throughout the authority;
- Whether it is apparent that the subject of the allegation is relatively inexperienced as a Member, or has admitted making an error and the matter would not warrant a more serious sanction;

7. Additional Information

The Monitoring Officer may obtain additional factual information to come to a decision and may request information from the Subject Member. Where the complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of the complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation or other action. In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for an investigation. Such informal resolution may involve the Subject Member accepting that his/her conduct was unacceptable and offering an apology, or taking other steps. Where the Subject Member or the authority (in appropriate cases) make a reasonable offer of Local Resolution, but it is rejected by the Complainant, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

If the complaint identifies criminal conduct or breach of other regulations by any person, the Monitoring Officer is authorised to report this to the Police or other prosecuting or regulatory authorities.

8. Confidentiality

If a Complainant has asked for their identity to be withheld, this request will be considered by the Monitoring Officer at the Complaint Initial Assessment stage.

As a matter of fairness and natural justice, the Subject Member should usually be told who has complained about them and receive details of the complaint. However, in exceptional circumstances, the Monitoring Officer may withhold the Complainant's identity if on request from the Complainant, or otherwise, they are satisfied that the Complainant has reasonable grounds for believing that they or any witness relevant to the complainant may be at risk of physical harm, or his or her employment may be jeopardised if their identity is disclosed, or where there are medical risks (supported by medical evidence) associated with the Complainant's identity being disclosed.

If the Monitoring Officer decides to refuse a request by a Complainant for confidentiality, they will offer the Complainant the option to withdraw the complaint, rather than proceed with his or her identity being disclosed. The Monitoring Officer will balance whether the public interest in taking action on a complaint will outweigh the Complainant's wish to have his or her identity withheld from the Subject Member.

9. Investigation

If the Monitoring Officer decides that a complaint merits formal investigation, they will appoint an Investigating Officer, who may be a Council officer, an officer of another Council, or an external investigator.

The Investigating Officer will follow guidance issued by the Monitoring Officer on the investigation of complaints. The guidance will follow the principles of proportionality and the cost-effective use of Council resources and shall be interpreted in line with these principles.

The Investigating Officer will ensure that the Subject Member receives a copy of the complaint – subject to a Monitoring Officer decision on Confidentiality.

At the end of their investigation, the Investigating Officer will produce a draft report and will send copies of that draft report to the Complainant and to the Subject Member, for comments. The Investigating Officer will take such comments into account, before issuing their final report to the Monitoring Officer.

10. Investigating Officer finding of insufficient evidence of failure to comply with the Code of Conduct

The Monitoring Officer will review the Investigating Officer's report and, if they are satisfied that the Investigating Officer's report is satisfactory, will make a Confirmation Decision to confirm the finding of no failure to comply with the Code of Conduct.

The Monitoring Officer will write to the Complainant and the Subject Member (and to the Parish Council, where the complaint relates to a Parish Councillor), with a copy of the Confirmation Decision and the Investigating Officer's final report.

If the Monitoring Officer is not satisfied that the investigation has been conducted satisfactorily, he may ask the Investigating Officer to reconsider their report and conclusion.

11. Investigating Officer finding of sufficient evidence of failure to comply with the Code of Conduct

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.

12. Local Resolution

If the Monitoring Officer considers that the matter can reasonably be resolved without the need for a hearing, they will consult with the Independent Person and the Complainant and seek to agree a fair resolution. In determining that course of action, the Monitoring Officer should consider matters previously determined by a Standards Hearing Sub-Committee to decide whether local resolution is an appropriate action. Such resolution may include the Member accepting that their conduct was unacceptable and offering an apology, and/or other remedial action. If the Member accepts the suggested resolution, the Monitoring Officer will report the outcome to the Governance Committee and the Parish Council (if appropriate) for information, but will take no further action. If the Complainant or the Subject Member refuses Local Resolution in principle or to engage with the agreed outcome, the Monitoring Officer will refer the matter for a Local Hearing without further reference to the Complainant or the Subject Member.

13. Local Hearing

Where, in the opinion of the Monitoring Officer, Local Resolution is not appropriate or the Complainant and/or Subject Member refuse to co-operate, then the Monitoring Officer will report 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.

The Council has agreed a procedure for local hearings, which is attached as Appendix A to these arrangements.

14. Constitution of the Hearings Panel

The Hearings Panel is a Sub-Committee of the Council's Governance Committee. The Council has decided that a Hearings Panel will be comprised of a maximum of three Members, and comprising Members should be drawn from at least 2 different political parties. There is no requirement for political proportionality and Members who sit on a Hearings Panel have a duty to the Council's Code of Conduct and will be expected to consider matters accordingly.

The Independent Person is invited to attend all meetings of the Hearings Panel and their views are sought and must be 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.

The Hearings Panel are not bound by the views of the Independent Member but where they depart from the view their decision should contain reasons why.

15. Who is the Independent Person?

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the Members of Council.

A person cannot be "independent" if he/she –

- 15.1 Is, or has been within the past 5 years, a Member, co-opted Member or officer of the authority;
- 15.2 Is or has been within the past 5 years, a Member, co-opted Member or officer of a parish council within the authority's area, or
- 15.3 Is a relative, or close friend, of a person within paragraph 14.1 or 14.2 above. For this purpose, "relative" means –
 - 15.3.1 Spouse or civil partner;
 - 15.3.2 Living with the other person as husband and wife or as if they were civil partners;
 - 15.3.3 Grandparent of the other person;
 - 15.3.4 A lineal descendent of a grandparent of the other person;
 - 15.3.5 A parent, sibling or child of a person within paragraphs 15.3.1 or 15.3.2;

- 15.3.6 A spouse or civil partner of a person within paragraphs 15.3.3, 15.3.4 or 15.3.5; or
- 15.3.7 Living with a person within paragraphs 15.3.3, 15.3.4 or 15.3.5 as husband and wife or as if they were civil partners.

16. Independent Person

The Independent Person supports the Council's Standards Regime. They are expected to provide a residents view of the conduct of members and the application of the Code of Conduct. The Independent Person will have an observer role at Governance Committee and, with the permission of the Chair, is entitled to speak (but not vote) on Standards Matters. They can, through the Monitoring Officer, bring matters to the Governance Committee in relation to the Code of Conduct and associated procedures.

The role of the Independent Person is not limited to the functions outlined in the "Arrangements for Dealing with Complaints about the Conduct of Elected Members" and the Monitoring Officer may approach the Independent Person concerning complaints at any stage.

17. Action the Hearings Panel may take where a Member has failed to comply with the Code of Conduct

Where a Hearings Panel find that a member has failed to comply with the Code of Conduct, the Panel will publish its findings in respect of the Members conduct. In addition, the Council has delegated to the Hearings Panel such of its powers to take action in respect of individual Members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearings Panel may –

- 17.1 Report its findings to Council (or to the Parish Council) for information;
- 17.2 Recommend to the Member's Group Leader (or in the case of un-grouped Members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 17.3 Recommend to the Leader of the Council that the Member be removed from the Executive, or removed from their Portfolio responsibilities;
- 17.4 Instruct the Monitoring Officer to (or recommend that the Parish Council) arrange training for the Member;
- 17.5 Remove (or recommend to the Parish Council that the Member be removed) from all outside body appointments to which they have been appointed or nominated by the Council (or by the Parish Council);
- 17.6 Withdraw (or recommend to the 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
- 17.7 Exclude (or recommend that the Parish Council exclude) the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

18. Discontinuance of Complaint

Where a complainant indicates that they wish to withdraw their complaint the Monitoring Officer will consider the request against the following criteria:-

a. Seriousness of the alleged misconduct.

Where the allegation is serious in nature the Monitoring Officer should be reluctant to discontinue the process even when the complainant indicates they will not engage going forward.

b. The importance of the evidence of the Complainant. The Monitoring Officer will consider whether the conduct complained of can be evidenced without the involvement of the Complainant.

The Monitoring Officer will then make a recommendation to the Independent Person who will consider and provide a view on the recommendation. The likely sanction to be imposed is a relevant consideration. Where the recommendation is to discontinue the Investigation and this is accepted by the Independent Person then no further action will be taken other than to notify the complainant and the subject of the complaint.'

19. Revision of these arrangements

The Council may by resolution or delegation to the Monitoring Officer agree to amend these arrangements and has delegated to the Chair of the Hearings Panel the right to depart from these arrangements where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

20. Appeals

The subject of the complaint has the right to appeal both against findings of breach of the code and against sanction.

The appeal must be in writing and received by the Monitoring Officer within 7 days of the date of the Hearing Sub-Committee decision being made. The appeal must state whether the challenge is against the finding of breach or against the sanction imposed only.

The Monitoring Officer will arrange for an Appeal Sub-Committee to be convened within 7 days of the receipt of any appeal. The Appeal Sub-Committee comprising of 3 Members will be drawn from the Governance Committee and will not include Members who sat on the Hearing Sub-Committee. A different Independent Member will also be used. The Appeal will follow the procedure used for Hearing Panels.

Subject to Judicial Review, or a decision of the Local Government Ombudsman, there is no further right of appeal against a decision of the Monitoring Officer or of the Appeals Panel.

HEARING PROCEDURE

Stage 1: Setting the scene

1. After all the everyone involved has been formally introduced, the Chair will explain how the Committee is going to run the hearing.
2. The Chair will introduce the Independent Member and advise the Member that whilst they do not have a decision making role they are present to provide an independent view which the Committee are obliged to consider.
3. The Chair will ensure that the Member is ready and happy to proceed. If the Member indicates that they are not ready, they must give reasons why. The Committee will decide whether the hearing should proceed and must act reasonably in coming to that decision. Where the Member has indicated they are not ready but the Committee decide to proceed they should given reasons why.

Stage 2: Making findings of fact

4. The Committee will ask the Member whether there are any significant disagreements about the facts contained in the Investigating Officer's report. If there is no disagreement about the facts, the Committee can move on to the next stage of the hearing.
5. If there is a disagreement, the Investigating Officer, will be invited to make representations on the challenged facts, but these are to be confined to matters contained within the report.
6. The Member will then have the opportunity to make representations to support their stated position.
7. At any time, the Committee may question the Investigating Officer or the Member.
8. If the Member disagrees with most of the facts, the Committee may invite the Investigating Officer to make representations on all the relevant facts, instead of discussing each fact individually.
9. If the Member disagrees with any relevant fact in the Investigating Officer's report, without having given prior notice of the disagreement, they must give good reasons for not mentioning it before the hearing.
10. After considering the Member's explanation for not raising the issue at an earlier stage, the Committee may then:
 - continue with the hearing, relying on the information in the Investigating Officer's report
 - allow the Member to make representations about the issue, and invite the Investigating Officer to respond
 - postpone the hearing to allow the Investigating Officer to consider and investigate the new issue.
11. The Committee will usually move to another room to consider the representations and evidence in private also present will be the clerk to the Committee and the Independent Member. On their return, the Chair will announce the Committee's findings of fact.

Stage 3: Did the Member fail to follow the Code of Conduct?

12. Having made the finding on the facts the Committee will then consider whether the Member has failed to follow the Code.
13. The Member should be invited to give relevant reasons why the Committee should decide that they have not failed to follow the Code.
14. The Committee should then consider any verbal or written representations from the Investigating Officer.
15. The Committee may, at any time, question anyone involved on any point they raise on their representations.
16. The Member should be invited to make any final relevant points.
17. The Committee will then move to another room to consider the representations. The Independent Member will accompany them and their views should be sought and considered by the Committee. Where the Committee depart from the view of the Independent Member they should record the reasons why.
18. On their return, the Chair will announce the Committee's decision as to whether the Member has failed to follow the Code.

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

19. If the Committee decides that the Member has not failed to follow the Code, the Committee will notify the Member accordingly and record the decision.

If the Member has failed to follow the Code of Conduct

20. If the Committee decides that the Member has failed to follow the Code, it will consider any verbal or written representations from the Investigating Officer and the Member as to:
 - whether the committee should apply a sanction
 - what form any sanction should take
21. The Committee may question the Investigating Officer and Member, and take legal advice, to make sure they have the information they need in order to make an informed decision.
22. The Committee will then deliberate with the Independent Member in private to consider whether to impose a sanction on the Member and, if so, what sanction it should be. As previously the Independent Member will not be able to participate in making the decision (i.e. vote) but their views must be considered by the Committee. Where the Committee depart from the Independent Members views they must record reasons why.
23. The Committee will be limited to the sanctions listed in the procedure for the administration of complaints. The Committee must ensure that any sanction is reasonable and proportionate to the breach.
24. On their return, the Chair will announce the Committee's decision.