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NOTICE OF MEETING

Meeting	Conduct Advisory Panel
Date and Time	Friday, 1st December, 2017 at 1.45 pm
Place	Wellington Room
Enquiries to	members.services@hants.gov.uk

John Coughlan CBE
Chief Executive
The Castle, Winchester SO23 8UJ

FILMING AND BROADCAST NOTIFICATION

This meeting may be recorded and broadcast live on the County Council's website. The meeting may also be recorded and broadcast by the press and members of the public – please see the Filming Protocol available on the County Council's website.

AGENDA

1. APOLOGIES FOR ABSENCE

To receive any apologies for absence.

2. DECLARATIONS OF INTEREST

All Members who believe they have a Disclosable Pecuniary Interest in any matter to be considered at the meeting must declare that interest and, having regard to the circumstances described in Part 3 Paragraph 1.5 of the County Council's Members' Code of Conduct, leave the meeting while the matter is discussed, save for exercising any right to speak in accordance with Paragraph 1.6 of the Code. Furthermore all Members with a Non-Pecuniary interest in a matter being considered at the meeting should consider whether such interest should be declared, and having regard to Part 5, Paragraph 2 of the Code, consider whether it is appropriate to leave the meeting while the matter is discussed, save for exercising any right to speak in accordance with the Code.

3. MINUTES OF THE PREVIOUS MEETING (Pages 3 - 6)

To confirm the minutes of the previous meeting held on 23 June 2017.

4. CHAIRMAN'S ANNOUNCEMENTS

To receive any announcements the Chairman may wish to make.

5. DEPUTATIONS

To receive any deputations notified under Standing Order 12.

6. AMENDMENT OF THE LOCALISM ACT 2011 REQUIRING A CHANGE TO THE ARRANGEMENTS FOR THE ASSESSMENT, INVESTIGATION AND DETERMINATION OF COMPLAINTS OF BREACH OF THE CODE OF CONDUCT FOR MEMBERS OF THE COUNTY COUNCIL (Pages 7 - 20)

This report seeks approval of a change to arrangements for the assessment, investigation and determination of complaints of breach of the Code of Conduct for Members and Co-opted Members of the County Council in accordance with an amendment to the Localism Act 2011 ('the Localism Act') requiring that provision is made in these arrangements to handle a complaint against the Police and Crime Commissioner for Hampshire in his capacity as a Co-opted Member of the Hampshire Health and Wellbeing Board.

ABOUT THIS AGENDA:

On request, this agenda can be provided in alternative versions (such as large print, Braille or audio) and in alternative languages.

ABOUT THIS MEETING:

The press and public are welcome to attend the public sessions of the meeting. If you have any particular requirements, for example if you require wheelchair access, please contact members.services@hants.gov.uk for assistance.

County Councillors attending as appointed members of this Committee or by virtue of Standing Order 18.5; or with the concurrence of the Chairman in connection with their duties as members of the Council or as a local County Councillor qualify for travelling expenses.

Agenda Item 3

AT A MEETING of the Conduct Advisory Panel of HAMPSHIRE COUNTY
COUNCIL held at the castle, Winchester on Friday, 23rd June, 2017

Chairman:

* Councillor Mark Kemp-Gee

* Councillor Keith Evans
Councillor Peter Chegwyn
* Councillor Andrew Gibson
* Councillor Keith House
Councillor Gavin James

* Councillor Peter Latham
Councillor Tom Thacker
Councillor Michael Thierry
* Councillor Rhydian Vaughan

*Present

Councillor Patricia Stallard was in attendance in the capacity of Conservative Substitute Member.

1. **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Peter Chegwyn, Tom Thacker and Michael Thierry.

2. **DECLARATIONS OF INTEREST**

Members were mindful that where they believed they had a Disclosable Pecuniary Interest in any matter considered at the meeting they must declare that interest and, having regard to Part 3, Paragraph 1.5 of the County Council's Members' Code of Conduct, leave the meeting while the matter was discussed, save for exercising any right to speak in accordance with Paragraph 1.6 of the Code. Furthermore Members were mindful that where they believed they had a Personal Interest in a matter being considered at the meeting they considered, having regard to Part 5, Paragraph 4 of the Code, whether such interest should be declared, and having regard to Part 5, Paragraph 5 of the Code, considered whether it was appropriate to leave the meeting while the matter was discussed, save for exercising any right to speak in accordance with the Code.

3. **MINUTES OF THE PREVIOUS MEETING**

The Minutes of the meeting held on 22 June 2016 were confirmed as a correct record and signed by the Chairman.

4. **DEPUTATIONS**

There were no deputations on this occasion.

5. CHAIRMAN'S ANNOUNCEMENTS

The Chairman welcomed everyone to the meeting and for the benefit of new Members present, introductions were made. For the benefit of new Members on the Committee, the Chairman provided a summary of the remit of the Panel.

6. DISCLOSABLE PECUNIARY INTERESTS - DISPENSATIONS

The Panel considered the report of the Director of Transformation and Governance (Item 6) seeking renewal of several dispensations previously granted by the Panel under Section 33 of the Localism Act 2011, as set out in Section 3 of the report together with a new dispensation request, as set out in paragraph 4.3 of the report.

In presenting the report and for the benefit of new Members of the Panel, the Head of Law and Governance expanded on the dispensations sought. Members noted that the dispensations set out in section 3 of the report had been renewed at the Panel's last meeting on 22 June 2016 to expire on 31 July 2017. It was therefore timely at the start of the new Council's new Administration following its Elections in May to review the dispensations.

The Head of Law and Governance also reported that a new dispensation was sought following a query that had been raised about the status of moorings on the River Hamble and whether or not a mooring holder constitutes a Disclosable Pecuniary Interest. As a result of advice received from the County Council's lead land solicitor, it was considered appropriate to grant a general dispensation in this regard to allow Members serving on the River Hamble Harbour Board and the River Hamble Harbour Management Committee who are mooring holders to participate and vote in County Council business relating to the River Hamble.

RESOLVED:

That the Conduct Advisory Panel grant the following dispensations:

- a) A dispensation under Sections 33(2)(a) and (d) of the Localism Act expiring on 31 July 2021 to all Members of the County Council from the provisions of Sections 31(4)(a) and (b) of the Localism Act enabling all Members of the County Council to participate and vote in any business of the County Council relating to the setting of the Council Tax or Precepts, when they would otherwise be prevented from doing so in consequence of a beneficial interest in land within the administrative area of Hampshire.
- b) A dispensation under Sections 32(2)(a) and (d) of the Localism Act expiring on 31 July 2021 to all Members and Co-opted Members of the County Council in receipt of an allowance under the Hampshire County Council Members' Allowances Scheme or Members' Allowances Scheme of another relevant Authority from the provisions of Sections 31(4)(a) and (b) of the Localism Act enabling all Members and Co-opted Members of the County Council to participate and vote in any business of the County Council where they may otherwise be prevented from doing so in consequence of being in receipt of a Members' Allowance.

- c) A dispensation under Section 33(2)(e) of the Localism Act expiring on 31 July 2021 to all Officer Members of the Health and Wellbeing Board for Hampshire from the provisions of Sections 31(4)(a) and (b) of the Localism Act enabling them to fully participate and vote in any business of the Health and Wellbeing Board for Hampshire when they would otherwise be prevented from doing so by virtue of a DPI deriving from their employment by the County Council.
- d) A dispensation under Section 33(2)(c) of the Localism Act expiring on 31 July 2021 to Mr Moody enabling him to fully participate and vote in any business of the River Hamble Harbour Board when he would otherwise be prevented from doing so by virtue of a Disclosable Pecuniary Interest arising from the honorarium he receives from the Hamble River Boatyard and Marina Operators Association.
- e) A dispensation under Section 33(2) (a) and (c) of the Localism Act expiring on 31 July 2021 to all Members of the River Hamble Harbour Board and the River Hamble Management Committee enabling them to fully participate and vote in any business of the River Hamble Harbour Board and River Hamble Management Committee when they would otherwise be prevented from doing so by virtue of a Disclosable Pecuniary Interest arising from holding a mooring on the River Hamble.

Chairman,

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HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Conduct Advisory Panel
Date:	1 December 2017
Title:	Amendment of the Localism Act 2011 requiring a change to the Arrangements for the Assessment, Investigation and Determination of Complaints of Breach of the Code of Conduct for Members of the County Council
Report From:	Director of Transformation & Governance

Contact name: Barbara Beardwell, Head of Law & Governance and Monitoring Officer

Tel: 01962 845157

Email: barbara.beardwell@hants.gov.uk

1. Executive Summary

- 1.1. This report seeks approval of a change to the County Council's arrangements for the assessment, investigation and determination of complaints of breach of the Code of Conduct for Members and Co-opted Members of the County Council (the Arrangements) in consequence of an amendment to the Localism Act 2011, requiring that specific provision is made concerning the handling of complaints against the Police and Crime Commissioner for Hampshire (the Commissioner) in his capacity as a Co-opted Member of the Hampshire Health and Wellbeing Board.

2. Contextual Information

- 2.1. Section 28(6) of the Localism Act 2011 requires the County Council to put in place arrangements in respect of the assessment, investigation and determination of complaints of breach of the Code of Conduct for Members. Delegated authority to determine such arrangements was given to the Conduct Advisory Panel by the County Council at its meeting on 17 May 2012, and the Panel approved the Arrangements at its meeting on 30 October 2012.
- 2.2. The Policing and Crime Act 2017 recently inserted provisions into section 28 of the Localism Act 2011 requiring any complaint received by a relevant authority against a police and crime commissioner who is a Member or Co-opted Member of the Authority in his/her capacity as such to be referred to the relevant Police and Crime Panel. In addition, any report or recommendation by that Panel in respect of the complaint must be taken into account in the Authority's determination of whether its Members' Code of Conduct has been breached.

- 2.3. As Members will be aware, it is possible for some Councils themselves to be Fire and Rescue Authorities and, following the implementation of certain other provisions of the Policing and Crime Act 2017, Police and Crime Commissioners may be represented on Fire and Rescue Authorities. Addressing this change may be the purpose behind the amendments made to section 28 of the Localism Act 2011.
- 2.4. However the amendments are widely drawn and consequently capture the County Council in respect of the Police and Crime Commissioner's membership of the Hampshire Health and Wellbeing Board. Accordingly, the Arrangements require revision to comply with the legislation.

3. Proposed Amendments to the Arrangements

- 3.1. The Arrangements incorporating the proposed amendments are contained at Appendix 1, the amendments being highlighted in italics in the text for ease of reference only.
- 3.2. The proposed amendments take into account both the requirements of the legislation and the procedural implications of the changes, and are explained further below:-

a) Referral of Complaints

- Any complaint against the Commissioner received by the County Council shall be referred to the Hampshire Police and Crime Panel. The County Council will inform the complainant of the referral at the same time as acknowledging receipt of the complaint and will explain the process. It is proposed that the County Council also notify the Commissioner of the receipt and referral of the complaint.

b) Considering Complaints and Suspending the Complaint Process

- It is anticipated that it will only be in limited circumstances that a complaint against the Commissioner might relate to his conduct as a Co-opted Member of the Health and Wellbeing Board. However in such circumstances, the Commissioner will be subject to both his own code of conduct (overseen by the Hampshire Police and Crime Panel) and the County Council's Code of Conduct for Members.
- In handling a complaint against the Commissioner in his capacity as a Co-opted Member, the County Council must take into account any report or recommendation made by the Police and Crime Panel before determining whether the Commissioner has failed to comply with the Code of Conduct for Members, whether to take action in relation to the Commissioner and what action to take. It is not normally in the public interest for two organisations to be considering the same complaint separately and these provisions promote a more joined up response.
- In order to comply with this requirement, it is suggested that the Monitoring Officer suspend handling the complaint under the Arrangements until the Police and Crime Panel has considered the complaint. It is proposed therefore that, following receipt of a

complaint against the Commissioner, the Monitoring Officer consider it at the initial validation stage of the Arrangements and if she determines that the first two initial validation tests are satisfied, she suspend handling the complaint under the Arrangements until the Police and Crime Panel has either provided a report or recommendation for the County Council to consider, or has decided not to provide such a report or recommendation.

- If the complaint relates to an alleged criminal matter, the Police and Crime Panel must refer the complaint to the Independent Police Complaints Commission. In such circumstances, before deciding how to proceed, the Monitoring Officer will need to establish whether the matter will be referred back to the Police and Crime Panel for consideration.
- If the Monitoring Officer determines that either of the first two initial validation tests are not satisfied, the complaint will not be validated and the County Council's involvement with handling the complaint will end. The relevant parties will be notified accordingly.

c) Obtaining the Panel Report / Recommendation or Confirmation that the Panel does not intend to make a Report/Recommendation

- The Police and Crime Panel has discretion whether to make a report or recommendation to the County Council about a complaint, and there is no express obligation upon that Panel to notify the County Council that it intends not to do so. That being the case, the onus will fall upon the Monitoring Officer to seek timely confirmation from the Police and Crime Panel concerning its intentions via the Panel's scrutiny officer, and a simple process for this will be adopted. This should avoid unnecessary delays in the County Council's handling of the complaint against the Commissioner.

d) Resuming the Complaint Process

- The Monitoring Officer will resume handling the complaint upon receipt of the Police and Crime Panel's report / recommendation or confirmation of the Panel's intention not to make a report / recommendation. It is then expected that the normal timescales provided in the County Council's Arrangements will apply.
- The Monitoring Officer will be required to ensure that, at each stage of the Arrangements, the contents of any report / recommendation received by the Police and Crime Panel are taken into account as appropriate.

4. Recommendation

4.1. It is recommended that the Conduct Advisory Panel approve the revised arrangements in respect of the assessment, investigation and determination of complaints of breach of the Code of Conduct for Members contained at Appendix 1 to this report.

CORPORATE OR LEGAL INFORMATION:**Links to the Strategic Plan**

This proposal does not link to the Strategic Plan but, nevertheless, requires a decision because of the requirements of the Localism Act 2011, and for the good governance of the County Council.

Other Significant Links

Links to previous Member decisions:	
<u>Title</u>	<u>Date</u>
Localism Act 2011 - Standards Update	2 March 2012
Localism Act 2011 - Revised Standards Arrangements	30 April 2012
Localism Act 2011 – Interim Standards Arrangements	17 May 2012
Localism Act 2011 - Revised Standards Arrangements – Interim Code of Conduct for Members of the County Council and related Matters	15 June 2012
Localism Act 2011 – Revised Standards Arrangements – new Code of Conduct for Members of the County Council	19 July 2012
Revised Arrangements for the Assessment, Investigation and Determination of Complaints of breach of the new Code of Conduct for Members of the County Council	4 September 2012
Direct links to specific legislation or Government Directives	Date
<u>Title</u>	
Localism Act	2011
Localism Act 2011 (Commencement No. 6 and Transitional Savings and Transitory Provisions Order)	2012
Policing and Crime Act	2017

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

<u>Document</u>	<u>Location</u>
None	

IMPACT ASSESSMENTS:

1. Equality Duty

1.1. The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- a) The need to remove or minimise disadvantages suffered by persons sharing a relevant characteristic connected to that characteristic;
- b) Take steps to meet the needs of persons sharing a relevant protected characteristic different from the needs of persons who do not share it;
- c) Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity which participation by such persons is disproportionately low.

1.2. Equalities Impact Assessment:

Equalities have been considered and there are no identified impacts.

2. Impact on Crime and Disorder:

2.1. No identified impact.

3. Climate Change:

- a) How does what is being proposed impact on our carbon footprint / energy consumption?

No identified impact.

- b) How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

No identified impact.

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HAMPSHIRE COUNTY COUNCIL

Arrangements for dealing with the Assessment, Investigation and Determination of Complaints that a Member or Co-opted Member of the County Council has failed to comply with the Code of Conduct for Members

1. Introduction

- 1.1 These arrangements set out the procedure to be followed when a complaint is received that a Member or Co-opted Member of Hampshire County Council has failed to comply with the Hampshire County Council Code of Conduct for Members.
- 1.2 The Code of Conduct for Members was adopted by the County Council on 19 July 2012, is attached at Appendix 1 to this Procedure, and is available for inspection and on the County Council's website and on request at the County Council's offices.

2. Making a Complaint

- 2.1 The standard [Complaints Form](#) should be used, which can also be obtained on request from the Monitoring Officer.
- 2.2 A complaint may also be made by e mail : members.services@hants.gov.uk

or in writing by post to:

The Monitoring Officer
Hampshire County Council
The Castle
Winchester
SO23 8UJ

or e mail: members.services@hants.gov.uk

- 2.3 Anonymous complaints will not be considered unless the complaint is accompanied by documentary or photographic evidence indicating an exceptionally serious or significant matter.
- 2.4 *Any complaint received by the County Council concerning the conduct of the Police and Crime Commissioner for Hampshire (the Commissioner) will be referred by the County Council to the Hampshire Police and Crime Panel. The County Council must take into account any report or recommendation made to*

it by the Police and Crime Panel in determining whether the Commissioner has failed to comply with the County Council's Code of Conduct for Members, whether to take action in relation to the Commissioner and what action to take.

- 2.5 The Monitoring Officer will acknowledge receipt of a complaint within five working days of receipt of a completed complaint form. *Where the complaint concerns the Commissioner, the acknowledgement will confirm that a referral has also been made to the Hampshire Police and Crime Panel, and notification of the referral will be sent to the Commissioner.*

3. Initial Validation of Complaint

- 3.1 Once a complaint has been received the Monitoring Officer will carry out an initial validation of the complaint. In carrying out this initial validation three tests will be applied. These are:
- 3.1.1 Is it a complaint against one or more named Members or Co-opted Members of the County Council?
- 3.1.2 Was the named Member or Co-opted Member in office, and acting or purporting to act in his official capacity as a Member or Co-opted Member of the County Council at the time of the alleged conduct; and
- 3.1.3 Would the complaint, if proven, amount to a breach of the Members' Code of Conduct.
- 3.2 The Monitoring officer will normally make an initial validation within 20 working days of receipt of a complaint, and the complainant will be notified of the outcome within five working days of the decision being made.
- 3.3 *In respect of a complaint that has been referred to the Hampshire Police and Crime Panel (as per paragraph 2.4), the Monitoring Officer will determine whether the requirements of the first two initial validation tests above are satisfied and will then take one of the following actions:*
- 3.3.1 *If the requirements of the first two initial validation tests are satisfied, the Monitoring Officer will suspend the handling of the complaint under this procedure until the Police and Crime Panel has either provided a report or recommendation for the County Council to consider or has decided not to provide such a report or recommendation, at which time the Monitoring Officer shall resume handling the complaint under this procedure; or*
- 3.3.2 *If the requirements of the first two initial validation tests are not satisfied, that is the end of the County Council's involvement. The Complainant, the Commissioner and the Police and Crime Panel will be notified of the outcome accordingly.*
- 3.4 *Any report or recommendation made by the Police and Crime Panel to the County Council concerning a complaint referred under para 2.4 shall be taken into account as appropriate at each stage of this procedure.*

4. Initial Assessment of Validated Complaint

- 4.1. Once a complaint has been validated by the Monitoring Officer, an initial assessment of the complaint will be carried out by the Monitoring Officer, in consultation with the Chairman of the Conduct Advisory Panel and an Independent Person. The Subject Member will be informed of the complaint. A copy of the complaint will be forwarded to the Subject Member, unless the Complainant is an officer of the County Council, and the Monitoring Officer, in consultation with the Chairman of the Conduct Advisory Panel, considers it appropriate to withhold the specific details of the complaint at this stage.
- 4.2 An Independent Person is a person other than a Member or Co-opted Member of the County Council whose views must be sought and taken into account before the County Council makes any decision about an allegation that a Member or Co-opted Member of the County Council has breached the Code of Conduct for Members which the County Council has decided to investigate, and whose views may be sought by the County Council in relation to an allegation in other circumstances, or by a Member or Co-opted Member of the County Council against whom an allegation has been made.
- 4.3 The purpose of the initial assessment by the Monitoring Officer is to determine whether the complaint should be accepted for further consideration by an Assessment Panel, or rejected.
- 4.4 In determining whether a complaint should proceed the Monitoring Officer, in consultation with the Chairman of the Conduct Advisory Panel and an Independent Person will apply the following criteria:
 - 4.4.1 Sufficiency of information – Is there sufficient information or evidence provided with the allegation? If it appears that substantiating evidence may be available, but has not been provided, the Monitoring Officer may ask for additional evidence, but the onus is on the complainant to ensure that all relevant information is provided.
 - 4.4.2 Seriousness of the complaint – is the complaint trivial, vexatious, malicious, politically motivated, or ‘tit for tat’? Would the resources/cost involved in investigating and determining the complaint be disproportionate to the allegation if proven?
 - 4.4.3 Duplication – Is the complaint substantially similar to a previous allegation considered by the Conduct Advisory Panel, or subject of an investigation by another relevant authority?
 - 4.4.4 Length of time – Did the events or behaviour to which the complaint relates take place more than six months prior to receipt of the complaint. Does the time lapse mean that those involved are unlikely to remember matters clearly, or does the lapse of time mean that there would be little benefit in taking action.
 - 4.4.5 Public Interest – Is the public interest served in referring the complaint further. Has the Subject Member offered an apology or other remedial action?
 - 4.4.6 Anonymous – Is the complaint anonymous? Anonymous complaints will not normally be considered unless there is additional documentary

or photographic evidence to support the complaint, and the complaint is sufficiently serious to consider.

- 4.5 The Complainant and the Subject Member will normally be informed by the Monitoring Officer of the initial assessment decision within ten working days of it being made. Should it be determined by the Monitoring Officer, in consultation with the Chairman of the Conduct Advisory Panel and an Independent Person that the complaint should not proceed, then that is the end of the matter.

5. Assessment Panel

- 5.1 Should it be determined, having regard to the criteria referred to at Paragraph 4.4 above, that the complaint be accepted for further consideration, a meeting of an Assessment Panel will be convened.
- 5.2 The Assessment Panel will include three members of the Conduct Advisory Panel, and will be proportionally constituted. An Independent Person will be invited to attend the meeting of the Assessment Panel.
- 5.3 A meeting of an Assessment Panel will not be open to the press or public if the Panel resolve in accordance with Part VA and Schedule 12A to the Local Government Act 1972 that this is appropriate.
- 5.4 The Assessment Panel will determine how the complaint should thereafter proceed. The views of the Independent Person will be sought by the Assessment Panel in making any decision.

6. Outcome of Assessment Panel

- 6.1. The Assessment Panel will make one of the following three decisions:
- 6.1.1 Refer the complaint to the Monitoring Officer for investigation; or
 - 6.1.2 Refer the complaint to the Monitoring Officer for 'other action'; or
 - 6.1.3 Determine that no further action should be taken in respect of the allegation.
- 6.2 The Complainant and the Subject Member will normally be informed by the Monitoring Officer of the decision within ten working days of the meeting of the Assessment Panel. Where the decision of the Assessment Panel is that no further action should be taken, then that is the end of the procedure.

7. Other Action

- 7.1. On occasions the Assessment Panel might consider that action other than a formal investigation is the most appropriate way of dealing with a complaint. An example might be where it is considered that the Subject Member requires training on the Code of Conduct for Members and/or the County Council's procedures. 'Other action' might constitute but is not limited to the following:

- 7.1.1 Arranging for the Subject Member to receive training from the Monitoring Officer.
- 7.1.2 Arranging for the Complainant and the Subject Member to engage in a process of conciliation.
- 7.1.3 Any other steps (other than investigation) which appear appropriate.

8. Investigation

- 8.1. Where the decision of the Assessment Panel is to investigate the complaint, the Monitoring Officer, in consultation with the Chairman of the Conduct Advisory Panel, will appoint an Investigating Officer. The Investigating Officer may be an Officer of the County Council, or an external investigator.
- 8.2. The Investigating Officer will follow guidance issued by the Monitoring Officer on the investigation of complaints, and the investigation will be carried out in accordance with such guidance.
- 8.3. At the end of the investigation, the Investigating Officer will produce a draft report and send copies of the draft to both the Complainant and the Subject Member for comment. The Investigating Officer will take the comments of the Complainant and Subject Member into account, before issuing his final report to the Monitoring Officer.
- 8.4. The Subject Member may take the views of an Independent Person at any stage in the investigation.

9. Investigation Consideration Panel

- 9.1. Following completion of the investigation by the Investigating Officer, the Monitoring Officer will prepare a report for consideration by an Investigation Consideration Panel. The Investigation Consideration Panel will comprise three Members of the Conduct Advisory Panel and will proportionally constituted. Membership of the Investigation Consideration Panel should be drawn, where possible, from Membership of the Assessment Panel.
- 9.2. An Independent Person will be present at the Investigation Consideration Panel, and Members of the Investigation Consideration Panel will take the views of the Independent Person into account in its determination.
- 9.3. A meeting of an Assessment Panel will not be open to the press or public if the Panel resolve in accordance with Part VA and Schedule 12A to the Local Government Act 1972 that this is appropriate.
- 9.4. The Investigation Consideration Panel shall reach one of three conclusions. These are:
 - 9.4.1 That the matter should be referred to a hearing of the Conduct Advisory Panel; or
 - 9.4.2 That the complaint can be disposed of by informal resolution; or
 - 9.4.3 That there was no failure by the Subject Member to observe the Code of Conduct for Members.

10. Informal Resolution

- 10.1 If the Investigation Consideration Panel, having consulted with the Independent Person, consider that the matter can be resolved without the need for a formal hearing, the Panel may determine that the matter may be disposed of by way of informal resolution. "Informal Resolution" might constitute but is not limited to the following:
- 10.1.1 Arranging for the Subject Member to receive training from the Monitoring Officer.
 - 10.1.1.1 Requesting that the Subject Member offer an apology, and/or other remedial action.
 - 10.1.1.2 Any other steps (other than a formal hearing) which appear appropriate.
 - 10.2 Where a decision to seek informal resolution of a complaint is made, this means that the Investigation Consideration Panel consider that the conduct of the Subject Member was not in accordance with the Code of Conduct for Members. Thus, if the Subject Member refuses informal resolution, or to engage with the agreed outcome the matter will be referred by the Monitoring Officer for a hearing. Where the Investigation Consideration Panel consider that an apology is appropriate, the wording shall be agreed by the Monitoring Officer, in consultation with the Chairman of the Panel.
 - 10.3 Where the decision of the Investigation Consideration Panel is that the complaint may be disposed of by way of Informal Resolution, and the Subject Member co-operates with the requests of the Investigation Consideration Panel, the Monitoring Officer will report the outcome to the Investigation Consideration Panel, and that is the end of the matter.

11. Hearing

- 11.1 Where the Investigation Consideration Panel consider that the matter should be referred to a hearing of the Conduct Advisory Panel, or Informal Resolution has been declined by the Subject Member, a Hearing Panel will be arranged. The Hearing Panel will comprise three members of the Conduct Advisory Panel and will be proportionally constituted.
- 11.2 An Independent Person will be present at the Hearing Panel, and members of the Hearing Panel will take the views of the Independent Person into account in its determination.
- 11.3 A Hearing Panel meeting will normally be open to the press and public, unless the Panel decide in accordance with Part V A and Schedule 12 A to the Local Government Act 1972, that the matter should be considered in private session.
- 11.4 The Investigating Officer shall present his report to the Hearing Panel, and call such witnesses as he considers necessary to substantiate his conclusions. The Subject Member may also make representations to the Hearing Panel, and call such witnesses as he considers necessary, and shall be entitled to take the views of an Independent Person at any stage in the Hearing. Should the Subject Member decline to attend the Hearing, the hearing will proceed in the Subject Member's absence, unless the Hearing Panel is satisfied with the

Subject Members reasons for not being able to attend, in which case it may arrange for the Hearing to take place on another date.

12 Action following Hearing

- 12.1 The Hearing Panel will reach one of two conclusions:
 - 12.1.1 That the Subject Member failed to comply with the Code of Conduct for Members; or
 - 12.1.2 That there was no failure by the Subject Member to comply with the Code of Conduct for Members.
- 12.2 Where the decision of the Hearing Panel is that there was a failure by the Subject Member to comply with the Code of Conduct for Members the Hearing Panel may:
 - 12.2.1 Publish its findings in such manner as the Panel considers appropriate
 - 12.2.2 Report its findings to the County Council for information
 - 12.2.3 Recommend to the County Council that the Subject Member be censured by resolution of the County Council
 - 12.2.4 Recommend to the Subject Member's group leader that the Subject Member be removed from the Executive and / or Committees of the County Council and / or Outside Bodies (as appropriate).
 - 12.2.5 Instruct the Monitoring Officer to arrange such training for the Subject Member as the Panel considers appropriate.

NB : A Hearing Panel has no power to suspend or disqualify a Member or to withdraw a Member's allowances. Removal of a Member from a Committee or Outside Body will require a formal decision of the County Council.
- 12.3 Where the decision of the Hearing Panel is that there has been no breach of the Members' Code of Conduct, then that is the end of the procedure.

13. Appeals

- 13.1 There is no right of appeal against any decision in respect of a Code of Conduct complaint, except through the Courts by way of judicial review.

Procedure for the Assessment, Investigation and Determination of Complaints of Breach of the New Code of Conduct for Members of the County Council

