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NOTICE OF MEETING

Meeting	Conduct Advisory Panel
Date and Time	Thursday, 24th October, 2019 at 2.00 pm
Place	Wellington Room - HCC
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 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 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 Personal Interest in a matter being considered at the meeting should consider, 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, 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 - 4)

To confirm the minutes of the previous meeting held on 19 July 2018.

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. LOCAL GOVERNMENT ETHICAL STANDARDS AND MEMBERS' CODE OF CONDUCT (Pages 5 - 40)

To consider a report of the Head of Law and Governance and Monitoring Officer regarding the recommendations and best practice proposed by the Committee on Standards in Public Life (CSPL) as a result of its review into Local Government Ethical Standards.

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 Thursday, 19th July, 2018

Chairman:

* Councillor Mark Kemp-Gee

- | | |
|----------------------------|------------------------------|
| * Councillor Keith Evans | * Councillor Peter Latham |
| Councillor Adam Carew | * Councillor Tom Thacker |
| * Councillor Peter Chegwyn | * Councillor Rhydian Vaughan |
| * Councillor Andrew Gibson | Councillor Adrian Collett |
| * Councillor Keith House | Councillor Patricia Stallard |
| * Councillor Gavin James | |

13. APOLOGIES FOR ABSENCE

No apologies for absence were received.

14. 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 at the time of the relevant debate 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 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 Non-Pecuniary Interest in a matter being considered at the meeting they considered whether such interest should be declared, and having regard to Part 5, Paragraph 2 of the Code, considered whether it was appropriate to leave the meeting whilst the matter was discussed, save for exercising any right to speak in accordance with the Code.

15. MINUTES OF THE PREVIOUS MEETING

The Minutes of the meeting held on 1 December 2017 were confirmed as a correct record and signed by the Chairman.

16. CHAIRMAN'S ANNOUNCEMENTS

The Chairman confirmed that meetings of the Panel were convened from time to time to deal with specific matters related to the Panel's remit.

17. DEPUTATIONS

There were no deputations on this occasion.

18. **CONSTITUTIONAL MATTER - DELEGATION OF APPROVAL OF ABSENCE OF AN ELECTED MEMBER OF THE COUNCIL**

The Panel considered a report of the Monitoring Officer (Item 6 in the Minute Book) seeking approval of the Panel to recommend to full Council that the responsibility for approval of absence of an elected Member of the County Council pursuant to Section 85 of the Local Government Act 1972 be delegated to the Conduct Advisory Panel.

In presenting the report the Monitoring Officer confirmed that very few requests for a period of absence of six months or more are received. However, statutory provisions require that such an absence is approved and the delegation to the Conduct Advisory Panel is proposed as a practical solution. The Monitoring Officer confirmed that reference to the six month absence disqualification rule is included in the Constitution and is brought to Members attention through the Members Induction Programme.

Members of the Panel reflected on the proposed way forward and were supportive. Furthermore Members considered that it was not appropriate to expect officers to monitor Members' attendance; such monitoring to be carried out by Group Leaders.

RESOLVED:

That the Conduct Advisory Panel recommend to full Council that responsibility for approval of absence of an elected Member of the County Council pursuant to Section 85 of the Local Government Act 1972 be delegated to the Conduct Advisory Panel.

The meeting closed at 10.53am.

Chairman,

HAMPSHIRE COUNTY COUNCIL

Report

Panel:	Conduct Advisory Panel
Date:	24 October 2019
Title:	Local Government Ethical Standards and Members' Code of Conduct
Report From:	Head of Law and Governance and Monitoring Officer

Contact name: Barbara Beardwell

Tel: 01962 845330

Email: Barbara.Beardwell@hants.gov.uk

Purpose of this Report

1. The purpose of this report is to inform Members about the recommendations and best practice proposed by the Committee on Standards in Public Life (CSPL) as a result of its review into Local Government Ethical Standards.
2. The recommendations made by the CSPL are principally directed at the Government and call for legislative change before any action is required by local authorities. The best practice points however are specifically directed at local authorities and are considered by the CSPL to be the benchmark of good ethical practice. The CSPL expects all local authorities to be able to implement these best practice points.
3. This report considers the CSPL best practice as it affects the County Council. Some suggestions by the CPSL would require changes to be made to the County Council's Code of Conduct for Members (the Code of Conduct). However one of the recommendations is that the Local Government Association (LGA) create an updated model Code of Conduct which can be adopted by local authorities. It is therefore proposed that this is considered further in due course after publication by the LGA of a model Code of Conduct. Any changes to the Code of Conduct for the County Council would require full Council approval following consideration by the Conduct Advisory Panel in accordance with Part 1, Chapter 9, Paragraph 1.3.1 of the Constitution.
4. In the meantime, some best practice suggestions by the CPSL affect the County Council's [Arrangements for 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](#) (the Arrangements) which were adopted by the Conduct Advisory Panel on

30 October 2012. The Conduct Advisory Panel has delegated authority to determine arrangements for the assessment, investigation and determination of allegations of breach of the Code of Conduct for Members by virtue of [part 1, chapter 9, paragraph 1.3.3](#) of the Constitution. Should the Conduct Advisory Panel agree with the suggested revisions to the Arrangements recommended in this report these can be approved.

Recommendations

It is recommended that the Conduct Advisory Panel:

5. Agree that, once the updated model Local Government Code of Conduct has been published, the County Council's Code of Conduct for Members should be reviewed to take account of the new model provisions and to adopt best practice points 1 and 2 of the Committee on Standards in Public Life's review of Local Government Ethical Standards;
6. Agree that thereafter the revised Code of Conduct be presented to the Conduct Advisory Panel for approval and recommendation to the County Council;
7. Approve the proposed amendments to paragraphs 2.6, 10.2 and 12.2 and 12.2.1 of the County Council's Arrangements for 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 as set out in Appendix C; and
8. Request that the Head of Law and Governance and Monitoring Officer bring best practice point 14 of the Committee on Standards in Public Life's report to the attention of the Audit Committee at the time the Committee next considers the County Council's Annual Governance Statement.

Executive Summary

9. In 2018 the CSPL consulted local authorities as part of a review of standards arrangements in local government across the country.
10. The County Council provided its response to the CSPL consultation in March 2018 in consultation with the Chair of the Conduct Advisory Panel.
11. The terms of reference for the CSPL review were to:
 1. *Examine the structures, processes and practices in local government in England for:*
 - a. *Maintaining codes of conduct for local councillors;*
 - b. *Investigating alleged breaches fairly and with due process;*
 - c. *Enforcing codes and imposing sanctions for misconduct;*
 - d. *Declaring interests and managing conflicts of interest; and*

e. Whistleblowing.

- 2. Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government;*
 - 3. Make any recommendations for how they can be improved; and*
 - 4. Note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation.*
12. The CSPL review concluded with 26 recommendations for improvement being made to Government and external bodies, in addition to 15 areas of best practice directed at local authorities.
 13. The Executive Summary of the report published by the CSPL is included as Appendix A. The full report can be found via the following link:- <https://www.gov.uk/government/collections/local-government-ethical-standards#report>
 14. The focus of this report is the best practice points identified by the CSPL as local authorities can choose to adopt these immediately.
 15. The table below sets out each of the CSPL best practice points, together with information about the County Council's current practice and any recommendations for action.
 16. The recommendations made by the CSPL are appended to this report at Appendix B. Whilst no actions regarding these are currently being proposed, as responses to the recommendations must first be made by external parties, this report considers recommendations 11, 23 and 25.
 17. There are no financial implications or budgetary requirements in respect of any action proposed in this report.

Contextual Information

18. The CSPL is an advisory body which is sponsored by the Cabinet Office to monitor and report on issues relating to standards of conduct in public life.
19. In 2018 the CSPL undertook a review of the current standards framework in England which was established by the Localism Act 2011.
20. Within the current framework local authorities have the discretion to develop their own standards procedures according to their own needs and resources. The CSPL review was therefore considered necessary in order to examine the effectiveness of these local arrangements across the country.
21. The outcome of the review by CSPL was to make recommendations to various responsible bodies in order to improve current standards.
22. Best practice improvements, described by the CSPL as the 'benchmark of good ethical practice', were also directed at local authorities with the expectation that these would be implemented before the CSPL carries out a review of implementation in 2020.

23. The table below sets out the CSPL best practice recommendations in the left hand column, information about the County Council's current practice in the middle column and any recommended actions in the right hand column.
24. In summary it is considered that the County Council's practice generally adheres to the CSPL list of best practice but it is proposed that a few issues be addressed as part of a review of the Code of Conduct.
25. In terms of the timing of a review of the Code of Conduct for Members, one of the CSPL recommendations directed at the Local Government Association (LGA) is to create an updated model code of conduct which can be adapted by local authorities. It is understood from officers of the LGA that the LGA is progressing work on this and it is anticipated that some public documentation will be available in Autumn 2020. It is therefore proposed that any amendments to the Code of Conduct follow the publication of the model code in order to avoid multiple reviews of the Code of Conduct being required.

CPSL Best Practice Points

	Best Practice	The County Council's Position	Recommendations
1	Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.	<p>The County Council has not to date been required to address allegations of bullying or harassment by its Members and has not therefore included specific references to this type of behaviour within the Code of Conduct.</p> <p>There are however existing provisions within the Code of Conduct which would encompass bullying and harassment. These provisions (para 3.14) require Members to treat "all people and organisations with respect and propriety.</p> <p>It is likely that allegations of bullying or harassment would, if proven, constitute a breach of this part of the Code of Conduct however to be consistent with the CSPL's best practice this form of misconduct could be specifically addressed in the Code of Conduct.</p> <p>It is proposed that, once the LGA's updated model code of conduct has been published, a review of the Code of Conduct be carried out with a view to adopting best practice point 1.</p>	Members are asked to consider recommending to the County Council that, once the Local Government's model code of conduct has been published, the County Council's Code of Conduct for Members be reviewed with a view to adopting best practice point 1 of the Committee on Standards in Public Life's review of Local Government Ethical Standards.

	Best Practice	The County Council's Position	Recommendations
2	<p>Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.</p>	<p>The Code of Conduct does not expressly include provisions requiring Members to comply with standards investigations or to prohibit them from raising trivial or malicious allegations against each other but these are not issues that the County Council has been required to address in practice.</p> <p>The Code of Conduct does however oblige Members to behave “in accordance with all the County Council’s legal obligations, the County Council’s policies, protocols and procedures’ (para 3.9).</p> <p>This creates an obligation on Members to comply with standards investigations as the Arrangements document is an official County Council procedure.</p> <p>It is considered that this is sufficient for the purposes of this best practice point.</p> <p>The Code of Conduct also requires Members to value their “colleagues and Officers of the County Council” and to engage with them “in an appropriate manner” (para 3.13). It also requires them to treat “all people and organisations with respect and propriety” (para 3.14).</p> <p>This creates a culture of respect within the County Council, with partners and with members of the public.</p> <p>However, it is considered that a reference to trivial and malicious allegations by Councillors should be included in the Code of Conduct to be consistent with the CSPL’s best practice.</p>	<p>Members are asked to consider recommending to the County Council that, once the Local Government’s model code of conduct has been published, the County Council’s Code of Conduct for Members be reviewed with a view to adopting best practice point 2 of the Committee on Standards in Public Life’s review of Local Government Ethical Standards.</p>

	Best Practice	The County Council's Position	Recommendations
3	Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.	<p>The Code of Conduct is kept under continuous review by the Monitoring Officer with any changes being proposed as required (e.g. because of legislative change).</p> <p>The CSPL do not explain their reasons for this best practice point. Reviewing the Code of Conduct each year would involve a significant amount of Member and Officer time and none of the County Council experience to date has indicated a need for this. It is therefore proposed that the County Council continues its current practice with regard to reviewing the Code of Conduct.</p> <p>In respect of consultations and seeking the views of members of the public, work has been undertaken with neighbouring authorities to agree some standard provisions in the councils' respective codes of conduct. It is not proposed to seek the individual views of members of the public.</p>	No action required.
4	An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.	<p>Details of the Arrangements are included on the County Council's website under the heading "Making a comment, suggestion or complaint". This is three clicks away from the County Council's homepage.</p> <p>Whilst reference is made to the Code of Conduct on this page, the document can only be accessed separately through the Constitution. A link to the Code of Conduct on the page headed "Making a comment, suggestion or complaint" would therefore make the Code of Conduct more prominent for the purposes of this best practice point. Officers have actioned this and therefore no further action is recommended.</p>	No action required.

	Best Practice	The County Council's Position	Recommendations
5	Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.	<p>Part 4 of the Code of Conduct requires Members to notify the County Council's Monitoring Officer of any gift or hospitality they receive within 28 days where that gift or hospitality has an estimated value of at least £50. Once the Monitoring Officer has been notified, the Register is promptly updated.</p> <p>It is proposed that these provisions are sufficient to comply with this best practice point as they allow for the Code of Conduct to be updated more frequently than recommended by the CSPL.</p> <p>In addition, each Member's declaration of interest is published as a pdf document alongside their information on the County Council's website. The complete list of Members (from which this information can be accessed) is only three clicks from the County Council's homepage and it is therefore considered that this is consistent with the accessibility best practice.</p>	No action required.

	Best Practice	The County Council's Position	Recommendations
6	Councils should publish a clear and straightforward public interest test against which allegations are filtered.	<p>After a complaint about Member conduct is received and validated by the County Council's Monitoring Officer, the Arrangements provide (at para 4) for an Initial Assessment to be carried out by the Monitoring Officer in consultation with the Chair of the Conduct Advisory Panel and an Independent Person.</p> <p>The purpose of the Initial Assessment is to decide whether the complaint should be rejected or considered further by an Assessment Panel.</p> <p>The criteria against which the complaint is assessed is published in para 4.4 of the Arrangements and includes a test for public interest at para 4.4.5 which states "Is the public interest served in referring the complaint further? Has the subject Member offered an apology or other remedial action?".</p> <p>In the absence of a statutory definition of public interest it is considered that the test of public interest within the County Council's criteria is already clear and straightforward. It has also been in effect since its implementation, by the Conduct Advisory Panel, on 30 October 2012 without any difficulties being expressed as to its meaning.</p> <p>It is considered that the provisions within the arrangements are therefore consistent with this best practice point pending any detailed guidance from the LGA or other source.</p>	No action required.

	Best Practice	The County Council's Position	Recommendations
7	Local authorities should have access to at least two Independent Persons.	<p>The County Council makes provision within its Constitution for the appointment of Independent Persons in accordance with the Localism Act 2011. The County Council has appointed two such Independent Persons on this basis, both of whom are available for the purposes of dealing with Member complaints.</p> <p>It is therefore considered that the County Council's provisions are consistent with this best practice point.</p>	No action required.
8	An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.	<p>The Arrangements require the Chair of the Conduct Advisory Panel and an Independent Person to be consulted after a complaint is validated by the Monitoring Officer. The views the Independent Person are therefore taken into account regarding the allegations made against Members before a decision is made to either reject the complaint or for it to be referred for further consideration by an Assessment Panel.</p> <p>It is therefore considered that the County Council' Arrangements are consistent with this best practice point.</p>	No action required.

	Best Practice	The County Council's Position	Recommendations
9	<p>Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.</p>	<p>Although there is provision for every Panel meeting stage to be open to the press and public, the Arrangements currently only allow for the publication of findings after a determination is made by the Hearing Panel that a subject Member has failed to comply with the Code of Conduct (para 12 of the Arrangements). The Hearing Panel may choose whether to publish its findings and what form that publication should take.</p> <p>There are no provisions within the Arrangements for publication of any decision made by the Hearing Panel that there was no failure by the subject Member to comply with the Code of Conduct which arguably would be required to be consistent with this best practice point.</p> <p>In addition, there is no provision within the Arrangements for the opinion of the Independent Person to be published at any point.</p> <p>In order to better reflect this best practice point, it is proposed that the existing provisions in the Arrangements be extended to allow the Hearing Panel to publish a decision notice even where there is no failure by the subject Member to comply with the Code of Conduct.</p> <p>It is considered that the reference to a decision notice is wider than the current provision which refers to the Hearing Panel's 'findings' and that this can encompass the list of information that the best practice point recommends should be included.</p> <p>It is not proposed that there be a requirement to publish the decision in all cases as it is considered this is a matter for the Hearing Panel to determine on a case by case basis, taking into account any representations made in this regard.</p>	<p>Members are recommended to approve the proposed amendments to paragraphs 10 and 12 of the County Council's Arrangements for 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 as set out in Appendix C.</p>

		<p>Prior to a complaint progressing to a Hearing Panel, the Arrangements make provision for an Investigation Consideration Panel to consider a report about the complaint from an Investigating Officer (who may be an Officer of the County Council or an external investigator). The Investigation Consideration Panel can conclude that the complaint can be disposed of by informal resolution. The Arrangements then explain (at para 10.2) that this decision means that the Investigation Consideration Panel consider that the conduct of the subject Member has not been in accordance with the Code of Conduct.</p> <p>Such a conclusion by the Investigation Consideration Panel is considered to fall within the remit of this best practice point and require the publication of a decision notice. It is suggested that this decision notice, which would inevitably feature the finding of fault, would discourage subject Members from engaging with an informal resolution and would ultimately make informal resolutions less likely at this stage.</p> <p>It is therefore proposed that the Arrangements be amended to remove the finding of fault at this stage of the Arrangements. It is anticipated that this will have the effect of bringing the conclusions of the Investigation Consideration Panel out from within the remit of this best practice point so that a decision notice will no longer be necessary.</p> <p>Finally, it is recommended that the Arrangements be amended to make provision, where the Panel determines it appropriate, for the publication of a summary of the Independent Person's view as part of the decision notice of the Hearing Panel where there is a finding of no failure by the subject Member to comply with the Code of Conduct.</p>	
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	Best Practice	The County Council's Position	Recommendations
10	<p>A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.</p>	<p>The County Council provides guidance on its website about how complaints may be made against Members and what the arrangements for dealing with those complaints are.</p> <p>This guidance is three intuitive clicks away from the County Council's homepage. It is suggested that this complies with the requirement for this guidance to be accessible in accordance with this best practice point.</p> <p>There are some timescales in the Arrangements (relating to acknowledgement of the complaint, initial validation, the outcome of the Initial Assessment and the outcome of the Assessment Panel) but not in relation to the investigation or subsequent Panel stages. Whilst complaints are always dealt with as promptly as possible, the speed at which a complaint can be progressed is often dependent on the nature and complexity of the complaint (e.g. whether it involves conduct at non-County Council meetings or involves multiple witnesses).</p> <p>It is therefore considered that the prescription of timescales or estimates regarding the complaints process is likely to be misleading to the complainant and could have the effect of deterring complainants from pursuing complaints.</p> <p>Whilst Members are not asked to take any action regarding this best practice point at this stage, the issue can be reconsidered in the light of any guidance published by the LGA or by other sources in response to this CSPL best practice recommendation.</p>	<p>No action required.</p>

	Best Practice	The County Council's Position	Recommendations
11	Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.	This best practice point is not relevant for the County Council.	
12	Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.	This best practice point is not relevant for the County Council.	

	Best Practice	The County Council's Position	Recommendations
13	<p>A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.</p>	<p>It is reasonably foreseeable that there may be a conflict of interest in respect of Member complaints affecting the Monitoring Officer (e.g. where a Member has acted in accordance with the Monitoring Officer's advice and has subsequently been complained about).</p> <p>Where a conflict, or potential conflict, arises the Monitoring Officer would, in practice, delegate the handling of the complaint to the Deputy Monitoring Officer or another governance lawyer.</p> <p>In light of this best practice point however, and also because the Chartered Institute of Public Finance and Accountancy (CIPFA) considers that it is good governance to have policies in place to deal with conflicts of interest and to communicate these effectively, it is proposed that the arrangements for dealing with complaints about Member conduct are amended to make express provision for the Monitoring Officer where s/he considers s/he has an actual or potential conflict of interest to delegate authority to the Deputy Monitoring Officer or other suitably qualified and experienced officer any or all of the MO's functions under the arrangements.</p> <p>Regarding investigations the Arrangements currently permit the County Council's Monitoring Officer to appoint an external investigating officer, it is not therefore considered that any amendment in this regard is necessary.</p>	<p>Members are recommended to approve the proposed amendments to paragraph 2 of the County Council's Arrangements for 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 as set out in Appendix C.</p>

	Best Practice	The County Council's Position	Recommendations
14	Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.	<p>The County Council has a number of joint ventures with other local authorities, such as the Hampshire and Kent Commercial Services LLP with Kent County Council for the temporary and contract recruitment of staff; and "Manydown Garden Communities LLP" with Basingstoke and Dean Borough Council for the development of new homes at Manydown.</p> <p>The approval of the Annual Governance Statement falls within the remit of the County Council's Audit Committee and it is therefore proposed that the Monitoring Officer be asked to draw the attention of the Audit Committee to this aspect of the CSPL's report.</p>	It is recommended that Members ask the Monitoring Officer to bring this aspect of the Committee on Standards in Public Life's report to the attention of the Audit Committee at the time the Committee next considers the County Council's Annual Governance Statement.
15	Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.	The County Council's Monitoring Officer has open access to all group leaders and, in addition, has quarterly meetings with statutory officers and opposition group leaders. Any issues regarding standards are discussed during those meetings, as appropriate.	No action required.

CSPL Recommendations

26. In addition to the best practice points (above) the CSPL made 26 recommendations directed at the Government, the Local Government Association, political groups, local authorities and Parish Councils. The vast majority of these recommendations require legislative or other change which may take some time to progress,
27. The recommendations can be seen in full at Appendix B of this Report.
28. Members are asked in particular to consider recommendations 11 and 23 which it is considered can be actioned now by local authorities.
29. Recommendation 11 concerns indemnities being provided by local authorities to Independent Persons if their views or advice are disclosed. If accepted by the Government, this recommendation could be implemented using secondary legislation. The County Council has however already brought Independent Persons within the scope of the indemnity provided to Members

and Officers and no further action is therefore currently proposed in respect of this recommendation.

30. Recommendation 23 proposes that the Local Government Transparency Code be updated to ensure the whistleblowing policies of local authorities specify a named contact for the external auditor, together with their contact details, on the authority's website. This could be implemented at the discretion of the County Council and has therefore been drawn to the attention of the County Council's Human Resources department.
31. Finally, Members will note that recommendation 25 proposes that Councillors should attend formal induction training by their political groups. Members may therefore wish to bring this to the attention of the County Council's political groups as their national parties are recommended to include this provision within their model group rules.

Consultation and Equalities

32. No equality impact has been identified.

Conclusion

33. The County Council's practices in relation to standards of conduct are already consistent with the majority of the best practice recommendations made by the CSPL. It is considered that the recommended actions are an appropriate response for the County Council to make to the best practice recommendations in the light of the County Council's experiences to date.

REQUIRED CORPORATE AND LEGAL INFORMATION:

This proposal does not link to the Strategic Plan but, nevertheless, requires a decision because: the County Council must consider the outcome of the review by the Committee on Standards in Public Life 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	15 June 2012
Code of Conduct for Members of the County Council and related Matters	
Localism Act 2011 – Draft Code of Conduct for Members of the County Council	4 July 2012
Revised Standards Arrangements – new Code of Conduct for Members of the County Council Revised Arrangements for the Assessment, Investigation and Determination of Complaints of breach of the 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
Revised Arrangements Regarding Breach of the New Code of Conduct for Members and Co-opted Members of the County Council	30 October 2012
Arrangements for the Assessment, Investigation and Determination of Complaints of Breach of the Code of Conduct for Members – Convening of Sub-Committees	20 February 2014
Localism Act 2011 – Revised Draft Code of Conduct for Members and Co-opted Members of the County Council	30 May 2014
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	1 December 2017
Direct links to specific legislation or Government Directives	
<u>Title</u>	<u>Date</u>
Localism Act	2011
Localism Act 2011 (Commencement No. 6 and Transitional Savings and Transitory Provisions Order)	2012

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.)

Document

Location

None

EQUALITIES IMPACT ASSESSMENT:

1. Equality Duty

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 by or under the Act with regard to the protected characteristics as set out in section 4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);
- Advance equality of opportunity between persons who share a relevant protected characteristic within section 149(7) of the Act (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic within section 149(7) of the Act (see above) and persons who do not share it.

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

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

2. Equalities Impact Assessment:

The actions recommended to the Conduct Advisory Panel in this report concern the Code of Conduct for Members and the Arrangements for dealing with complaints where it is alleged that a Member has failed to comply with that Code of Conduct. None of these actions affect groups with protected characteristics.

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Executive Summary of CSPL Report

Local government impacts the lives of citizens every day. Local authorities are responsible for a wide range of important services: social care, education, housing, planning and waste collection, as well as services such as licensing, registering births, marriages and deaths, and pest control. Their proximity to local people means that their decisions can directly affect citizens' quality of life.

High standards of conduct in local government are therefore needed to protect the integrity of decision-making, maintain public confidence, and safeguard local democracy.

Our evidence supports the view that the vast majority of councillors and officers maintain high standards of conduct. There is, however, clear evidence of misconduct by some councillors. The majority of these cases relate to bullying or harassment, or other disruptive behaviour. There is also evidence of persistent or repeated misconduct by a minority of councillors.

We are also concerned about a risk to standards under the current arrangements, as a result of the current rules around declaring interests, gifts and hospitality, and the increased complexity of local government decision-making.

Giving local authorities responsibility for ethical standards has a number of benefits. It allows for flexibility and the discretion to resolve standards issues informally. We have considered whether there is a need for a centralised body to govern and adjudicate on standards. We have concluded that whilst the consistency and independence of the system could be enhanced, there is no reason to reintroduce a centralised body, and that local authorities should retain ultimate responsibility for implementing and applying the Seven Principles of Public Life in local government.

We have made a number of recommendations and identified best practice to improve ethical standards in local government. Our recommendations are made to government and to specific groups of public officeholders. We recommend a number of changes to primary legislation, which would be subject to Parliamentary timetabling; but also to secondary legislation and the Local Government Transparency Code, which we expect could be implemented more swiftly. Our best practice recommendations for local authorities should be considered a benchmark of good ethical practice, which we expect that all local authorities can and should implement.

We will review the implementation of our best practice in 2020.

Codes of conduct

Local authorities are currently required to have in place a code of conduct of their choosing which outlines the behaviour required of councillors. There is considerable variation in the length, quality and clarity of codes of conduct. This creates confusion among members of the public, and among

councillors who represent more than one tier of local government. Many codes of conduct fail to address adequately important areas of behaviour such as social media use and bullying and harassment. An updated model code of conduct should therefore be available to local authorities in order to enhance the consistency and quality of local authority codes.

There are, however, benefits to local authorities being able to amend and have ownership of their own codes of conduct. The updated model code should therefore be voluntary and able to be adapted by local authorities. The scope of the code of conduct should also be widened, with a rebuttable presumption that a councillor's public behaviour, including comments made on publicly accessible social media, is in their official capacity.

Declaring and managing interests

The current arrangements for declaring and managing interests are unclear, too narrow and do not meet the expectations of councillors or the public. The current requirements for registering interests should be updated to include categories of non-pecuniary interests. The current rules on declaring and managing interests should be repealed and replaced with an objective test, in line with the devolved standards bodies in Scotland, Wales and Northern Ireland.

Investigations and safeguards

Monitoring Officers have responsibility for filtering complaints and undertaking investigations into alleged breaches of the code of conduct. A local authority should maintain a standards committee. This committee may advise on standards issues, decide on alleged breaches and sanctions, or a combination of these. Independent members of decision-making standards committees should be able to vote.

Any standards process needs to have safeguards in place to ensure that decisions are made fairly and impartially, and that councillors are protected against politically motivated, malicious, or unfounded allegations of misconduct. The Independent Person is an important safeguard in the current system. This safeguard should be strengthened and clarified: a local authority should only be able to suspend a councillor where the Independent Person agrees both that there has been a breach and that suspension is a proportionate sanction. Independent Persons should have fixed terms and legal protections. The view of the Independent Person in relation to a decision on which they are consulted should be published in any formal decision notice.

Sanctions

The current sanctions available to local authorities are insufficient. Party discipline, whilst it has an important role to play in maintaining high standards, lacks the necessary independence and transparency to play the central role in a standards system. The current lack of robust sanctions damages public confidence in the standards system and leaves local authorities with no means of enforcing lower level sanctions, nor of addressing serious or repeated misconduct.

Local authorities should therefore be given the power to suspend councillors without allowances for up to six months. Councillors, including parish councillors, who are suspended should be given the right to appeal to the Local Government Ombudsman, who should be given the power to investigate allegations of code breaches on appeal. The decision of the Ombudsman should be binding.

The current criminal offences relating to Disclosable Pecuniary Interests are disproportionate in principle and ineffective in practice and should be abolished.

Town and parish councils

Principal authorities have responsibility for undertaking formal investigations of code breaches by parish councillors. This should remain the case. This responsibility, however, can be a disproportionate burden for principal authorities. Parish councils should be required to adopt the code of their principal authority (or the new model code), and a principal authority's decision on sanctions for a parish councillor should be binding. Monitoring Officers should be provided with adequate training, corporate support and resources to undertake their role in providing support on standards issues to parish councils, including in undertaking investigations and recommending sanctions. Clerks should also hold an appropriate qualification to support them to uphold governance within their parish council.

Supporting officers

The Monitoring Officer is the lynchpin of the current standards arrangements. The role is challenging and broad, with a number of practical tensions and the potential for conflicts of interest. Local authorities should put in place arrangements to manage any potential conflicts. We have concluded, however, that the role is not unique in its tensions and can be made coherent and manageable with the support of other statutory officers. Employment protections for statutory officers should be extended, and statutory officers should be supported through training on local authority governance.

Councils' corporate arrangements

At a time of rapid change in local government, decision-making in local councils is getting more complex, with increased commercial activity and partnership working. This complexity risks putting governance under strain. Local authorities setting up separate bodies risk a governance 'illusion' and should take steps to prevent and manage potential conflicts of interest, particularly if councillors sit on these bodies. They should also ensure that these bodies are transparent and accountable to the council and to the public.

Our analysis of a number of high-profile cases of corporate failure in local government shows that standards risks, where they are not addressed, can become risks of corporate failure. This underlines the importance of establishing and maintaining an ethical culture.

Leadership and culture

An ethical culture requires leadership. Given the multi-faceted nature of local government, leadership is needed from a range of individuals and groups: an authority's standards committee, the Chief Executive, political group leaders, and the chair of the council.

Political groups have an important role to play in maintaining an ethical culture. They should be seen as a semi-formal institution sitting between direct advice from officers and formal processes by the council, rather than a parallel system to the local authority's standards processes. Political groups should set clear expectations of behaviour by their members, and senior officers should maintain effective relationships with political groups, working with them informally to resolve standards issues where appropriate.

The aim of a standards system is ultimately to maintain an ethical culture and ethical practice. An ethical culture starts with tone. Whilst there will always be robust disagreement in a political arena, the tone of engagement should be civil and constructive. Expected standards of behaviour should be embedded through effective induction and ongoing training. Political groups should require their members to attend code of conduct training provided by a local authority, and this should also be written into national party model group rules. Maintaining an ethical culture day-to-day relies on an impartial, objective Monitoring Officer who has the confidence of all councillors and who is professionally supported by the Chief Executive.

An ethical culture will be an open culture. Local authorities should welcome and foster opportunities for scrutiny, and see it as a way to improve decision making. They should not rely unduly on commercial confidentiality provisions, or circumvent open decision making processes. Whilst local press can play an important role in scrutinising local government, openness must be facilitated by authorities' own processes and practices.

Recommendations by CSPL

	CSPL Recommendations	Responsible body
1	The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.	Local Government Association
2	The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests.	Government
3	Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches.	Government
4	Section 27(2) of the Localism Act 2011 should be amended to state that a local authority's code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.	Government
5	The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include: unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy.	Government
6	Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any gifts and hospitality received over a value of £50, or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct.	Government
7	Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, "if a member of the public, with knowledge of the relevant facts, would reasonably	Government

	regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to that matter”.	
8	The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.	Government
9	The Local Government Transparency Code should be updated to provide that the view of the Independent Person in relation to a decision on which they are consulted should be formally recorded in any decision or minutes.	Government
10	A local authority should only be able to suspend a councillor where the authority’s Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction.	Government
11	Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed.	Government / all local authorities
12	Local authorities should be given the discretionary power to establish a decision-making standards committee with voting independent members and voting members from dependent parishes, to decide on allegations and impose sanctions.	Government
13	Councillors should be given the right to appeal to the Local Government Ombudsman if their local authority imposes a period of suspension for breaching the code of conduct.	Government
14	The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, on appeal by a councillor who has had a suspension imposed. The Ombudsman’s decision should be binding on the local authority.	Government
15	The Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g. bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.	Government
16	Local authorities should be given the power to suspend councillors, without allowances, for up to six months.	Government

17	The government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. These powers should be put beyond doubt in legislation if necessary.	Government
18	The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.	Government
19	Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.	Parish councils
20	Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code.	Government
21	Section 28(11) of the Localism Act 2011 should be amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority.	Government
22	The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal.	Government
23	The Local Government Transparency Code should be updated to provide that local authorities must ensure that their whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website.	Government
24	Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.	Government
25	Councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules.	Political groups National political parties

26	Local Government Association corporate peer reviews should also include consideration of a local authority's processes for maintaining ethical standards.	Local Government Association
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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.
(https://forms.hants.gov.uk/en/AchieveForms/?form_uri=sandbox-publish://AF-Process-ce9510f4-c1b6-4bca-981e-aaf0cb8c306b/AF-Stage-15896b38-fca4-4b64-b739-780360b00226/definition.json&redirectlink=/en&cancelRedirectLink=/en)
- 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
- 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.
- 2.6. Where the Monitoring Officer considers that s/he should not perform any or all of the Monitoring Officer functions under these arrangements owing to an actual or potential conflict of interest, the Monitoring Officer will instruct the Deputy Monitoring Officer or other suitably qualified and experienced officer to act in her/his place.

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.

10.1.2 Requesting that the Subject Member offer an apology, and / or other remedial action.

10.1.3 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~~ 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 Hearing Panel has reached a conclusion in accordance with para 12.1, it may decide to 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 a decision notice in such manner as the Hearing Panel considers appropriate

12.2.1

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

