

**PROTOCOL FOR CONVENING STANDARDS (ASSESSMENT) SUB-COMMITTEE, STANDARDS (REVIEW) SUB-COMMITTEE, OR STANDARDS (DETERMINATION) SUB-COMMITTEE**

1. Each Sub-Committee is a Sub-Committee comprised of the whole membership of the Standards and Audit Committee.
2. However the number of members who sit on an assessment must be limited in order to avoid the risk of conflict of interest on a review.
3. A quorum is three, which must include an independent Member. An independent Member must chair the meeting. Sub committees carrying out assessments, reviews of assessments, consideration of reports, and hearings must include at least one elected Member.
4. For each new assessment the Officer arranging the meeting will identify one independent Member and two elected Members to sit and form a quorum. If more than one of the independent Members, or more than three elected Members, sit, it will not be possible to constitute a quorum for the Standards (Review) Sub-Committee should the need arise.
5. Only the nominated Members will sit on the Standards (Assessment) Sub-Committee. If others attend, even as observers, they will rule themselves out of the review process should this be invoked.
6. The Members to sit on the Standards (Review) Sub-Committee, if required, will comprise one independent Member and two elected Members chosen from those who did not sit on the relevant assessment.
7. The Standards (Determination) Sub-Committee need not exclude Members who have sat on the initial assessment or review. The Officer convening the Sub-Committee will identify the number of Members to sit after consultation with the Chairman of the Standards and Audit Committee. Normally the number should be three or five Members rather than seven.
8. The Chairman will not attempt to influence the identity of the Members who will sit on the Standards (Determination) Sub-Committee.
9. If, owing to illness absence or other reason, it proves impossible to form a quorum for any Sub-Committee, arrangements must be made for the full Council to appoint one or more further elected or independent Members to the Standards and Audit Committee in order for the relevant meeting to take place.

**PROCEDURE FOR INITIAL ASSESSMENT AND REVIEW OF ALLEGATIONS OF  
MISCONDUCT BY MEMBERS OR  
CO-OPTED MEMBERS**

**Note: All parts of this procedure are subject to the relevant provisions of the Local Government Act 2000 as amended, and the Standards Committee (England) Regulations 2008.**

**1. Receipt of Allegations**

- 1.1 Any written allegation (including electronic submissions) that a Member of the authority has failed, or may have failed, to comply with the Code of Conduct is to be referred to the Monitoring Officer immediately upon receipt.
- 1.2 If an allegation is not in writing, the Monitoring Officer or other appropriate Officer should ask the complainant whether he or she wishes to submit a formal written complaint for consideration by the Standards (Assessment) Sub-Committee. If the complainant does not, the Monitoring Officer will consider options for informal resolution.
- 1.3 The Monitoring Officer may contact complainants for clarification of their complaint if he or she is unable to understand the content.
- 1.4 Without making any judgement on the merits, the Monitoring Officer will determine whether the complaint is an allegation that a Member or co-opted Member (or former Member or co-opted Member) of the authority has failed, or may have failed, to comply with the authority's Code of Conduct. Where it is clearly not about breach of the Code, the Monitoring Officer will not refer it to the Sub-Committee and he or she shall decide what alternative course of action is appropriate. If the complaint does appear to be such an allegation, but it is not clear that the complainant wants it dealt with by the Standards and Audit Committee under section 57A of the Local Government Act 2000, the Monitoring Officer will arrange that he/she or the person responding to the complaint seeks clarification of their intentions.

If the complaint relates to the conduct of a Member or co-opted Member acting in their capacity as a member of another relevant authority, the Monitoring Officer will liaise with the complainant regarding its submission to the Monitoring Officer of that authority.

- 1.5 The Monitoring Officer will maintain a register of written allegations.

**2. Notification of Allegations**

- 2.1 Following receipt of an allegation requiring reference to the Sub-Committee, the Monitoring Officer:
- (a) will acknowledge to the complainant receipt of the allegation and confirm that it will be assessed by the Standards (Assessment) Sub-Committee;
  - (b) may, subject to 2.2 below, and after consideration of relevant legislation and the guidance issued by the Standards Board for England, notify the Member or co-opted Member against whom the allegation is made:
    - (i) of receipt of the complaint, the name of the complainant and the relevant paragraphs of the Code of Conduct that may have been breached;

- (ii) that the complaint will be assessed by the Standards (Assessment) Sub-Committee and the date of this meeting if this is known; and
  - (iii) that a written summary of the allegation may be provided to him or her by the Committee, and that this will not be before the Standards (Assessment) Sub-Committee has met to consider the complaint;
- 2.2 If the complainant so requests, his or her name shall not be disclosed to the Member concerned until the Standards (Assessment) Sub-Committee has determined whether such confidentiality should be maintained (see para. 10);
- 3. Pre-Assessment Reports and Enquiries**
- 3.1 The Monitoring Officer may collect such information as is readily available and would assist the Standards (Assessment) Sub-Committee in assessing the allegation, such as:
  - (a) the Member's declaration of acceptance of office and undertaking to observe the Code of Conduct;
  - (b) minutes of meetings;
  - (c) a copy of the Member's entry in the register of interests;
  - (d) information from Companies House or the Land Registry; and
  - (e) other easily obtainable documents.
- 3.2 Any pre-assessment enquiries undertaken by the Monitoring Officer will not be carried out in such a way as to amount to an investigation and will not extend to interviewing the complainant, the Member or co-opted Member who is the subject of the allegation, or potential witnesses. Factual information rather than opinions will be sought to avoid prejudicing any subsequent investigation.
- 3.3 The Monitoring Officer may assess the potential for informal resolution of the matter where practicable in accordance with Section 4 below.
- 3.4 The Monitoring Officer will report the allegation to the Standards (Assessment) Sub-Committee, and will:
  - (a) advise whether the complaint is within jurisdiction;
  - (b) identify the paragraphs of the Code of Conduct to which the allegation might relate, or the paragraphs the complainant has identified;
  - (c) summarise the key aspects of the complaint; and
  - (d) provide any information collected under paragraphs 3.1 and 3.3 above.
- 3.5 The report from the Monitoring Officer should not influence improperly the decision of the Standards (Assessment) Sub-Committee and will not include an Officer recommendation as to the decision.

#### **4. Informal Resolution**

- 4.1 Informal resolution is not an alternative to reporting the allegation to the Standards (Assessment) Sub-Committee, but the potential for informal resolution may avoid the necessity for an investigation.
- 4.2 Where the Monitoring Officer is of the opinion that there is the potential for informal resolution, provided this can occur without detriment to the public interest, he or she may appoint a person to communicate with the complainant and the Member or co-opted Member concerned to see if clarification, apology or other appropriate action might provide a satisfactory outcome for the complainant.
- 4.3 Such a step will not normally be appropriate for allegations of serious breaches such as corruption, dishonesty, criminal activity, or bullying.
- 4.4 Where these enquiries are made, the Monitoring Officer will report the outcome to the Standards (Assessment) Sub-Committee with the other information about the complaint referred to in section 3 above.
- 4.5 The Standards (Assessment) Sub-Committee may take this information into account, alongside the nature of the allegation, the factual background, and whether the public interest requires an investigation, when considering whether to refer the matter for investigation.

#### **5. Standards (Assessment) Sub-Committee**

- 5.1 The Standards (Assessment) Sub-Committee will be responsible for assessing allegations that a Member or co-opted Member has broken the Code of Conduct.
- 5.2 The Sub-Committee will aim to make its decision in relation to an allegation within 20 working days of receipt.
- 5.3 Upon receipt of an allegation and any accompanying report from the Monitoring Officer, the Standards (Assessment) Sub-Committee will first satisfy itself that:
  - (a) the complaint is against one or more identified Members or co-opted Members of the Council;
  - (b) any identified individual was in office at the time of the alleged conduct, and the Code of Conduct was in force at that time; and
  - (c) the complaint, if proven, would be a breach of the Code of Conduct under which the Member or co-opted Member was operating at the time of the alleged misconduct.
- 5.4 If the complaint fails one or more of the tests referred to in paragraph 5.3 above, it cannot be investigated as a breach of the Code and the complainant will be informed that no further action will be taken in respect of the complaint.

5.5 Subject to 5.3 above, the Standards (Assessment) Sub-Committee will then assess complaints against the following criteria:

(a) Adequacy of Information Submitted

If the information provided by the complainant is insufficient to make a decision as to whether the matter should be referred for investigation or other action, the Sub-Committee will take no further action unless or until further information is received.

(b) Former Members

Where the complaint is about an individual who is no longer a member or co-opted Member of the Council but is still a member of another relevant authority, the Sub-Committee will consider referring the matter to the Monitoring Officer of that authority.

(c) Previous Investigations

If the allegation has already been the subject of an investigation or other action relating to the Code of Conduct, or an investigation by other regulatory authorities, and there is nothing further to be gained by referral for formal investigation or other action, the Sub-Committee may decide to take no further action.

(d) Passage of Time

If, having considered the circumstances, the complaint is about something that happened so long ago that there would be little benefit in taking action, the Sub-Committee may decide to take no further action.

(e) Trivial Complaints

If the matter is considered to be not sufficiently serious, the Sub-Committee may decide that no further action is warranted.

(f) Malicious and Politically Motivated Complaints

If complaints are considered to be malicious, politically motivated or mere tit-for-tat, the Sub-Committee may decide that no further action is warranted.

(g) Anonymity

Anonymous allegations will not be referred for investigation unless they are accompanied by strong evidence of an exceptionally serious breach of the Code.

5.6 Having made its assessment of the allegation, the Standards (Assessment) Sub-Committee must do one of the following:

- (a) refer the allegation to the Monitoring Officer for investigation or other action (see 5.7);
- (b) refer the allegation to the Standards Board for England;

- (c) decide that no action should be taken in respect of the allegation; or
- (d) where the allegation is in respect of a person who is no longer a member of the Council but is a member of another relevant authority, refer the allegation to the Monitoring Officer of that authority for investigation or other action (see 5.7);

and shall instruct Runnymede's Monitoring Officer to take reasonable steps to notify the person making the allegation and the Member or co-opted Member concerned of that decision, together with the reasons for it, within five working days. The complainant shall also be notified of his or her right to ask for a review of a decision to take no action within 30 days of such notification by writing to the Monitoring Officer with their reasons for requesting a review.

- 5.7 Where the matter is referred to a Monitoring Officer under 5.6(a) or (d) above, the sub-committee may, after consultation with that Monitoring Officer and having regard to guidance issued by the Standards Board for England, direct that the Monitoring Officer arrange training, conciliation or appropriate alternative action, instead of investigation.
- 5.8 A summary of the complaint will be sent to the relevant parties with the notification of decision unless the Standards (Assessment) Sub-Committee decides that it should be withheld from the subject Member as it would be against the public interest or would prejudice any future investigation.

## **6. Standards (Review) Sub-Committee**

- 6.1 The Standards (Review) Sub-Committee is responsible for reviewing, upon the request of a complainant, a decision of the Standards (Assessment) Sub-Committee that no action be taken in respect of an allegation of misconduct by a Member or co-opted Member.
- 6.2 Members of the Standards (Assessment) Sub-Committee which made the original decision must not take part in the review of that decision.
- 6.3 The Standards (Review) Sub-Committee must complete its review within three months of receiving a request. However, the Sub-Committee will aim to make its decision in relation to a review within 20 working days of receipt.
- 6.4 Following receipt of a request for a review, the Monitoring Officer shall promptly and in advance of the meeting of the Standards (Review) Sub-Committee:
  - (a) acknowledge to the complainant receipt of the review request and confirm that it will be assessed by the Standards (Review) Sub-Committee; and
  - (b) notify the Member or co-opted Member concerned and all other relevant parties that a review request has been received.
- 6.5 The Monitoring Officer shall report to the Standards (Review) Sub-Committee the information provided to the Standards (Assessment) Sub-Committee in respect of the matter, the summary of its decision, and any additional information which has become available prior to the meeting of the Standards (Review) Sub-Committee.
- 6.6 If further information has been made available in support of a complaint that changes its nature or gives rise to a new allegation, the Standards (Review) Sub-Committee should consider carefully if it would be more appropriate to pass this to the Standards

(Assessment) Sub-Committee to be handled as a new complaint. In this instance, the Standards (Review) Sub-Committee will still need to make a formal decision that the review request will not be granted.

- 6.7 The Standards (Review) Sub-Committee will apply the same criteria for assessing the complaint and will have the same decisions available to it as the Standards (Assessment) Sub-Committee.
- 6.8 Having made its decision, the Standards (Review) Sub-Committee shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation and the Member or co-opted Member concerned of that decision, together with the reasons for it, within five working days.
- 6.9 A summary of the complaint will also be sent to the relevant parties with the notification of decision unless the Standards (Review) Sub-Committee decides that it should be withheld from the subject Member or co-opted Member as it would be against the public interest or would prejudice any future investigation.

## **7. Access to Meetings and Information**

- 7.1 The business of the Standards (Assessment) Sub-Committee and Standards (Review) Sub-Committee shall be conducted in closed meetings and is not subject to the access to information rules normally applying to local authority committees.
- 7.2 After the Standards (Assessment) Sub-Committee or Standards (Review) Sub-Committee has considered a complaint, a written summary will be produced, including the main points considered, the conclusions on the complaint and the reasons for that conclusion. The summary will include the name of the Member or co-opted Member concerned unless this would not be in the public interest or would prejudice any subsequent investigation.
- 7.3 The written summary will be made available for the public to inspect at the Council's offices for six years. If the Standards (Assessment) Sub-Committee or Standards (Review) Sub-Committee decides not to give the written summary to the subject Member or co-opted Member when a referral decision has been made, public inspection will be possible when the written summary is given to the Member or co-opted Member concerned during the investigation process.

## **8. Withdrawal of Complaints**

- 8.1 If the complainant asks to withdraw the complaint prior to the Standards (Assessment) Sub-Committee or Standards (Review) Sub-Committee having taken a decision on it, the sub-committee will weigh the following criteria in deciding whether to proceed:
  - (a) whether the public interest in taking some action on the complaint outweighs the complainant's desire to withdraw it;
  - (b) whether the complaint is such that action can be taken on it, for example an investigation, without the complainant's participation; and
  - (c) whether there is an identifiable underlying reason for the request to withdraw the complaint, for example, information to suggest that the complainant may have been pressured.

## **9. Multiple and Vexatious Complaints**

- 9.1 The Monitoring Officer will try to ensure that complaints from different complainants about the same matter are considered at the same meeting of the Standards (Assessment) Sub-Committee.
- 9.2 If the Standards (Assessment) Sub-Committee or the Standards (Review) Sub-Committee has already dealt with the same complaint by the same person and the Monitoring Officer does not consider that there is any new evidence, he or she need not refer the repeated allegation to the Standards (Assessment) Sub-Committee.
- 9.3 Subject to 9.2 above, the Standards (Assessment) Sub-Committee must consider all allegations falling to be assessed under 1.4 above, even though they may be thought vexatious or trivial.

## **10. Confidentiality**

- 10.1 A Member or co-opted Member will usually be told who has complained about them. Requests by complainants for their identity to be withheld will be granted only in exceptional circumstances at the discretion of the Standards (Assessment) Sub-Committee. Possible reasons for maintaining confidentiality include:
- (a) the complainant having reasonable grounds for believing that they will be at risk of physical harm if their identity is disclosed;
  - (b) the complainant being an Officer of the Council who has cause to be concerned about the consequences for their employment if their identity is disclosed; or
  - (c) a medical risk to the complainant associated with their identity being disclosed, in consequence of a current serious medical condition.
- 10.2 When considering requests for confidentiality, the Standards (Assessment) Sub-Committee will also consider whether it is possible to investigate the complaint without making the complainant's identity known.
- 10.3 If the Standards (Assessment) Sub-Committee decides to refuse a request by a complainant for confidentiality, it may offer the complainant the option to withdraw, rather than proceed with their identity being disclosed. In certain circumstances, the public interest in proceeding with an investigation may outweigh the complainant's wish to have their identity withheld from the subject Member or co-opted Member.

## **11. Conflicts of Interest and bias**

- 11.1 Member or co-opted Members and officers should take care to avoid any conflicts of interest or appearance of bias when considering a complaint.
- 11.2 The provisions of the Council's Code of Conduct relating to personal and prejudicial interests will apply to members of the Standards and Audit Committee taking part in any meetings relating to complaints about the conduct of Member or co-opted Members.

11.3 Any member who is:

- a complainant
- anyone closely associated with someone who is a complainant
- a potential witness or victim relating to a complaint;

must not participate in the assessment process

11.4 Decisions made in the Assessment or Review sub-committee should not be influenced by anything outside the papers and advice put before the Sub-Committee. The members should not discuss complaints with others who are not members of the Sub-Committee dealing with the assessment or review, or with each other before the formal meeting.

11.5 If in any doubt about their participation in the assessment of a complaint, the relevant member of the Standards and Audit Committee or officer must seek the advice of the Monitoring Officer.

11.6 An Officer who has previously advised a subject member or who has advised the complainant about the issues giving rise to a complaint should consider whether they can properly take part in the assessment process – for example if others involved may view them as biased. Officers must take legal advice if they have any doubts.

11.7 If an Officer has taken part in supporting the assessment or hearing process then they should not be involved in the investigation of that matter, and vice versa.

**PROCEDURE FOR LOCAL INVESTIGATION AND DETERMINATION OF ALLEGATIONS OF  
MISCONDUCT BY MEMBERS OR  
CO-OPTED MEMBERS**

**Note:** All parts of this procedure are subject to the relevant provisions of the Local Government Act 2000 as amended, and the Standards Committee (England) Regulations 2008. Any matter falling to be considered or determined by the Standards (Determination) Sub-Committee shall, if the Standards and Audit Committee so directs, be determined by the Committee instead.

**1. Appointment of Investigating Officer**

- 1.1 Upon referral of an allegation of misconduct for investigation by the Standards (Assessment) Sub-Committee, Standards (Review) Sub-Committee or an ethical standards officer of the Standards Board for England, the Monitoring Officer will appoint an Investigating Officer and instruct him or her to conduct an investigation and prepare a report thereon.
- 1.2 The Investigating Officer may be an officer of the Council, an officer of another local authority or an external investigating officer. The Investigating Officer may appoint persons to assist in the conduct of his or her functions and may obtain such professional advice as may be necessary for the conduct of the investigation. He or she shall have regard to relevant guidance on the conduct of investigations issued by the Standards Board for England.

**2. Notification of Reference of Allegation**

- 2.1 The Monitoring Officer will then notify in writing the following persons that an allegation of misconduct has been referred to him or her for investigation or other action:
- (a) the Member or co-opted Member against whom the allegation has been made;
  - (b) the person who made the allegation;
  - (c) members of the Standards and Audit Committee; and
  - (d) the standards committee of any other authority concerned.
- 2.2 Subject to any direction given by the Standards (Assessment) Sub-Committee, Standards (Review) Sub-Committee or ethical standards officer, such notification shall state:
- (a) that an allegation has been referred for investigation;
  - (b) the identity of the person making the allegation;
  - (c) the conduct which is the subject of the allegation;
  - (d) the section(s) of the Code of Conduct which appear to be relevant to the allegation;
  - (e) the procedure which will be followed in respect of the allegation; and
  - (f) the identity of the investigating officer.

### 3. Initial Response of Member or co-opted Member and Complainant

- 3.1 In notifying the Member or co-opted Member concerned of receipt of the allegation, the Monitoring Officer shall request the Member or co-opted Member to respond to the Investigating Officer in writing within 14 days of notification, as follows:-
- (a) advising the Investigating Officer whether the Member or co-opted Member admits or denies the breach of the Code of Conduct which is the subject of the allegation;
  - (b) listing any documents which the Member or co-opted Member would wish the Investigating Officer to take into account in any investigation of the allegation, where possible providing copies of these documents, and informing the Investigating Officer of where the original documents may be inspected;
  - (c) providing the Investigating Officer with the name, address and telephone number (or other appropriate contact details) of any person or organisation whom the Member or co-opted Member would wish the Investigating Officer to interview in the course of any investigation of the allegation; and
  - (d) providing the Investigating Officer with details of any information which the Member or co-opted Member would wish the Investigating Officer to seek from any person or organisation.
- 3.2 In notifying the person who made the allegation, the Monitoring Officer will request him or her to respond to the Investigating Officer within 14 days:-
- (a) listing any documents which the person would wish the Investigating Officer to take into account in any investigation of the allegation, where possible providing copies of these documents, and informing the Investigating Officer of where the original documents may be inspected;
  - (b) providing the Investigating Officer with the name, address and telephone number (or other appropriate contact details) of any person or organisation whom the person would wish the Investigating Officer to interview in the course of any investigation of the allegation; and
  - (c) providing the Investigating Officer with details of any information which the person would wish the Investigating Officer to seek from any person or organisation.

### 4. Conduct of Investigation

#### Purpose of the Investigation

- 4.1 The purpose of the investigating officer's investigation is to enable him or her to prepare a report for the Standards and Audit Committee or Standards (Determination) Sub-Committee which provides sufficient information to enable the Committee to decide
- whether the Member or co-opted Member has acted in breach of the Code of Conduct;
  - where there has been a breach, whether any action should be taken in respect of the Member or co-opted Member or in consequence of the breach, and
  - what any such action should be.

### Production of Documents, Information and Explanations

- 4.2 Following notification to the subject Member or co-opted Member and complainant, the Investigating Officer will identify an initial list of persons to be interviewed, organisations from whom information is to be sought and documents to be inspected as part of the investigation. The Investigating Officer shall include in this list each document, person and organisation referred to by the subject Member or co-opted Member and complainant, unless he or she believes that such inclusion would unreasonably delay the completion of the investigation rather than contribute to the accuracy of the final report. The Investigating Officer may supplement or amend this list at any stage of the investigation.
- 4.3 The Investigating Officer may make such enquiries of any person or organisation and request any person or organisation to provide any document or information which is in their possession or control, or provide any explanation, as he or she thinks necessary for the purposes of carrying out the investigation.
- 4.4 The Investigating Officer may require the Council and any other authority concerned to provide any document which is in its possession or control or any advice or assistance which he or she thinks necessary for the purposes of carrying out the investigation.

### Interviews

- 4.5 Any person who agrees to be interviewed by the Investigating Officer can arrange to be accompanied at their own expense by a solicitor or friend.
- 4.6 Where practicable, following the interview, the Investigating Officer shall produce a written note of the material points of the interview, provide two copies of that note to the person interviewed and ask them to return one copy signed as a correct record of the interview, with such corrections or amendments as they may feel necessary for that purpose. With the agreement of the person appearing before him or her, the Investigating Officer may make an audio recording of the interview.

### Costs

- 4.7 The Investigating Officer may, where he or she considers that it is appropriate in order to facilitate the conduct of the investigation, pay to any person who provides any document, information, advice or explanation in response to his or her request, such fees or allowances as he or she considers to be appropriate subject to any maxima set by the Council.

### Completion of the Investigation

- 4.8 The Investigating Officer may terminate the investigation at any point, where he or she is satisfied that there is sufficient information to enable him or her to complete his or her report and to enable a considered decision to be made on the allegation.
- 4.9 All investigations will be regarded as complete when the Monitoring Officer receives the final report of the Investigating Officer and accepts that no further investigation is required. Once an investigation is complete, a case cannot be referred back to the Standards (Assessment) Sub-Committee or an ethical standards officer.

#### Evidence of New Breaches

- 4.10 Where, in the course of his or her investigation, the Investigating Officer becomes aware of any matter which appears to him or her to indicate a breach of the Code of Conduct by the Member or co-opted Member, other than the breach which he or she is currently investigating, the Investigating Officer shall report the matter to the Monitoring Officer. The Monitoring Officer will then:
- (a) advise the person from whom the relevant information was obtained that the possible breach cannot be investigated as part of the existing investigation and that they may wish to submit a separate complaint; or
  - (b) refer the matter to the Standards (Assessment) Sub-Committee as a new complaint.

#### Reference Back to Ethical Standards Officer

- 4.11 During the course of an investigation referred by an ethical standards officer, the Investigating Officer may suspend the investigation and ask the Monitoring Officer to request that the ethical standards officer resume his or her investigation of the matter. The reasons for the request, such as obstruction of the investigation by the subject Member or co-opted Member or evidence of further breaches of the Code of Conduct being revealed, must be given. Such a request may only be made once during the course of an investigation.
- 4.12 Where the ethical standards officer accepts the request, the Monitoring Officer shall ensure that the Member or co-opted Member concerned, the person who made the complaint, members of the Standards and Audit Committee and the parish council (if applicable) are informed. Where the ethical standards officer declines the request, the Monitoring Officer shall instruct the Investigating Officer to resume his or her investigation.

#### Reference Back to the Standards (Assessment) Sub-Committee

- 4.13 During the course of an investigation, in the following circumstances only, the Investigating Officer may ask the Monitoring Officer to refer the matter back to the Standards (Assessment) Sub-Committee:
- (a) evidence uncovered suggests that the case is more or less serious than may have seemed apparent at the time of the initial assessment and, had this been known at the time, a different decision would have been likely about how the case would be dealt with; or
  - (b) the subject Member or co-opted Member has died, is seriously ill or has resigned from the relevant authority and the Monitoring Officer is of the opinion that it is no longer appropriate to continue with the investigation.
- 4.14 Referrals of matters back to the Standards (Assessment) Sub-Committee must be made before the investigation has been completed and must be accompanied by reasons.
- 4.15 The Monitoring Officer will notify the Member or co-opted Member concerned and the person who made the complaint of a decision to refer an allegation back to the Standards (Assessment) Sub-Committee and indicate timescales within which the matter will be handled.
- 4.16 The Standards (Assessment) Sub-Committee will deal with the referral in the same way in which it would deal with an initial complaint.

### Deferral of Investigation

- 4.17 The Monitoring Officer may decide that an investigation will be deferred in the following circumstances:
- (a) there are ongoing criminal proceedings or a police investigation into the Member or co-opted Member's conduct;
  - (b) the investigation cannot proceed without investigating similar alleged conduct or coming to conclusions of fact about events which are also the subject of some other investigation or court proceedings;
  - (c) the investigation might prejudice another investigation or court proceedings;
  - (d) there is an ongoing investigation by another regulatory body;
  - (e) the serious illness of a key party; or
  - (f) the genuine unavailability of a key party.
- 4.18 The Monitoring Officer will notify the Member or co-opted Member concerned, person who made the complaint, members of the Standards and Audit Committee and relevant parish council (if applicable) of a decision to defer an investigation.
- 4.19 The Monitoring Officer will keep the deferral of an investigation under regular review and will notify all relevant parties of its recommencement.

### Confidentiality

- 4.20 Information gathered during an investigation will not be disclosed unless:
- (a) the disclosure will enable the Standards and Audit Committee or its sub-committees, an ethical standards officer, Local Government Ombudsman, Audit Commission, Electoral Commission or Adjudication Panel for England to perform their statutory functions;
  - (b) the disclosure will assist the Monitoring Officer to perform his or her statutory functions;
  - (c) permission to disclose it has been given by the person to whom the information relates;
  - (d) the information has already lawfully been made public;
  - (e) the disclosure is made for the purposes of criminal proceedings; or
  - (f) the disclosure is required by a court or similar body.
- 4.21 People involved in or aware of the investigation will be asked to maintain confidentiality and Member or co-opted Members will be reminded of their obligations in this respect.

## 5. The Draft Report

- 5.1 Before issuing a draft report, the Investigating Officer will send a copy of their statement to each witness or party interviewed, on whose evidence he or she will rely in compiling the draft report, and request that they confirm their statement and send any comments thereon to him or her within 14 days.
- 5.2 When the Investigating Officer is satisfied that he or she has sufficient information or has obtained as much information as is likely to be reasonably capable of being obtained, he or she shall prepare a draft report, which shall be marked draft and confidential, setting out:-
- (a) the details of the allegation;
  - (b) the relevant provisions of statute and the Code of Conduct;
  - (c) the Member or co-opted Member's initial response to notification of the allegation.(if any);
  - (d) the relevant information, advice and explanations which he or she has obtained in the course of the investigation;
  - (e) a list of any documents relevant to the matter;
  - (f) a list of those persons whom he or she has interviewed and those organisations from which he or she has sought information;
  - (g) a note of any person or organisation who has failed to co-operate with the investigation and the manner in which they have failed to co-operate;
  - (h) a statement of his or her draft findings of fact and reasoning for these;
  - (i) his or her conclusion as to whether the Member or co-opted Member has or has not failed to comply with the Code of Conduct; and
  - (j) any recommendations which the Investigating Officer is minded to make to the authority concerned for reviewing or reconsidering any decision which was the subject of the breach of the Code of Conduct, for rectifying any deficiency in the Council's decision-making procedures or for preventing or deterring any breach of the Code of Conduct or to remedy the position of any person who may have suffered detriment or injustice as a result of the breach.
- 5.3 The draft report should also state that the report does not necessarily represent the investigating officer's final finding and that the Investigating Officer will present a final report once he or she has considered any comments received on the draft report.
- 5.4 The Investigating Officer shall then send a copy of his or her draft report in confidence to the subject Member or co-opted Member and the person making the allegation and request that they send any comments thereon to him or her within 14 days. The draft report will not be sent to any witness.
- 5.5 Responses to the draft report from the Member or co-opted Member concerned or the complainant may reveal the need for further investigation. If that further investigation results in such significant changes being made, the Investigating Officer may decide to issue a further draft report to the Member or co-opted Member and complainant.

## 6. The Final Report

- 6.1 After the expiry of the given period (or such extended period as may be allowed), the Investigating Officer shall consider whether to amend his or her draft report in the light of any comments received and send to the Monitoring Officer the final report. The final report should state that the report represents the investigating officer's final findings, include its date of completion and be marked confidential. Copies of any documents which the Investigating Officer has relied on in reaching his or her conclusions, such as background documents, records of telephone conversations, letters and notes of interviews with witnesses, should be appended.
- 6.2 The Monitoring Officer shall send a copy of the final report to the subject Member or co-opted Member advising that:
- (a) where the final report concludes that there has not been a failure to comply with the Code of Conduct, he or she will refer the report to the Standards (Determination) Sub-Committee for its consideration; and
  - (b) where the final report concludes that there has been a failure by the Member or co-opted Member to comply with the Code of Conduct, he or she will refer the report to the Standards (Determination) Sub-Committee for a formal hearing.
- 6.3 The Monitoring Officer shall ensure that the agenda and reports for the relevant meeting to consider the allegation, including the investigating officer's final report and an explanation of procedures to be followed, is sent to:
- (a) members of the Standards (Determination) Sub-Committee;
  - (b) the subject Member or co-opted Member;
  - (c) the person who made the complaint;
  - (d) the standards committee of any other authority of which the Member or co-opted Member is a member; and
  - (e) the ethical standards officer who referred the matter for investigation (if applicable).
- 6.4 Reports to the Standards (Determination) Sub-Committee on allegations of misconduct, including the final report of the investigating officer, will normally remain confidential until the Committee or Sub-Committee decides at the meeting whether it wishes to meet in public.
- 6.5 Where the final report of the Investigating Officer concludes that there has not been a failure by the Member or co-opted Member to comply with the Code of Conduct, the Standards (Determination) Sub-Committee shall, based on the facts of in the report, make one of the following findings:
- (a) that it accepts the investigating officer's finding that the Member or co-opted Member has not failed to comply with the Code of Conduct as set out in the allegation; or
  - (b) that the matter should be considered at a formal hearing.
- 6.6 Where the Standards (Determination) Sub-Committee finds that there has been no failure to comply with the Code of Conduct, the Monitoring Officer shall, as soon as practicable thereafter, send a written notice of that finding and the reasons on which it was based, to:-
- (a) the subject Member or co-opted Member;

- (b) the person who made the complaint;
- (c) members of the Standards and Audit Committee;
- (d) the standards committee of any other authority of which the Member or co-opted Member is a member; and
- (e) the ethical standards officer who referred the matter for investigation (if applicable).

and shall ask the Member or co-opted Member concerned whether he or she objects to the publication of a notice of the finding in at least one local newspaper and arrange for the publication of such a notice unless the Member or co-opted Member objects.

6.7 Where the Standards (Determination) Sub-Committee finds that the matter should be considered at a full hearing or the investigating officer's report contains a finding that the Member or co-opted Member did fail to comply with the Code of Conduct, the Monitoring Officer shall arrange for the matter to be considered at such a hearing in accordance with the Council's adopted procedure for local determination hearings (annexed).

**7. Other Directions to the Monitoring Officer**

7.1 Following consultation with the Monitoring Officer, the Standards (Assessment) Sub-Committee, Standards (Review) Sub-Committee or an ethical standards officer may decide that some form of action is required instead of investigation (see para. 5.7 if initial assessment procedure).

7.2 Once a matter has been referred to the Monitoring Officer with a direction for other action, an investigation into the relevant allegation of misconduct can no longer take place. However, once an investigation has started, the Monitoring Officer may consider that the issues raised would be more appropriately dealt with through other action and refer the matter back to the Standards (Assessment) Sub-Committee in accordance with the provisions of this procedure.

7.3 Where a direction to take other action has been given, the Monitoring Officer will report back to the Standards and Audit Committee or ethical standards officer within three months on the outcome of the actions or with details of proposed actions.

7.4 If the Standards and Audit Committee or ethical standards officer is satisfied with the action specified in the report, the Monitoring Officer will notify the subject Member or co-opted Member, complainant, standards committee of any other authority concerned and the relevant parish council (if applicable).

7.5 If the Standards and Audit Committee or ethical standards officer is not satisfied with the action taken or proposed to be taken, they may give the Monitoring Officer further directions about how to deal with the case. This cannot include a direction to carry out an investigation. In such cases, an ethical standards officer may also require the Monitoring Officer to arrange for the publication of a statement in a local newspaper giving details of the action directed and the reasons for his or her dissatisfaction with the action taken, together with the response of the Monitoring Officer.

## RUNNYMEDE BOROUGH COUNCIL

## STANDARDS AND AUDIT COMMITTEE

## PROCEDURE FOR HEARING OF ALLEGATIONS AGAINST MEMBERS

**1. Definitions**

"Committee" – the Standards and Audit Committee, or a sub-Committee of that Committee constituted to determine the matters arising from the investigation report.

"ESO" - an Ethical Standards Officer employed by the Standards Board for England.

"Investigator" – either

- i. the person designated by the Monitoring Officer to investigate a complaint referred from the Standards (Assessment) Sub-Committee, the Standards (Review) Sub-Committee, or an ESO, and to report to the Committee; or
- ii. the ESO who has investigated the complaint against the Member and referred a report to the Monitoring Officer, or his/her authorised representative

"Member" – where this expression is used by itself, it means the Member or co-opted Member of the Council against whom the complaint was made and in respect of whom the report or complaint has been received from the Investigator.

"Monitoring Officer" – the Council's Monitoring Officer appointed under section 5 of the Local Government and Housing Act 1989. When the context requires in this procedure, the expression includes the Deputy Monitoring Officer, and any person appointed by the Monitoring Officer or Deputy Monitoring Officer to discharge relevant functions of the Monitoring Officer under section 82A of the Local Government Act 2000.

Unless otherwise noted, references to the Act are to the Local Government Act 2000 and references to the Regulations are to the Standards Committee (England) Regulations 2008.

**2. Introduction and Summary**

- 2.1 This note sets out the procedure which will be followed in hearing allegations of misconduct by a Member where the Committee has decided under Regulation 17 to hold a hearing under Regulation 18. Before the hearing the Monitoring Officer may agree variations to this procedure with the Chairman of the Committee (which in this paragraph shall mean the responsible sub-Committee once convened and otherwise the Standards and Audit Committee) if the circumstances require, and if so will inform the Committee and the parties of the variation. The Committee may also agree variations at the hearing if it is fair to do so.
- 2.3 In conducting a hearing under Regulation 18, the Committee will act in an inquisitorial manner, rather than an adversarial manner, to establish the facts in relation to the conduct of the Member on the balance of probability, based on the information available to it. It may commission further investigation or information where it needs to do so in order to come to a decision.
- 2.4 Where the Committee determines that the Member has acted in breach of the Council's Code of Conduct, the Committee will determine what if any sanction the Committee should impose

on the Member, and will consider whether any action should be taken by the Council to rectify any consequences of the misconduct or to prevent any further breaches.

### **3. Preparatory steps before a hearing**

3.1 The Monitoring Officer will take such steps as may be necessary:

- To ascertain whether the Member intends to appear at the hearing and whether he/she will be represented;
- To identify facts and issues in dispute;
- To ascertain whether there is a request or a likely need to hold any part of the hearing in private;
- To ascertain whether the Investigator or the Member wishes any document to be withheld from the public;
- To ascertain any witnesses to be called by the Member or the Investigator;
- To notify the Committee of the need for a hearing
- To notify the original complainant of the hearing
- To ensure that the hearing takes place within the time limits specified in the Regulations.

3.2 The Monitoring Officer may take such steps as he/she sees fit for this purpose and will normally ask the Member to complete some or all of the forms at Appendix 1.

### **4. Final pre-hearing actions**

4.1. At least two weeks before the date of the Committee's hearing, and having consulted the Chairman over the pre-hearing considerations set out in the Standards Board Guidance booklet "Standards Committee Determinations", the Monitoring Officer will notify the Member, the Officer reporting or Investigator, and the Members of the Committee, of

- the date, time, and place of the hearing;
- a summary of the allegation;
- the main facts which are agreed;
- the main facts which are not agreed;
- whether the Member proposes to attend or be represented at the hearing
- whether the ESO/Investigator intends to appear or be represented;
- what witnesses will be asked to give evidence;
- the procedure for the hearing (see part 5 below).

The Monitoring Officer may notify other persons with a legitimate interest in these matters at his or her discretion.

4.2. The above information may be provided in the formal agenda for the meeting, which must at a minimum include:

- (i) a copy of the Investigator's report,
- (ii) a copy of this procedure;
- (iii) such other factual or procedural information as the Monitoring Officer thinks appropriate.

#### 4.3 Background papers and confidentiality before the meeting

- 4.3.1 The Monitoring Officer will, upon request, arrange for any member of the Committee and the Member to have access to any background documents identified or supplied by the Investigator at any reasonable time between the issue of the agenda and the time of the meeting.
- 4.3.2 Where the Monitoring Officer considers that the Investigator's report and/or the Member's written statement in response is likely to disclose "exempt information", and that it is likely that the Committee or Sub-Committee will not be open to the public during consideration of this information, he or she will not provide copies of these papers to the press or public or permit inspection of them by the press or public in advance of the meeting.

The categories of exempt information are set out in Appendix 2.

### 5 Procedure at the Meeting

#### 5.1. Attendance of the Member

- 5.1.1 The Member may be accompanied or represented at the meeting at his/her own expense by a solicitor, counsel or, with permission of the Committee, another person. Alternatively the Member may elect to make representations to the Committee in writing (this does not affect his/her right to be present at the hearing).
- 5.1.2 If the Member is not present at the start of the meeting, the Committee or Sub-Committee may proceed in his or her absence unless it is satisfied that the Member has sufficient reason for absence. The Committee will normally proceed if the Member has opted for written representations. The Committee may adjourn to enable the Member to attend. Where the Committee proceeds in the absence of the Member, the procedure for the meeting shall be adapted as necessary, giving any representative of the Member who is present such rights as would otherwise be accorded to the Member.

#### 5.2 Advice during the hearing

- 5.2.1 At any time the Committee may seek legal or procedural advice from the Monitoring Officer. Such advice will be given in the presence of the parties, or if taken in private will be clearly summarised in the presence of the parties.

#### 5.3 Questions by the Parties

- 5.3.1 If the Chairman allows questions to be put by the parties, he or she may require them to be put through the Chair instead of adopting the style of a cross-examination.

#### 5.4 Starting the hearing

- 5.4.1 Subject to a quorum being present and after any necessary procedural formalities, the Chairman will ensure that the participants are introduced and will give a brief explanation of the procedure which the hearing will follow.
- 5.4.2 The Committee will hear any representations from the parties as to whether the Committee should exclude the press and public and will then decide whether to do so. Guidance as to relevant considerations is set out in Appendix 3.
- 5.4.3 The Committee will then decide any issues about how the hearing will proceed which may not have been resolved beforehand, after hearing any representations the parties wish to make.

## 5.5 Findings of Fact

- 5.5.1 The Committee will consider whether there are any significant disagreements about the statements of fact contained in the Investigator's report. If there is no disagreement about the facts, the Committee can move on to the next stage of the hearing (5.6 below). If there is a disagreement, the Committee will hear any necessary representations from or on behalf of the Investigator to support the relevant findings of fact in the report. With the Committee's permission, the Investigator may call witnesses to give evidence about the facts. The Chairman may at his or her discretion allow the Member an opportunity to ask questions about evidence put forward by any witness called on behalf of the Investigator.
- 5.5.2 The Member or his/her representative may then make representations to support his or her version of the facts and, with the Committee's permission, call any necessary witnesses to give evidence. The Chairman may at his discretion allow the Investigator to ask questions about any evidence put forward by witnesses called by the Member
- 5.5.3 At any time, with the Chairman's permission, Members of the Committee may question any of the people involved or any of the witnesses.
- 5.5.4 If the Member disagrees with any relevant fact in the Investigator's report, but has not given prior notice of the disagreement, he or she must give good reasons for not mentioning it before the hearing. If the report is that of an ESO who is not present, the Committee will consider whether or not it would be in the public interest to continue without his or her comment. After considering the Member's explanation for not raising the issue at an earlier stage, the Committee may then:
- a. continue with the hearing relying on the information in the Investigator's report;
  - b. allow the Member to make representations about the issue, and invite the Investigator to respond and call any witnesses, as necessary; or
  - c. adjourn the hearing to arrange for appropriate witnesses or the Investigator to be present or to offer written comment.

## 5.6 Did the member fail to follow the Code?

- 5.6.1 In private, the Committee will make findings of fact on the balance of probability and will decide whether on the basis of those facts the Member has failed to follow the Code of Conduct.
- 5.6.2 The Chairman will announce to the hearing the Committee's findings of fact and its decision as to whether the Member has failed to follow the Code of Conduct.

## 5.7 Consideration of penalty

- 5.7.1 If the Committee concludes that the Member has acted in breach of the Code of Conduct, the Committee will determine what sanction(s), if any, should be imposed against the Member. Members of the Committee may ask questions of the Investigator and the Member (if present) and seek legal advice in order to satisfy themselves that they have the information upon which to take a proper decision.
- 5.7.2 The Committee will consider sanctions in private. The actions available to the Committee are set out in Appendix 4 to this procedure. It is also open to the Committee to decide that no action needs to be taken in respect of the matters considered.

5.7.3 The Chairman will advise the hearing of the sanction to be imposed on the Member and when it is to take effect.

5.8 Recommendations to the Council

5.8.1 Whatever the finding as to whether there was a breach of the Code, and whatever the decision as to penalty, the Committee will hear representations from the Investigator, and from the Monitoring Officer, and consider whether there are any recommendations which it should make to the Council with a view to promoting high standards of conduct amongst Members.

6. Reporting of the Decision

6.1 The Committee will provide a short written summary of its decisions on the day of the decision. As soon as possible afterwards it will issue a full written decision in the form advised by the Standards Board for England. The Monitoring Officer will ensure that the legal requirements as to publication and communication of notice of the decision are observed, and that the Committee and all parties to the hearing receive a copy of the full written decision.

7. Expenses of witnesses arranged by Investigator

7.1 Where the Investigator arranges for the attendance of any person as a witness at the meeting, he/she may pay to that person a sum to cover any reasonable costs which the person may incur in so attending.

8. Confidentiality

8.1 No Member or Officer of the Council will disclose any information which he/she has obtained in the course of a local determination or in pursuance of this Procedure except in any of the circumstances set out in Paragraph 8.2 below;

8.2 The circumstances referred to above are:

- (i) the disclosure is made for the purposes of enabling the Investigator or Monitoring Officer to carry out his/her functions, or the Committee to carry out its functions, in relation to the matter;
- (ii) the disclosure is made to enable a standards committee to carry out its functions in connection with an alleged breach of its authority's code of conduct;
- (iii) the disclosure is made to enable an Appeals Tribunal to discharge its functions;
- (iv) the person to whom the information relates has consented to the disclosure;
- (v) the disclosure is made in pursuance of a statutory requirement for disclosure;
- (vi) the information has previously been disclosed to the public with lawful authority;
- (vii) the disclosure is made to the Audit Commission or District Auditor for the purposes of any function of the Audit Commission under the Audit Commission Act 1998; or
- (viii) the disclosure is for the purpose of criminal proceedings and the information in question was not obtained as a result of personal enquiries of the person subject to the criminal proceedings.
- (ix) disclosure is necessary to satisfy a legal obligation.

**APPENDIX 1**

**PRE-HEARING FORMS FOR COMPLETION BY MEMBER**

**Contents:**

Form A	Member's response to Investigator's statements of fact
Form B	Other evidence relevant to the allegation
Form C	Arrangements for Hearing
Form D	Details of proposed witnesses

**FORM A**

Please enter the number of any paragraph where you disagree with the findings of fact in the Investigator's report, and give your reasons and your suggested alternative.

Paragraph number from the Investigator's report	Reasons for disagreeing with the findings of fact provided in that paragraph	Suggestion as to how the paragraph should read

**FORM B**

Please set out below, using the numbered paragraphs, any other evidence you feel is relevant to the allegation made about you.

**Other evidence relevant to the allegation**

<b>Paragraph number</b>	<b>Details of the evidence</b>
1	
2	
3	
4	
5	

Please attach separate sheets if necessary.

# FORM C

## Arrangements for the Standards and Audit Committee hearing

Please tick the relevant boxes.

<p>1 The proposed date for the Standards Committee hearing is given in the accompanying letter. Are you planning to go to the hearing?</p> <p>If 'No', please explain why.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Reason:</p> <hr/> <hr/> <hr/> <hr/> <hr/>
<p>2 Are you going to present your own case?</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	
<p>3 If you are not presenting your own case, will a representative present it for you?</p> <p>If 'Yes', please state the name of your representative</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Name:</p> <hr/> <hr/> <hr/> <hr/> <hr/>
<p>4 Is your representative a practising solicitor or barrister?</p> <p>If 'Yes', please give his or her legal qualifications. Then go to question 6.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Qualifications:</p> <hr/> <hr/> <hr/> <hr/> <hr/>
<p>5 Does your representative have any connection with the case?</p> <p>If 'Yes', please give details.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Details:</p> <hr/> <hr/> <hr/> <hr/> <hr/>

<p>6 Are you going to call any witnesses? If 'Yes', please fill in Form E.</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	
<p>7 Do you, your representative or your witnesses have any access difficulties (for example, is wheelchair access needed)? If 'Yes', please give details.</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>Details: _____ _____ _____ _____</p>
<p>8 Do you, your representative or witnesses have any special needs (for example, is an interpreter needed)? If 'Yes', please give details</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>Details: _____ _____ _____ _____</p>
<p>9 Do you want any part of the hearing to be held in private? If 'Yes', please give reasons.</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>Reasons: _____ _____ _____ _____</p>
<p>10 Do you want any part of the relevant documents to be withheld from public inspection? If 'Yes', please give reasons.</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>Reasons: _____ _____ _____ _____</p>

Please attach separate sheets if necessary.



<b>WITNESS 2</b>		
<p>a Will the witness give evidence about the allegation?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Outline of evidence:</p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
<p>b Will the witness give evidence about what action the Standards Committee should take if it find that the Code of Conduct has not been followed?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Outline of evidence:</p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
<b>WITNESS 3</b>		
<p>a Will the witness give evidence about the allegation?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Outline of evidence:</p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
<p>b Will the witness give evidence about what action the Standards Committee should take if it find that the Code of Conduct has not been followed?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Outline of evidence:</p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>

Please attach separate sheets if necessary.

**GROUNDS FOR CONFIDENTIALITY**

The grounds for confidentiality are set out in the Access to Information Procedure Rules in Part 4 of the Council's Constitution.

## EXCLUSION OF PRESS AND PUBLIC

## ISSUES FOR CONSIDERATION

1. At the meeting, the Committee will consider as a preliminary point whether to exclude the press and public from the meeting, or any part of the meeting.
2. The Committee must act in accordance with Article 6 of the Human Rights Act 1998, which provides that in any determination of a person's civil rights and obligations he has a right to a fair and public hearing by an independent and impartial tribunal, lawfully constituted. Article 6 provides that judgment shall be pronounced publicly, but that the press and public may be excluded from all or part of the hearing in the interests of:
  - a. morals
  - b. public order
  - c. national security in a democratic society
  - d. where the interests of juveniles or the protection of the private life of the parties so require, or
  - e. in special circumstances where publicity would prejudice the interests of justice.

Accordingly, the presumption is in favour of a public hearing unless there are over-riding reasons within one of these five headings for the press and public to be excluded.

3. Article 8 of the Human Rights Act 1998 provides that everyone has the right to respect for their private and family life, home and correspondence. It provides that there shall be no interference by a public authority (such as the Council) with the exercise of this right except such as is:
  - a. in accordance with the law (such as the requirements for publication of the agenda, reports and background papers set out in Section 100A to 100K of the Local Government Act 1972), and
  - b. necessary in a democratic society in the interests of:
    - i. national security
    - ii. public safety
    - iii. the economic well-being of the country
    - iv. the prevention of crime or disorder
    - v. the protection of health and morals, or
    - vi. the protection of the rights and freedoms of others.

The presumption of a public hearing set out in Article 6 would apply unless the Committee is satisfied that the interest of protecting the privacy of the Member (or of another) under Article 8 should over-ride that principle, on lawful grounds.

4. Where the Committee concludes that the interest of protecting the privacy of the Member or another should over-ride the right to a public hearing, the Committee remains bound by the provisions of the Local Government Act 1972, so that it may only exclude press and public from all or part of the meeting if it is satisfied that admitting the press and public would be likely to lead to disclosure of exempt information.
5. Where the Committee does not resolve to exclude the press and public from the meeting, the Monitoring Officer will then be required to provide copies of the agenda and reports to the press and public and other members of the Council, and to permit inspection of the background papers.

**SANCTIONS AVAILABLE TO THE COMMITTEE OR SUB-COMMITTEE**

**A. In respect of a Member who has ceased to be a Member at the date of the meeting**

The Member must be censured

**B. In respect of a Member who remains a Member at the date of the meeting**

Any one, or a combination, of the following:

1. censure of that member;
2. restriction for a period not exceeding six months of that member's access to the premises of the authority or that member's use of the resources of the authority, provided that those restrictions—
  - are reasonable and proportionate to the nature of the breach; and
  - do not unduly restrict the person's ability to perform the functions of a member;
3. partial suspension of that member for a period not exceeding six months;
4. suspension of that member for a period not exceeding six months;
5. that the member submits a written apology in a form specified by the committee;
6. that the member undertakes such training as the committee specifies;
7. that the member participate in such conciliation as the committee specifies;
8. partial suspension of the member for a period not exceeding six months or until such time as the member submits a written apology in a form specified by the committee;
9. partial suspension of the member for a period not exceeding six months or until such time as the member has undertaken such training or has participated in such conciliation as the committee specifies;
10. suspension of the member for a period not exceeding six months or until such time as the member has submitted a written apology in a form specified by the committee;
11. suspension of the member for a period not exceeding six months or until such time as that member has undertaken such training or has participated in such conciliation as the committee specifies.

The sanction will commence immediately, unless the Committee direct that a sanction within paragraphs 2 to 11 above is to commence on another date within 6 months of the imposition of the sanction, or where the sanction is suspended following appeal, under Regulation 21.

(See section 83(7), (9) and (10) of the Act for the interpretation of partial suspension;  
See section 83 (9) and (10) of the Act for the interpretation of suspension)