



## **Havant Borough Council Code of Conduct for Councillors**

### **PREAMBLE TO THE CODE OF CONDUCT**

This preamble provides an explanatory introduction to the Councillors' Code of Conduct. It does not form part of the Code of Conduct, and in the event of any conflict between the Preamble and the Code, the Code shall take precedence. The Standards Committee is responsible for administering the Councillor's Code of Conduct.

#### **Introduction**

The Havant Borough Council has adopted the following code dealing with the conduct that is expected of Councillors and co-opted members of the Council when they are acting in that capacity, as required by section 27 of the Localism Act 2011 ("the Act").

The Council has a statutory duty under the Act to promote and maintain high standards of conduct by Councillors, and the Code sets out the standards that the Council expects Councillors to observe.

The Code is not intended to be an exhaustive list of all the obligations that are placed on Councillors. If in doubt, Councillors should seek advice from the Monitoring Officer or Deputy Monitoring Officer, but the final decision and responsibility on how to act rests with Councillors themselves.

Councillors should not do anything in their capacity as councillors, which they could not justify to the public or could not justify by law. Councillors' conduct and what the public believe about their conduct will affect the reputation and credibility of Councillors and the Council as a whole.

Failure to comply with the code may result in a sanction being applied by the Council.

Failure to take appropriate action in respect of a Disclosable Pecuniary Interest may result in a criminal conviction and an unlimited fine and/or disqualification from office for a period of up to 5 years.

#### **Expectations and Values**

It is the responsibility of individual Councillors to understand the provisions of the Code of Conduct and the Protocols contained in or linked to the Council's Constitution, as well as such other legal obligations as may apply to them from time to time.

Councillors have a responsibility to ensure that they comply with the Code of Conduct in all respects.

Councillors are community leaders who will hold their peers to account and challenge any conduct which is unbecoming to the role and position of Councillor.

Councillors will treat each other and officers civilly and with respect and will challenge any breach of this requirement.

Councillors will regularly review their personal circumstances and intended actions in the context of the Code.

It is not enough to avoid impropriety; perception is also important. Councillors should avoid any occasion for suspicion and any appearance of improper conduct.

## **SEVEN GENERAL PRINCIPLES OF PUBLIC LIFE**

The Code of Conduct includes and is intended to be consistent with the following seven principles, introduced by the Committee on Standards in Public Life, as required by the Localism Act 2011.

### **1. Selflessness**

Holders of public office should act solely in terms of the public interest.

### **2. Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

### **3. Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

### **4. Accountability**

Holders of public office are accountable to the public for their decisions and actions to the public and must submit themselves to the scrutiny necessary to ensure this.

### **5. Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

### **6. Honesty**

Holders of public office should be truthful.

### **7. Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## CODE OF CONDUCT

### Part A

#### **General Provisions**

##### Introduction and interpretation

1. — (1) This Code applies to members of the Council and any co-opted member.

(2) It is your responsibility to comply with the provisions of this Code.

(3) In this Code—

"meeting" means any meeting of—

(a) the Council;

(b) the Cabinet of the Council;

(c) any of the Council's or its Cabinet's Committees, Sub-Committees, Joint Committees, Joint Sub-Committees; and

(d) any informal meetings,

"member" includes a co-opted member and an appointed Councillor.

#### **Scope**

2. You must comply with this Code whenever you:

(a) conduct the business of your Council (which, in this Code, includes the business of the office to which you are elected or appointed); or

(b) act, claim to act or give the impression you are acting as a representative of your Council, and references to your official capacity are construed accordingly.

(c) you act or may be perceived as acting in your role in public life.

#### **General obligations**

3. (1) You must treat others civilly and with respect.

(2) You must not—

(a) do anything which may cause the Council to breach the Equality Act 2010 (or subsequent legislation)

(b) bully<sup>1</sup> any person;

(c) intimidate or attempt to intimidate any person, in particular:

(i) a complainant,

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<sup>1</sup> Bullying definition is the definition as adopted by ACAS and updated from time to time and includes any offensive, intimidating, malicious or insulting behaviour, abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.

(ii) a witness, or

(iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a Councillor has failed to comply

with the Council's code of conduct; or

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

(3) The Chief Executive and the Monitoring Officer should be advised about any close personal relationship with an Officer or a close family member of an Officer, that goes beyond that of a simple friendship which might be expected to exist between colleagues.

**4. You must not:**

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

(i) you have the consent of a person authorised to give it;

(ii) you are required by law to do so;

(iii) the disclosure is made to a third party for the purpose of obtaining professional advice (such as legal advice) provided that the third party agrees not to disclose the information to any other person; or

(iv) the disclosure is permitted by law; or

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

**5. You must not conduct yourself in a manner which a reasonable member of the public would regard as bringing the Council or the office of councillor into disrepute.**

**6. You must:**

(a) represent the needs of residents- the whole community and your constituents, including those who did not vote for you,

(b) deal with representations or inquiries from residents and visitors, fairly, appropriately and impartially

**7. You:**

(a) must not use or attempt to use your position as a Councillor improperly to confer on or secure for yourself or any other person, an advantage or disadvantage<sup>2</sup>; and

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

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

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<sup>2</sup> The advantage may be any benefit and need not be material or financial.

(ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

(c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

**8.** (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by:

(a) the Council's Chief Finance Officer; or

(b) the Council's Monitoring Officer, where that Officer is acting pursuant to his/her statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council.

### **Disclosable Pecuniary Interests**

This part explains the statutory requirements of the Localism Act 2011 (Sections 29-34) in relation to disclosable pecuniary interests. These are enforced by criminal sanction.

#### **1. Notification of disclosable pecuniary interests**

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

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

(a) Details of any employment, office, trade, profession or vocation carried on for profit or gain

(b) Details of any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. (This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

(c) Details of any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority under which goods or services are to be provided or works are to be executed; and which has not been fully discharged.

(d) Details of any beneficial interest in land which is within the area of the relevant authority.

(e) Details of any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.

(f) Details of any tenancy where (to your knowledge) the landlord is the relevant authority; and the tenant is a body in which the relevant person has a beneficial interest.

(g) Details of any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of the relevant authority; and either the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or if that share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For the purposes of the foregoing “relevant authority” means the Council; “relevant period” means the period of 12 months ending with the day on which you notify the Monitoring of your disclosable pecuniary interest, and “relevant person” means you or your spouse or partner as defined above.

## **2. Register of interests**

Any interests notified to the Monitoring Officer will be included in the register of interests.

A copy of the register will be available for public inspection and will be published on the Council’s website.

## **3. Sensitive interests**

Where you consider that disclosure of the details of a disclosable pecuniary interest could lead to you, or a person connected with you, being subject to violence, intimidation, threats, harassment or abusive behaviour and the Monitoring Officer agrees, if the interest or information is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest or information, but may state that you have a disclosable pecuniary interest, the details of which are withheld under Section 32(2) of the Localism Act 2011.

## **4. Non-participation in case of disclosable pecuniary interest**

a) If you are present at a meeting of the Council, Cabinet, or any Committee, Sub-Committee, Joint Committee or Joint Sub-Committee of the Council, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting:

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

In addition, the Council Procedure Rules require you to leave the room where the meeting is held while any discussion or voting takes place.

b) Where a Cabinet member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by them, the Cabinet member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

## **5. Dispensations**

The Monitoring Officer may authorise the granting of dispensations pursuant to section 33 of the Localism Act 2011.

## **6. Offences**

It is a criminal offence to:

(a) Fail to notify the Monitoring Officer within twenty-eight days of election of any disclosable pecuniary interest

(b) Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register.

(c) Fail to notify the Monitoring Officer within twenty-eight days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting

(d) Participate in any discussion, see paragraph 12 below, or vote on a matter in which you have a disclosable pecuniary interest

(e) As a Cabinet member discharging a function acting alone and having a disclosable pecuniary interest in such a matter, fail to notify the Monitoring Officer within 28 days of the interest.

(f) Knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting

## **7. Notification of changes**

You must notify the Monitoring Officer within 28 days of any new disclosable pecuniary interest, or any change to a disclosable pecuniary interest already notified/registered.

## **Other Interests**

### **8. Notification of Other Interests**

(1) You must, within 28 days of adopted of the Code; or your election or appointment to office notify the Monitoring Officer in writing of the details of your other interests within the following categories, for inclusion in the register of interests:

(a) Details of any body of which you are a member or in a position of general control or management;

(b) Details of any body exercising functions of a public nature, any body directed to charitable purposes or any body one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;

(c) Details of any gift or hospitality with an estimated value of at least £50 that you have received in connection with your role as a Councillor, and details of the donor, the reason for acceptance and disposal.

(2) You must, within 28 days of becoming aware of any new interest or change to any interest registered under this paragraph notify the Monitoring Officer of the details of that new interest or change.

## **9. Disclosure of Other Interests**

(1) Subject to sub-paragraphs (2) to (6), where you have an interest described in paragraph 8(1) above or in paragraph (2) below in any business of the Council, and where you are aware or ought reasonably to be aware of the existence of that interest, and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) You have an interest in any business of the Council where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a member of your family or any person with whom you have a close association, to a greater extent than the majority of other Council Tax payers.

(3) Where you have an interest in any business of the Council of the type mentioned in paragraph 8(1)(c), (gifts and hospitality) you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

(4) Where you have an interest by virtue of paragraph 8(1) but, by virtue of paragraph

11, sensitive information relating to it is not registered in the register of Councillors' interests, you must indicate to the meeting that you have an interest but need not disclose the sensitive information to the meeting.

(5) Where you have an interest in any business of the Council by virtue of paragraph 8(1) or 9(2), and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

## **10. Register of interests**

(1) Any interests notified to the Monitoring Officer under paragraph 8 above will be included in the register of interests.

(2) A copy of the register will be available for public inspection and will be published on the Council's website.

## **11. Sensitive interests**

Where you consider that disclosure of the details of another interest could lead to you, or a person connected with you, being subject to violence, intimidation, threats, harassment or abusive behaviour, and the Monitoring Officer's agrees, if the interest



is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.

## **12. Nonparticipation in case of certain other interests**

(1) Subject to paragraphs (2) and (3) below, where you have an interest in any business of the Council by virtue of paragraph 8(1) or 9(2) AND the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest you may not participate in any discussion of the matter at the meeting, and you may not participate in any vote taken on the matter at the meeting.

In addition, the Council Procedure Rules require you to leave the room where the meeting is held while any discussion or voting takes place.

(2) Where you have an interest in any business of the Council to which paragraph 12(1) applies, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise, and provided that you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

(3) Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have an interest under paragraph 12(1) that relates to the functions of the Council in respect of—

(i) housing, where you are a tenant of your Council provided that those functions do not relate particularly to your tenancy or lease;

(ii) an allowance, payment or indemnity given to Councillors;

(iii) any ceremonial honour given to Councillors; and

(iv) setting Council Tax or a precept under the Local Government Finance Act 1992.

(v) Where, as a Cabinet member, you may discharge a function alone, and you become aware of an interest under paragraph 12(1) in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

## **ARRANGEMENTS FOR DEALING WITH ALLEGATIONS THAT A MEMBER OF THE BOROUGH COUNCIL HAS FAILED TO COMPLY WITH THE RELEVANT CODE OF CONDUCT.**

### **LOCALISM ACT 2011 SECTION 28**

These arrangements are made under Sections 28(6) and (7) of the Localism Act 2011, and set out how Havant Borough Council will deal with allegations that a councillor has failed to comply with the relevant Code of Conduct. These arrangements provide for the Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation which it has decided should be investigated, and whose views can be sought by the Council at any other stage.

#### **1. Making an Allegation**

(1) An allegation that a councillor has failed to comply with the requirements of the relevant Code of Conduct must be made to:

(a) The Monitoring Officer,

(2) An allegation may be sent by email, or other any other media with any supporting information to the Monitoring Officer. A form for this purpose is available on the Council's website.

(3) The allegation must be that the Councillor(s) has, or may have, breached the relevant Code of Conduct.

(5) Anyone making an allegation should provide full details of the conduct complained of and how it is alleged to constitute a breach of the Code of Conduct. Details of the person making the allegation will generally be provided to the Councillor, unless the Monitoring Officer considers that there are special reasons for keeping this information confidential.

#### **2. Procedure once an allegation is received**

(1) Once an allegation is received or the Monitoring Officer has been made aware of circumstances meeting the criteria in Appendix 1, the Monitoring Officer will provide a copy of the allegation or a summary of the circumstances to the Councillor complained of, and advise that the Councillor may submit any comments to the Monitoring Officer if the Councillor wishes to do so.

(2) In appropriate cases, the Monitoring Officer may seek to resolve the matter informally. This may involve the Councillor accepting that his/her conduct was unacceptable and offering an apology.

(3) If informal resolution is not possible, the Monitoring Officer will, in consultation with the Independent Person, the Chair of the Governance, Audit & Finance Board and, if appropriate inform the Chief Executive, determine whether the complaint merits formal investigation, or whether no further action should be taken.

(4) The Monitoring Officer may refer a complaint to the Governance, Audit & Finance Board for a decision to investigate if the Monitoring Officer considers it would be inappropriate for them to take the decision.

(5) Whilst each allegation will be considered on its own facts, the assessment criteria are provided to assist.

(6) If an allegation is not referred for investigation, the complainant has no right of appeal.

The Monitoring Officer will report to each scheduled Governance, Audit & Finance Board meeting on the complaints received and decisions taken on them. The report will not be open to the press and public as it will contain information relating to named individuals.

### **3. Investigation**

(1) Where a complaint is referred for investigation, the Monitoring Officer will arrange for the investigation to be undertaken by an Officer of the Council, or by an external investigator.

(2) If the Investigating Officer finds no evidence of failure to comply with the Code, the Monitoring Officer may close the matter, in consultation with the Independent Person, Chair or Vice-Chair of the Governance, Audit & Finance Board and inform the Chief Executive. The Monitoring Officer may still refer the matter to the Governance, Audit & Finance Board if in their absolute discretion it appears appropriate. The Monitoring Officer will in any event provide a summary to the next meeting of the Governance, Audit & Finance Board

(3) Where a formal investigation finds evidence of failure to comply with the Code of Conduct, an opportunity for local resolution may be provided and the complainant may be satisfied by recognition of fault or an apology. The Monitoring Officer has authority to agree a local resolution, in consultation with the Independent Person, the Chairman or Vice-Chairman of the Committee subject to the complainant being satisfied with the outcome a summary report will be made to the Governance, Audit & Finance Board.

(4) In all other cases where the formal investigation finds evidence of a failure to comply with the Code of Conduct, the Governance, Audit & Finance Board will hold a hearing within two months of the investigation report at which the Councillor complained of may respond to the investigation report and the Committee will determine whether the Councillor did fail to comply with the Code of Conduct and what action, if any, is appropriate. The Committee's Pre-hearing and Hearing Procedures is set out in Part 4 – Section 3 (C) and (D).

The Hearing Committee will be advised by an Independent Person and by the Monitoring Officer.

(5) The sanctions open to the Governance, Audit & Finance Board are:

- i. to censure, to report the findings to Full Council,
- ii. to recommend the Councillor's Group Leader to remove the Councillor from any or all Committees,

iii. to withdraw Council facilities, such as a computer, or to exclude the Councillor from the Council's offices with the exception of meeting rooms as necessary for attending meetings of Council/Committee.

There is no right of appeal.

#### **4. Conflict of Interest**

(1) Where a complaint is made by a Councillor about another Councillor, and the membership of the Committee there could also be a perception of conflict of interest where the Chair is consulted and is of the same group as the complainant. The Monitoring Officer will discuss with both the Chair and the Vice-Chair the management of any possible perceived conflicts of interest.

### **ASSESSMENT CRITERIA**

1. The Monitoring Officer will reject a complaint if it fails to meet one or more of the following tests:

a. The complaint is against one or more named Councillors or co-opted members of Havant Borough Council.

b. There is sufficient evidence to suggest the Councillor was acting in a public or Council capacity.

c. The complaint, if proven, would be a breach of the Code of Conduct.

2. The Monitoring Officer, following consultation with the Independent Person, the Chair, or the Governance, Audit & Finance Board may decide to refer a complaint for investigation where the complaint discloses a potential breach of the Code of Conduct sufficiently serious, if proven, to warrant a sanction, and where it would be in the public interest to investigate.

3. Circumstances where the Monitoring Officer following consultation with the Independent Person, the Chair of the Governance, Audit & Finance Board and the Chief Executive, if appropriate or the Governance, Audit & Finance Board may decide that no action should be taken in respect of a complaint:

a. Where the complaint is about someone who is no longer a member of the Council,

b. Where a substantially similar allegation has previously been made by the complainant to the Governance, Audit & Finance Board or the complaint has been the subject of an investigation by another regulatory authority,

c. Where the Monitoring Officer has considered the complainant has unduly delayed without reasonable cause,

d. Any undue delay has resulted in the Councillor being so unfairly prejudiced that it would be wholly unreasonable to continue. In the event the delay was caused or contributed to by the actions of the subject councillor the delay the Monitoring Officer may continue with the investigation and any hearing.

4. Where the allegation is anonymous, and without capability of independent corroboration.

5. When the allegation discloses a potential breach of the Code of Conduct, but the complaint does not appear serious enough to warrant further action.
6. Where the complaint appears to be malicious, politically motivated or tit-for-tat, unless a serious matter is raised in the complaint

### **REFERRED FOR INVESTIGATION**

1. When an allegation is referred by the Monitoring Officer or the Governance, Audit & Finance Board for investigation, the Monitoring Officer will within ten working days or as soon as reasonably practicable, inform the Councillor who is the subject of the allegation of failure to comply with the Code of Conduct, (“the Subject Councillor”), the person who made the allegation (“the Complainant”), and the clerk to any parish council concerned that the matter has been referred for investigation.
2. The Monitoring Officer may appoint an Investigating Officer who may be an Officer of the Council, or an external investigating Officer. The Investigating Officer may appoint persons to assist him/her in the conduct of the investigation and may obtain such professional advice as may be necessary. The Monitoring Officer will advise the Subject Councillor and the Complainant of the appointment of the Investigating Officer.
3. The Investigating Officer may make such inquiries as they think necessary or expedient for the purposes of conducting the investigation, and may request any person to give such information or explanation as the Investigating Officer thinks necessary or expedient for the purpose of conducting the investigation. The Investigating Officer may require any of the relevant authorities concerned to provide such advice and assistance as may reasonably be needed to assist in the investigation, and to provide reasonable access to such documents in the possession of that authority as appear to the Investigating Officer to be necessary for the purpose of conducting the investigation.
4. Statements will be prepared and agreed with each person interviewed during an investigation, including the Subject Councillor. The Subject Councillor will be advised that they may be accompanied by a professional representative or advisor, a Group colleague or friend during the interview. Any other person interviewed may be accompanied by a friend or representative if they so wish. Any accompanying person must either be under a professional duty of confidentiality (a solicitor or legal representative) or have signed a confidentiality agreement in respect of any information disclosed during the interview or hearing that is not in the public domain.
5. The Investigating Officer will complete the investigation within a reasonable period of time according to the nature of the complaint and the extent of the investigation required.
6. The Investigating Officer, having concluded the investigation, will consider whether to produce a draft report before the final report. A draft report may be appropriate where the facts are complex or ambiguous, or where the facts are disputed. Any draft report will be issued to the Subject Councillor and the

Complainant for review and comment and will indicate that it does not necessarily represent the Investigating Officer's final conclusion.

7. If the Investigating Officer issues a draft report, the investigator will consider whether the responses reveal a need for further investigation or for changes to the report. In some complex cases, the Investigating Officer may wish to issue a second draft report before the final report.

8. The Investigating Officer's final report will include all relevant documents, and copies of all witness statements obtained during the investigation. The report will commence with a statement of the Investigating Officer's conclusion. The conclusion will indicate if the evidence supports a failure to comply with the Code of Conduct of the council or parish or town council

9. The Investigating Officer will submit the final report to the Monitoring Officer.

### **PRE-HEARING PROCEDURE**

1. Where an investigation report indicates that there has been a breach of the Code of Conduct and the matter cannot otherwise be resolved by local resolution, a hearing will be arranged within two months of receipt. The hearing will be a meeting of the Governance, Audit & Finance Board convened specifically for that purpose.

2. A copy of the investigation report will be sent to the Subject Councillor, the complainant and the Chair of the Governance, Audit & Finance Board.

3. The subject Councillor may provide written response within 15 working days, which response shall set out the Subject Councillor's reply to the Investigating Officer's report and shall state if they:

a. Disagree with any of the findings of fact in the report, giving the reasons for any disagreement

b. Wish to be accompanied at a hearing by any person

c. Wish to give evidence to the Board, either orally or in writing

d. Wish to ask any person to give evidence to the Board

e. Wish any part of the hearing to be held in private

f. Wish any part of the Investigating Officer's report or other relevant documents to be withheld from the public.

4. The Subject Councillor shall be informed that if, at the meeting of the Board, they seek to dispute any matter contained in the Investigating Officer's report without having previously notified the intention to do so, the Board may refuse to allow the disputed matters to be raised unless satisfied that there are good reasons why they have not been raised beforehand.

5. Upon receipt of the Subject Councillor's response, the Investigating Officer shall be invited to comment on it within ten working days. If the report is disputed the investigating officer must indicate if they are appointing another officer or person to be present the evidence upon which the report was based.

6. Upon receipt of the Investigating Officer's response, the Monitoring Officer will consider the responses of the Subject Councillor and the Investigating Officer and set a date for the hearing in consultation with the Chair of the Governance, Audit & Finance Board.

7. If the subject Councillor has indicated they wish a person to attend to give evidence the Governance, Audit & Finance Board may in its absolute discretion agree to hear from that person. A question may only be asked with the permission and absolute discretion of the Chair of the Governance, Audit & Finance Board.

8. Nothing in this procedure shall limit the Chair of the hearing from requesting the attendance of any additional witnesses whose evidence he/she considers would assist the Committee to reach its decision.

### **HEARING PROCEDURE**

1. The Hearing shall decide, on a balance of probabilities, on the evidence presented to it, whether the complaint is upheld.

2. All matters shall be decided by a simple majority of votes cast. If there are equal numbers, the Chair shall have a second and casting vote.

3. The Independent Person shall attend the hearing in an advisory, non-voting capacity.

4. The meeting will be open to the press and public unless confidential or exempt information is likely to be disclosed.

5. The procedure for the hearing shall be as set out below, but the Chair may agree to vary this procedure in any particular instance where they are of the opinion that such variation is necessary in the interests of fairness.

6. The Subject Councillor may be accompanied during the meeting by another person to support, advise or assist them.

7. The Board may take legal advice from its legal adviser at any time during the hearing or during its deliberations. The substance of any advice given to the Board will be shared with the Subject Councillor and the Presenting/Investigating Officer if they are present at the hearing.

8. At the start of the hearing, the Chair shall introduce each of the members of the Board, the Independent Person, the Subject Councillor (if present), the Investigating Officer (if present) and any other Officers present, and shall then explain the procedure which the Board will follow in the conduct of the hearing.

9. The Board shall then confirm that it is quorate, and deal with any disclosures of interests.

10. If the Subject Councillor is not present at the start of the hearing:

a. The Chair will ask the Monitoring Officer if the Subject Councillor has provided any explanation.

b. The Board shall then consider any reasons which the Subject Councillor has provided for not attending the hearing and shall decide if in exceptional circumstances an adjournment is justified.

c. If the Subject Councillor has not given any reasons for nonattendance, the Board shall consider the matter and make a determination in the absence of the Subject Councillor.

11. If there is disagreement, the Presenting/Investigating Officer will present the evidence which is relevant to the facts in dispute. With the permission of the Board, witnesses can be called to give relevant evidence. With the permission of the Chairman of the Board, the Subject Councillor, the Committee members and the Independent Person may ask questions of a witness.

13. The Subject Councillor will then present the evidence that is relevant to the facts in dispute. With the permission of the Board, witnesses can be asked to give relevant evidence. With the permission of the Chairman of the Board, the Subject Councillor, the Board members and the Independent Person may ask questions of a witness.

14. If the Subject Councillor disagrees with any relevant fact in the report without having given prior notice, they must provide reasons, the Board may continue with the hearing, relying on the information in the report, may allow the Subject Councillor to make representations about the issue and invite the Presenting/Investigating Officer to respond. The Board may in exceptional circumstance postpone the hearing.

15. The Board will consider in private, with the Independent Person, all the evidence which it has heard in order to establish its findings of fact, and to reach a conclusion as to whether there has been a failure to comply with the Code of Conduct.

16. At any stage in the consideration of the matter, the Board may return to ask further questions of the Investigating Officer or the Subject Councillor or seek further information. The other party will be given an opportunity to comment upon the questions asked or the responses made.