



Notice of Meeting of

STANDARDS COMMITTEE

Wednesday, 19 April 2023 at 10.00 am

Luttrell Room - County Hall

Members of the Committee: Councillor John Bailey (Chair), Councillor Hugh Davies, Councillor Martin Dimery, Councillor Frances Nicholson, Councillor Brian Smedley, Mr Alan Hemsley, Mr Robin Horton, Mr Paul Hooper, Mr David Stripp.

All Somerset Council Members are invited to attend.

For further information about the meeting, including how to join the meeting virtually, please contact Democratic Services, using telephone (01823) 357628 or email: democraticservicesteam@somerset.gov.uk

This meeting will be open to the public and press, subject to the passing of any resolution under the Local Government Act 1972, Schedule 12A: Access to Information.

The meeting will be webcast and an audio recording made.

Issued by Scott Wooldridge, Monitoring Officer on Tuesday, 11 April 2023

GUIDANCE FOR PRESS AND PUBLIC

Recording of Meetings

The Council in support of the principles of openness and transparency allows filming, recording and taking photographs at its meetings that are open to the public providing it is done in a non-disruptive manner. No filming or recording will take place when the press and public are excluded for that part of the meeting. As a matter of courtesy to the public, anyone wishing to film or record proceedings is asked to provide reasonable notice to the Democratic Services Team on 01823 357628 or democraticserviceteam@somerset.gov.uk so that the Chair of the meeting can inform those present.

The Council meeting will be webcast and an audio recording made.

QUESTIONS, STATEMENTS OR PETITIONS BY THE PUBLIC

All members of the public are welcome to attend our meetings and ask questions or may make a statement or present a petition **by giving advance notice** in writing or by e-mail to the Monitoring Officer at email: democraticserviceteam@somerset.gov.uk by **12noon on Friday, 14 April 2023**.

The maximum time for each speaker is 3 minutes with a maximum time of 20 minutes for all speakers in total. In exceptional circumstances the Chair has discretion at meetings to accept questions, statements or petitions without any prior notice.

Questions, statements or petitions must: -

- (a) relate to a matter for which the Council has a responsibility, or which affects the County,
- (b) not be defamatory, frivolous or offensive,
- (c) not be substantially the same as a question/statement/petition which has been put at a meeting of the Council in the past six months and
- (d) not require the disclosure of confidential or exempt information.

Your safety at public meetings is very important to us and space at this venue may be limited. We therefore encourage the public to join us virtually. Please contact Democratic Services democraticserviceteam@somerset.gov.uk for the on-line link to the meeting.

REPORTS

Agendas, reports and minutes can be accessed via the council's website:

www.somerset.gov.uk/agendasandpapers. If you need to access any of the papers in an alternative format (e.g. large print, audio tape, Braille etc) or in community languages please contact the report author giving as much notice as possible. It should be noted that re-formatting or translation of committee reports before the date of a particular meeting cannot be guaranteed.

AGENDA

Standards Committee - 10.00 am Wednesday, 19 April 2023

Public Guidance Notes contained in Agenda Annexe	7 - 8
Click here to join the online meeting	9 - 10

1 Apologies for Absence

To receive any apologies for absence.

2 Minutes from the last meeting - 2 February 2023 (To Follow)

To approve the minutes from the previous meeting.

3 Declarations of Interest (Pages 11 - 12)

To receive and note any declarations of disclosable pecuniary or prejudicial or personal interests in respect of any matters included on the agenda for consideration at this meeting.

(The personal interests of Councillors of Somerset Council, Town or Parish Councils and other Local Authorities will automatically be recorded in the minutes.)

4 **Public Question Time**

The Chair to advise the Committee of any items on which members of the public have requested to speak and advise those members of the public present of the details of the Council's public participation scheme.

For those members of the public who have submitted any questions or statements, please note, a three minute time limit applies to each speaker and you will be asked to speak before Councillors debate the issue.

We are now live webcasting most of our committee meetings and you are welcome to view and listen to the discussion remotely. The link to each webcast will be available on the meeting webpage, please see details under 'click here to join online meeting' on this agenda.

5 **Officer support for the Standards Committee**

To receive an update from the Monitoring Officer on support arrangements for the Committee.

6 **Update on the work of the Priority Groups** (Pages 13 - 86)

To receive an update on the work of the 3 Priority Groups:

P1 - Adoption of Complaints Process and Media Plan – **reports attached**

P2 - Discussion of the Code of Conduct

P3 - Discussion of the Officer Code of Conduct

7 **Annual review of the work of the Committee**

To review the work of the Standards Committee over the previous 12 months.

8 **Membership of the Committee**

To consider and confirm the process for the appointment of a Deputy Chair and adoption of an additional co-opted member for the Committee.

9 **Action Plan**

To review and confirm the agreed action points.

Guidance notes for the meeting

1. **Council Public Meetings**

The legislation that governs Council meetings requires that committee meetings are held face-to-face. The requirement is for members of the committee and key supporting officers (report authors and statutory officers) to attend in person, along with some provision for any public speakers. Provision will be made wherever possible for those who do not need to attend in person including the public and press who wish to view the meeting to be able to do so virtually.

2. **Inspection of Papers**

Any person wishing to inspect minutes, reports, or the background papers for any item on the agenda should contact Democratic Services at democraticserviceteam@somerset.gov.uk or telephone 01823 357628. They can also be accessed via the council's website on www.somerset.gov.uk/agendasandpapers.

3. **Members' Code of Conduct requirements**

When considering the declaration of interests and their actions as a councillor, Members are reminded of the requirements of the Members' Code of Conduct and the underpinning Principles of Public Life: Honesty; Integrity; Selflessness; Objectivity; Accountability; Openness; Leadership. The Code of Conduct can be viewed at: [Code of Conduct](#)

4. **Minutes of the Meeting**

Details of the issues discussed, and recommendations made at the meeting will be set out in the minutes, which the Committee will be asked to approve as a correct record at its next meeting.

5. **Public Question Time**

If you wish to speak or ask a question about any matter on the Committee's agenda please contact Democratic Services by 12noon providing 3 clear working days before the meeting. (for example, for a meeting being held on a Wednesday, the deadline will be 12noon on the Thursday prior to the meeting) Email democraticserviceteam@somerset.gov.uk or telephone 01823 357628.

Members of public wishing to speak or ask a question will need to attend in person or if unable can submit their question or statement in writing for an officer to read out, or alternatively can attend the meeting online.

A slot for Public Question Time is set aside near the beginning of the meeting, after the minutes of the previous meeting have been agreed. However, questions or statements about any matter on the agenda for this meeting may be taken at the time when each matter is considered. You may also present a petition on any matter within the Committee's remit.

You must direct your questions and comments through the Chair. You may not take a direct part in the debate. The Chair will decide when public participation is to finish.

If an item on the agenda is contentious, with many people wishing to attend the meeting, a representative should be nominated to present the views of a group.

6. Meeting Etiquette for participants

- Only speak when invited to do so by the Chair.
- Mute your microphone when you are not talking.
- Switch off video if you are not speaking.
- Speak clearly (if you are not using video then please state your name)
- If you're referring to a specific page, mention the page number.
- There is a facility in Microsoft Teams under the ellipsis button called turn on live captions which provides subtitles on the screen.

7. Exclusion of Press & Public

If when considering an item on the agenda, the Committee may consider it appropriate to pass a resolution under Section 100A (4) Schedule 12A of the Local Government Act 1972 that the press and public be excluded from the meeting on the basis that if they were present during the business to be transacted there would be a likelihood of disclosure of exempt information, as defined under the terms of the Act.

If there are members of the public and press listening to the open part of the meeting, then the Democratic Services Officer will, at the appropriate time, ask participants to leave the meeting when any exempt or confidential information is about to be discussed.

8. Recording of meetings

The Council supports the principles of openness and transparency. It allows filming, recording, and taking photographs at its meetings that are open to the public - providing this is done in a non-disruptive manner. Members of the public may use Facebook and Twitter or other forms of social media to report on proceedings. No filming or recording may take place when the press and public are excluded for that part of the meeting.

Join on your computer, mobile app or room device

[Click here to join the meeting](#)

Meeting ID: 336 325 352 047

Passcode: Gmwa4Y

[Download Teams](#) | [Join on the web](#)

Or call in (audio only)

[+44 1823 772277,,927832909#](#) United Kingdom, Taunton

Phone Conference ID: 927 832 909#

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SOMERSET COUNCIL

UNITARY COUNCILLORS WHO ARE ALSO TOWN AND/OR PARISH COUNCILLORS

Somerset
Council

UNITARY COUNCILLOR	TOWN AND/OR PARISH COUNCIL
Steve Ashton	Crewkerne Town Council / Hinton St George Parish Council
Suria Aujla	Bridgwater Town Council
Jason Baker	Chard Town Council
Lee Baker	Cheddon Fitzpaine Parish Council / Taunton Shadow Town Council
Marcus Barr	Wellington Town Council
Mike Best	Crewkerne Town Council
Alan Bradford	North Petherton Town Council
Theo Butt Philip	Wells City Council
Simon Carswell	Street Parish Council
Norman Cavill	West Monkton Parish Council / Taunton Shadow Town Council
Peter Clayton	Burnham Highbridge Town Council
Simon Coles	Taunton Shadow Town Council
Nick Cottle	Glastonbury Town Council / St Edmunds Parish Council
Adam Dance	South Petherton Parish Council
Dixie Darch	Taunton Shadow Town Council
Tom Deakin	Taunton Shadow Town Council
Caroline Ellis	Taunton Shadow Town Council
Habib Farbahi	Taunton Shadow Town Council
Ben Ferguson	Axbridge Town Council
Bob Filmer	Brent Knoll Parish Council
David Fothergill	Taunton Shadow Town Council
Andrew Govier	Wellington Town Council
Pauline Ham	Axbridge Town Council
Philip Ham	Coleford Parish Council
Ross Henley	Wellington Town Council
Edric Hobbs	Shepton Mallet Town Council
John Hunt	Bishop's Hull Parish Council / Taunton Shadow Town Council
Dawn Johnson	Taunton Shadow Town Council
Val Keitch	Ilminster Town Council
Andy Kendall	Yeovil Town Council
Jenny Kenton	Chard Town Council
Tim Kerley	Somerton Town Council
Marcus Kravis	Minehead Town Council

Tony Lock	Yeovil Town Council
Martin Lovell	Shepton Mallet Town Council
Mike Murphy	Burnham Highbridge Town Council
Graham Oakes	Yeovil Town Council / Yeovil Without Parish Council
Sue Osborne	Ilminster Town Council
Kathy Pearce	Bridgwater Town Council
Emily Pearlstone	Ilchester Parish Council
Derek Perry	Taunton Shadow Town Council
Evie Potts-Jones	Yeovil Town Council
Hazel Prior-Sankey	Taunton Shadow Town Council
Wes Read	Yeovil Town Council
Leigh Redman	Bridgwater Town Council
Mike Rigby	Bishop's Lydeard and Cothelstone Parish Council
Tony Robbins	Wells City Council
Dean Ruddle	Somerton Town Council
Peter Seib	Brympton Parish Council / Chilthorne Domer Parish Council
Heather Shearer	Street Parish Council
Gill Slocombe	Bridgwater Town Council
Brian Smedley	Bridgwater Town Council
Fran Smith	Taunton Shadow Town Council
Federica Smith-Roberts	Taunton Shadow Town Council
Jeny Snell	Yeovil Town Council / Brympton Parish Council
Andy Soughton	Yeovil Town Council
Richard Wilkins	Curry Rivel Parish Council
Dave Woan	Yeovil Town Council
Ros Wyke	Westbury-sub-Mendip Parish Council

Their memberships of Parish or Town Councils will be taken as being declared by these Councillors to be Personal Interests in the business of the Somerset Council meeting and need not be declared verbally.

Any Unitary Councillor who has a Prejudicial Interest by virtue of their Membership of a Parish or Town Council, or who has a special involvement by virtue of being a Parish or Town Councillor, in a matter to be discussed by the Somerset Council will be expected to declare that prejudicial interest personally or bring to the attention of the Somerset Council meeting their special involvement.

H CLARKE, Unitary Solicitor, April 2023

DRAFT Somerset Council

Code of Conduct Investigation and Hearing Procedures

Background

This guide sets out the procedure that will be followed where the Monitoring Officer or Standards Committee decides that a complaint, that a Member of Somerset Council or a Town/Parish in Somerset has breached their Code of conduct, merits investigation. This guide sets out how the investigation will be conducted and what will happen once the officer responsible for the investigation has reached their conclusions.

It also explains the process for holding a “Hearing” where the investigation concludes that there has been a breach of the relevant authority’s Code of Conduct.

Investigations

Where a matter is referred for investigation, the following parties will be informed:-

- The Subject Member
- The Complainant
- The Clerk of the relevant town or parish council where the Subject Member is a town or parish councillor

The Investigating Officer

The Monitoring Officer will appoint an external Investigator to conduct the investigation and reach a conclusion as to whether there has been a breach of the relevant Code of Conduct.

The Monitoring Officer will advise the Subject Member and the Complainant of the appointment of the Investigating Officer. The appointment will set out the responsibilities delegated by the Monitoring Officer to the Investigating Officer. The Monitoring Officer will maintain the function of overseeing the investigation.

When conducting an investigation the Investigating Officer will have the power to make enquiries of any person they think necessary. However, there is no obligation on any individual to respond. Although it should be noted that Members who are subject to the LGA Model Code of Conduct have committed in the Code to co-operating with any Code of Conduct investigation and/or determination. Interviews

will be conducted either in person or by telephone. Where the Subject Member requests an interview in person, this will be accommodated wherever possible.

Statements will be prepared and agreed with each person interviewed during an investigation, including the Subject Member. The Subject Member will be advised that he/she 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.

Referring cases back to the Monitoring Officer

During the investigation the Investigating Officer may uncover evidence of conduct by the Subject Member that breaches the relevant Code of Conduct, but extends beyond the scope of the investigation referred to them. In these circumstances, the Investigating Officer may refer the matter back to the Monitoring Officer/Standards Committee so that they can decide, in consultation with the Independent Person, whether this new evidence should also be investigated and combined into the Investigation.

The Investigating Officer may also refer the matter back to the Monitoring Officer if at any time during the Investigation circumstances arise that they consider may make it appropriate not to continue with the investigation. These circumstances may include the following situations, although this list is not exhaustive and there may be other reasons why it is not appropriate to continue with the investigation:-

- Evidence is uncovered suggesting a case is more or less serious than seemed apparent originally
- The subject member has died, is seriously ill or has resigned from the authority

In those circumstances the Monitoring Officer or Standards Committee, in consultation with the Independent Person, will decide whether it is appropriate to continue with the investigation and that decision shall be final.

Deferring an investigation

An investigation should be deferred when any of the following conditions are met:-

- There are on-going criminal proceedings or a police investigation into the member's conduct.

- The investigation may prejudice another investigation or court proceeding.
- Because of the serious illness of a key party
- Due to the genuine unavailability of a key party.

Any deferral must be with the agreement of the Monitoring Officer or the Standards Committee

Confidentiality

The Investigating Officer must treat the information they gather during the investigation as confidential. The Investigating Officer will also ask the people they interview to maintain confidentiality.

Any draft report that is issued will be marked as confidential. This is to preserve the integrity of any further investigation that the Investigating Officer needs to undertake.

Timescales for an Investigation

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. There are many factors that can affect the time it takes to complete an investigation. However, most investigations should be carried out and a report on the investigation completed, within 4 months of the Monitoring Officers/Standards Committee's decision to investigate.

The Investigation Report

When the Investigating Officer has concluded their investigation, they will prepare a draft report to the Subject Member and the Complainant for review and comment. The report should cover the issues set out in the report template at Appendix A. Any draft report will indicate that it does not necessarily represent the Investigating Officer's final finding.

The draft report will be issued to the Subject Member and Complainant for review and comment. The draft will not be sent to other witnesses or parties involved but the Investigating Officer will seek confirmation of their evidence from them before issuing the report.

At this stage the Subject Member or Complainant may comment on the draft report. The Investigating Officer may then decide to redraft the report based on the comments received. Once the Investigating Officer has considered whether the responses add anything of substance to the investigation, they will make their final conclusions and recommendations and issue a Final Report.

This report must be sent to:-

- The Subject Member
- The Complainant
- The Independent Person

The report must make one of the following findings:-

- That there has been a failure to comply with the relevant Code of Conduct
- That there has not been a failure to comply with the relevant Code of Conduct

If the Investigating Officer concludes that there has been no breach of the Code, the Monitoring Officer will write to the Subject Member and Complainant and advise that that is the conclusion and that that is the end of the matter.

If the Investigating Officer concludes that there has been a breach of the Code, the Monitoring Officer will, in consultation with the Independent Person decide whether no further action is needed, the matter should be resolved in a way other than by a hearing or that the matter should be referred to a hearing.

If the Subject Member is also a town/parish councillor, the Clerk to the Town/Parish Council will also be notified of the outcome of the investigation.

Consideration of the Final Report where it concludes there has been a breach of the Code of Conduct and the Monitoring Officer decides that it should proceed to a hearing

Where the Report concludes that there has been a breach of the Code of Conduct, and the Monitoring Officer decides that the matter should proceed to a hearing, it will be to the Hearing Committee (a Sub-Committee of the Standards Committee) that the complaint will be referred to for determination.

The role of the Committee is to decide, based on the facts in the report, whether it agrees that the Code of Conduct has been breached and if so, whether a sanction should be imposed.

Timing of the hearing

The Committee will usually hear a complaint within three months of the date on which the Investigating Officer's report was completed. However there may be some occasions where due to the particular circumstances, it may not be possible to hear the complaint within this timescale.

The hearing will take place at least 14 days after the Subject Member receives a copy of the report from the Monitoring Officer.

The Committee may consider the report in the Subject Member's absence if the Subject Member does not go to the hearing. If the Committee is satisfied with the Subject Member's reasons for not being able to come to the hearing, it should arrange for the hearing to be held on another date.

Scheduling a hearing

Except in the most complicated cases, the Committee should aim to complete a hearing in one sitting or in consecutive sittings of no more than one working day in total. Late night and very lengthy hearings are not ideal for effective decision-making. Equally, having long gaps between sittings can lead to important matters being forgotten.

The pre-hearing process

The purpose of the pre-hearing process is to allow matters at the hearing to be dealt with more fairly and economically. This is because it quickly alerts parties to possible areas of difficulty and, if possible, allows them to be resolved before the hearing itself. Other than in very straightforward cases, the council will use a pre-hearing process to:

- identify whether the Subject Member disagrees with any of the findings of fact in the investigation report
- identify whether those disagreements are likely to be relevant to any matter the hearing needs to decide
- identify whether evidence about those disagreements will need to be heard during the hearing

- decide whether there are any parts of the hearing that are likely to be held in private
- decide whether any parts of the investigation report or other documents should be withheld from the public prior to the hearing, on the grounds that they contain 'exempt' material

The pre-hearing process should usually be carried out in writing. However, occasionally a meeting between the Chairman of the Committee, the relevant parties and their representatives may be necessary or just between the Monitoring Officer and the Committee Chair for expediency.

Some matters in the pre-hearing process may be decided only by the Committee. Therefore, if it is necessary for the Committee to meet, they will have to do so formally as with any other council committee meeting. However, it is usually more appropriate for the majority of the pre-hearing process to be dealt with by the Monitoring Officer or other suitable officer.

Key points for the pre-hearing process

The officer providing administrative support to the Committee should write to the Subject Member proposing a date for the hearing, and they should do this in consultation with the Chairman of the Committee. They should also outline the hearing procedure, the member's rights and they should additionally ask for a written response from the Subject Member within a set time. This is to find out whether the Subject Member:

- wants to be represented at the hearing by a solicitor, barrister or any other person
- disagrees with any of the findings of fact in the investigation report, including reasons for any of these disagreements
- wants to give evidence to the Committee, either verbally or in writing
- wants to call relevant witnesses to give evidence to the Committee
- wants any part of the hearing to be held in private
- wants any part of the investigation report or other relevant documents to be withheld from the public
- can attend the hearing

A critical part of the pre-hearing process is to attempt to focus the relevant parties' attention on isolating all relevant disputes of facts between them. This is because attention to the factual issues will save valuable time later on at the hearing.

The Standards Committee has approved Pre-hearing process forms that will be used to try and narrow the issues. These forms help the Subject Member respond to the Committee.

Form A helps the Subject Member identify any disagreements about the findings of fact in the investigation report.

Form B helps the Subject Member set out any other evidence that is relevant to the complaint made about them.

Form C helps the Subject Member set out any representations the committee should take account of if the Subject Member is found to have broken the Code of Conduct.

Forms D and E cover details of the hearing and the witnesses who will give evidence.

Form F is a checklist of details for the pre-hearing process summary which is outlined below.

Copies of these Forms are attached at Appendix B.

Pre-hearing process summary

The Committee's clerk should consult with the Committee's legal adviser and send a pre-hearing process summary to everyone involved in the complaint at least two weeks before the hearing or as soon as the Committee has received responses from the Subject Member and from the Investigating Officer. The pre-hearing process summary should:

- set the date, time and place for the hearing
- summarise the allegation
- outline the main facts of the case that are agreed
- outline the main facts which are not agreed
- note whether the Subject Member or investigating officer will go to the hearing or be represented at the hearing
- list those witnesses, if any, who will be asked to give evidence, subject to the power of the Committee to make a ruling on this at the hearing
- outline the proposed procedure for the hearing

The Hearing

A hearing is a formal meeting of the authority and is not a court of law. It does not hear evidence under oath, but it does decide factual evidence on the balance of probabilities. The Committee should work at all times in a demonstrably fair, independent and politically impartial way. This helps to ensure that members of the public, and members of the authority, have confidence in its procedures and findings.

The Committee should bear in mind the need to maintain public confidence in the Council's ethical standards. This requires that the Committee's decisions should be seen as open, unprejudiced and unbiased. All concerned should treat the hearing process with respect and with regard to the potential seriousness of the outcome, for the Subject Member, the council and the public.

Representatives

The Subject Member may choose to be represented by counsel, a solicitor, or by any other person they wish. Even if represented, the Member must still personally answer any questions posed through the Chairman. If the Subject Member concerned wants to have a non-legal representative, the Subject Member must obtain the consent of the Committee. The Committee may choose to withdraw its permission to allow a representative if that representative disrupts the hearing. However, an appropriate warning will usually be enough to prevent more disruptions and should normally be given before permission is withdrawn.

Evidence

The Committee controls the procedure and evidence presented at a hearing, including the number of witnesses and the way witnesses are questioned. In many cases, The Committee may not need to consider any evidence other than the investigation report and any other supporting documents. However, the Committee may need to hear from witnesses if more evidence is needed, or if people do not agree with certain findings of fact in the report. The Committee can allow questions from the Subject Member, the Investigating Officer, the Monitoring Officer or any representative. However, the Committee will ask that these questions be directed through the Chairman. The Committee can also question witnesses directly.

Witnesses

Generally, the Subject Member is entitled to present their case as they see fit, which includes calling the witnesses they may want and which are relevant to the matters to be heard. The Subject Member must make their own arrangements to ensure that their witnesses (and witnesses they would like to question) will attend the hearing.

The Committee has the right to govern its own procedures as long as it acts fairly. For this reason, the Committee may limit the number of witnesses if the number is unreasonable. The Committee will normally take a decision on whether to hear any particular evidence or witness only after having heard submissions from both parties on the issue.

Witnesses of facts that are disputed would normally attend the hearing and should be prepared to be asked questions. Witnesses as to the character of the Subject Member, if required, regularly present their evidence in writing and may or may not actually attend the hearing. Witnesses, especially members of the public, often play an important part in the process and should be treated with courtesy and respect. Witnesses should be kept promptly informed of the relevant dates, times and location of the hearing.

The Independent Person

It is not a legal requirement that the Independent Person attend the hearing, but it is best practice and the Committee must have regard to their views when reaching a decision. If the Independent Person does not attend, a mechanism will be agreed for receiving their views.

Sanctions

If the committee finds that a Subject Member has failed to follow the Code of Conduct and that they should be sanctioned, it may impose any one or a combination of the following:

- Report its findings to Council or Town/Parish Council for information;
- Issue (or recommend to the parish council) a formal censure;
- Recommend to the Subject Member's Group Leader (or in the case of ungrouped councillors, recommend to Council) that he/she be removed from any or all Committees or Sub-Committees of the Council (or recommend such action to the parish council);
- Recommending to the Leader of the Council that the member be removed from the Executive, or removed from particular Portfolio responsibilities;
- Instructing (or recommending to the Parish Council) that the Monitoring Officer arrange training for the member;

- Removing (or recommending removal to the Town/Parish Council) from all outside appointments to which he/she has been appointed or nominated by the authority;
- Withdrawing facilities (or recommending withdrawal to a Town/Parish Council) provided to the member by the Council, such as a computer, website and/or email and Internet access;
- Restricting contact (or recommending to the Town/Parish Council restriction on contact) to named officers or requiring contact be through named officers; or
- Excluding (or recommending exclusion to Town/Parish Council's) the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- if relevant recommend to Council that the Subject Member be removed from their role as leader of the authority
- if relevant recommend to the secretary or appropriate official of a political group that the Subject Member be removed as group leader or other position of responsibility.

Considering the sanction

When deciding on a sanction, the Committee should ensure that it is reasonable and proportionate to the Subject Member's behaviour. Before deciding what sanction to issue, the Committee should consider the following questions, along with any other relevant circumstances:

- What was the Subject Member's intention?
- Did the Subject Member know that they were failing to follow the Code of Conduct?
- Did the Subject Member get advice from officers before the incident?

- Was that advice acted on or ignored in good faith?
- Has there been a breach of trust?
- Has there been financial impropriety, for example improper expense claims or procedural irregularities?
- What was the result of failing to follow the Code of Conduct?
- What were the potential results of the failure to follow the Code of Conduct?
- How serious was the incident?
- Does the Subject Member accept they were at fault?
- Did the Subject Member apologise to the relevant people?
- Has the Subject Member previously been warned or reprimanded for similar misconduct?
- Has the Subject Member failed to follow the Code of Conduct before?
- Is the Subject Member likely to do the same thing again?
- How will the sanction be carried out? For example, who will provide the training or mediation?
- Are there any resource or funding implications? For example, if a Subject Member has repeatedly or blatantly misused the authority's information technology resources, the Committee may consider withdrawing those resources from the Subject Member.

Sanctions involving restricting access to an authority's premises or equipment should not unnecessarily restrict the Subject Member's ability to carry out their responsibilities as an elected representative or co-opted member.

The following are examples of aggravating and mitigating factors that Members may take into account when assessing an appropriate sanction:

Examples, but not an exhaustive list, of mitigating factors are:

- An honestly held, although mistaken, view that the action concerned did not constitute a failure to follow the provisions of the Code of Conduct, particularly where such a view has been formed after taking appropriate advice.
- A member's previous record of good service.
- Substantiated evidence that the member's actions have been affected by ill-health.
- Recognition that there has been a failure to follow the Code; co-operation in rectifying the effects of that failure; an apology to affected persons where that is appropriate, self-reporting of the breach by the member.
- Compliance with the Code since the events giving rise to the determination.
- Some actions, which may have involved a breach of the Code, may nevertheless have had some beneficial effect for the public.

Examples, but again not an exhaustive list, of aggravating factors are:

- Dishonesty or breaches of trust.
- Trying to gain an advantage or disadvantage for themselves or others;
- Bullying;
- Continuing to deny the facts despite clear contrary evidence.
- Seeking unfairly to blame other people
- Failing to heed appropriate advice or warnings or previous findings of a failure to follow the provisions of the Code
- Persisting with a pattern of behaviour which involves repeatedly failing to abide by the provisions of the Code.

In deciding what action to take, the Committee should bear in mind an aim of upholding and improving the standard of conduct expected of members of the

various bodies to which the Codes of Conduct apply, as part of the process of fostering public confidence in local democracy. Thus, the action taken by the Committee should be designed both to discourage or prevent the Subject Member from any future non-compliance and also to discourage similar action by others.

The Committee should take account of the actual consequences which have followed as a result of the member's actions while at the same time bearing in mind what the possible consequences may have been even if they did not come about.

Notice of the Committee's findings

The Committee will announce its decision at the end of the hearing. A short written decision will be made available on the day of the hearing and a full written decision will be prepared before people's memories fade. The officer providing administrative support to the Committee will also draft minutes of the meeting. The Committee must give its full written decision to the relevant parties as soon as possible after the hearing. Wherever possible this will be within two weeks of the hearing.

The relevant parties are:

- the Subject Member
- the Complainant
- the standards committees of any other authorities concerned
- any parish or town councils concerned
- the Investigating Officer
- the Independent Person

Making the findings public

The Committee will arrange for a summary of the decision and reasons for it to be published on the Council's website and a press release issued. A summary of the decision may also be published in any other publication if the Committee considers it appropriate.

If the Committee finds that the Subject Member did not fail to follow the authority's Code of Conduct, the public summary must say this and give reasons for this finding. In such cases, the Subject Member is also entitled to decide that no summary of the decision should be published.

If the Committee finds that the Subject Member failed to follow the Code but no action needs to be taken the summary must:

- say that the member failed to follow the Code, but that no action needs to be taken
- outline what happened
- give reasons for the Committee's decision not to take any action

If the Committee finds that the member failed to follow the Code and it imposes a sanction, the public summary must:

- say that the member failed to follow the Code
- outline what happened
- explain what sanction has been imposed
- give reasons for the decision made by Committee

The committee's reports and minutes should be available for public inspection for six years after the hearing. However, sections of documents relating to parts of the hearing that were held in private will not have to be made available for public inspection.

Written decision format

For consistency and thoroughness, the Committee will use the following format for their full written decisions. The front cover of the Committee's full written decision should include the name of the:

- The Authority
- Subject Member
- Complainant
- Committee member who chaired the hearing
- Committee members who took part in the hearing
- Monitoring Officer
- Investigating Officer who investigated the matter (if applicable)
- Clerk of the hearing or other administrative officer
- Case reference number
- Date of the hearing
- Date of the report

The Committee's full written decision will include:

- A summary of the complaint
- The relevant section or sections of the Code of Conduct

- A summary of the evidence considered and representations made
- The findings of fact, including the reasons for them
- The finding as to whether the member failed to follow the Code, including the reasons for that finding
- the sanctions imposed, if any, including the reasons for any sanctions

Subject Members are responsible for meeting the cost of any representation at a Committee hearing.

The Role of the Monitoring Officer

It is important that the Committee receives high quality, independent advice. For this reason the Monitoring Officer will be the main adviser to the Committee, unless he/she has an interest in the matter that would prevent them from performing this role independently. If this situation arises, the Monitoring Officer should arrange for another appropriately qualified officer to advise the Committee.

The Monitoring Officer or other legal adviser's role in advising the standards committee is to:

- make sure that members of the Committee understand their powers and procedures
- make sure that the determination procedure is fair and will allow the complaint to be dealt with as efficiently and effectively as possible
- make sure that the Subject Member understands the procedures the Committee will follow
- provide advice to the Committee during the hearing and their deliberations
- help the Committee produce a written decision and a summary of that decision

Model hearing procedures for the Committee

The Committee has adopted Model procedures for the conduct of the hearing. These are attached at Appendix C. These may be varied at the discretion of the Committee.

Public or Private Hearings

In most cases hearings should take place in public. The views of the subject Member and the Investigating Officer will be sought as early as possible to allow for legal advice to be obtained if required. In most cases, the public interest in transparent

decision-making by the Committee will outweigh the Subject Member's interest in limiting publication of an unproved allegation that has not yet been determined.

Right of Appeal

There is no right of appeal against the decision of the Committee. However, if the Subject Member or the Complainant is unhappy with the outcome, they are still entitled to complain to the Local Government Ombudsman or challenge a decision through the Courts by way of Judicial Review.

Appendix A Investigation Report Template

Appendix B Forms A to F

Appendix C Hearing Procedures

TEMPLATE INVESTIGATION REPORT

Case Reference:

Report of an investigation by [insert Investigating Officer name] appointed by the Monitoring Officer for [insert authority name] into an allegation concerning [insert subject member name].

DATE: [insert date]

Contents

- 1 Executive summary**
- 2 [Insert member's name]'s official details**
- 3 The relevant legislation and protocols**
- 4 The evidence gathered**
- 5 Summary of the material facts**
- 6 [Insert member's name]'s additional submissions**
- 7 Reasoning as to whether there have been failures to comply with the Code of Conduct**
- 8 Finding**

Appendix A Schedule of evidence taken into account and list of unused material

Appendix B Chronology of events

1 Executive summary

1.1 [Insert summary of allegation]

1.2 [Insert summary of Investigation outcome]

2 [Insert member's name]'s official details

2.1 [Insert member's name] was elected to office on [insert date] for a term of [insert number] years. [insert member's name] is also a member of the following other relevant authorities: insert authority names].

2.2 [Insert member's name] currently serves on the following committees: [insert committee names] and has also served on [insert committee names] committees in recent years.

2.3 [If no longer a member, state how the period of office ceased]

2.4 [Insert member's name] gave a written undertaking to observe the Code of Conduct on [insert date].

2.5 [Insert member's name] has received the following training on the Code of Conduct [insert training details].

3 The relevant legislation and protocols

3.1 The council has adopted a Code of Conduct in which the following paragraph[s] is/are included:

- [insert included paragraph]
- [insert included paragraph]
- [insert included paragraph]
- [insert included paragraph]

4 The evidence gathered

4.1 I have taken account of oral evidence from [insert evidence details]

4.2 I have also taken account of documentary evidence obtained from [insert evidence details]

5 Summary of the material facts

5.1 [Insert summary]

6 [Insert member's name]'s additional submissions

6.1 [Insert submissions]

7 Reasoning as to whether there have been failures to comply with the Code of Conduct

7.1 [Insert reasoning]

8 Finding

8.1 [Insert finding]

Appendix A

Schedule of evidence taken into account

Core documents

Doc No	Description	Pages
XX123	Complaint	1-

Notes of telephone conversations, letters, and interviews with witnesses

Doc No	Description	Pages

Minutes of meetings and other documentary evidence

Doc No	Description	Pages

Comments on draft report

Doc No	Description	Pages

List of unused materials

Appendix B

Chronology of events

- [insert event]
- [insert event]
- [insert event]
- [insert event]
- [insert event]

FORM A

Subject Member's response to the evidence set out in the investigation report

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

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

FORM B

Other evidence relevant to the complaint

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

Paragraph number	Details of the evidence
1	
2	
3	

FORM C

Representations to be taken into account if a Subject Member is found to have failed to follow the Code of Conduct and referred for hearing by the Monitoring Officer

Please set out below, using the numbered paragraphs, any factors that the Committee should take into account if it finds that you have failed to follow the Code of Conduct. Please note that no such finding has yet been made.

Paragraph number	Factors for the Committee to take into account when deciding whether to impose a sanction
1	
2	
3	

FORM D

Arrangements for the Committee hearing

Please tick the relevant boxes.

1	Are you planning to attend the Committee hearing on the proposed date in the accompanying letter? If 'No', please explain why.	Yes <input type="checkbox"/> No <input type="checkbox"/>	Reason:
2	Are you going to present your own case?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
3	If you are not presenting your own case, will a representative present it for you? If 'Yes', please state the name of your representative.	Yes <input type="checkbox"/> No <input type="checkbox"/>	Name:

<p>4</p>	<p>Is your representative a practising solicitor or barrister?</p> <p>If 'Yes', please give their legal qualifications. Then go to Question 6.</p> <p>If 'No' please go to Question 5.</p>	<p>Yes</p> <input type="checkbox"/> <p>No</p> <input type="checkbox"/>	<p>Qualifications:</p>
<p>5</p>	<p>Does your representative have any connection with your case?</p> <p>If 'Yes', please give details.</p>	<p>Yes</p> <input type="checkbox"/> <p>No</p> <input type="checkbox"/>	<p>Details:</p>
<p>6</p>	<p>Are you going to call any witnesses?</p> <p>If 'Yes', please fill in Form E.</p>	<p>Yes</p> <input type="checkbox"/> <p>No</p> <input type="checkbox"/>	

<p>7</p>	<p>Do you, your representative or your witnesses have any access difficulties? For example, is wheelchair access needed?</p> <p>If 'Yes', please give details.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Details:</p>
<p>8</p>	<p>Do you, your representative or witnesses have any special needs?</p> <p>For example, is an interpreter needed?</p> <p>If 'Yes' please give details</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Details:</p>
<p>9</p>	<p>Do you want any part of the hearing to be held in private?</p> <p>If 'Yes', please give reasons.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Reasons:</p>

10	Do you want any part of the relevant documents to be withheld from public inspection?	Yes	Reasons:
	If so, please explain which documents/parts of documents and give reasons for withholding from public inspection.	<input type="checkbox"/>	
		No	
		<input type="checkbox"/>	
	If 'Yes', please give reasons.		

FORM E

Details of proposed witnesses to be called

Name of witness or witnesses	1		
	2		
	3		
Witness 1			
a	Will the witness give evidence about the allegation? If 'Yes', please provide an outline of the evidence the witness will give.	Yes <input type="checkbox"/> No <input type="checkbox"/>	Outline of evidence:

b	<p>Will the witness give evidence about what action the Committee should take if it finds 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</p> <input data-bbox="639 271 683 320" type="checkbox"/> <p>No</p> <input data-bbox="639 495 683 544" type="checkbox"/>	<p>Outline of evidence:</p>
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Witness 2

a	<p>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</p> <input type="checkbox"/> <p>No</p> <input type="checkbox"/>	<p>Outline of evidence:</p>
b	<p>Will the witness give evidence about what action the Committee should take if it finds 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</p> <input type="checkbox"/> <p>No</p> <input type="checkbox"/>	<p>Outline of evidence:</p>

Witness 3

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

FORM F

Checklist for the pre-hearing process summary

After the Committee has received responses from the Subject Member and the Monitoring Officer, it should prepare a summary of the main aspects of the case that will be heard.

The pre-hearing process summary should include:

<input type="checkbox"/>	the name of the authority
<input type="checkbox"/>	the name of the subject member
<input type="checkbox"/>	the name of the complainant (unless there are good reasons to keep their identity confidential)
<input type="checkbox"/>	case reference number
<input type="checkbox"/>	the name of the Committee Member who will chair the hearing
<input type="checkbox"/>	the name of the Monitoring Officer
<input type="checkbox"/>	the name of the clerk of the hearing or other administrative officer
<input type="checkbox"/>	The name of the Independent Person
<input type="checkbox"/>	the date the pre-hearing process summary was produced
<input type="checkbox"/>	the date, time and place of the hearing
<input type="checkbox"/>	a summary of the complaint

<input type="checkbox"/>	the relevant section or sections of the Code of Conduct
<input type="checkbox"/>	the findings of fact in the investigation report that are agreed
<input type="checkbox"/>	the findings of fact in the investigation report that are not agreed
<input type="checkbox"/>	whether the Subject Member or the Investigating Officer will attend or be represented
<input type="checkbox"/>	the names of any witnesses who will be asked to give evidence
<input type="checkbox"/>	an outline of the proposed procedure for the hearing

MODEL HEARING PROCEDURE FOR THE COMMITTEE

Interpretation

1. 'Subject Member' means the member of the authority who is the subject of the allegation being considered by the Committee, unless stated otherwise. It also includes the Subject Member's nominated representative.
2. 'Investigating Officer' means the Monitoring Officer or other Investigating Officer and his or her nominated representative.
3. 'Committee' refers to the Hearing Committee, a Sub-Committee of the Standards Committee.
4. 'Legal advisor' means the officer responsible for providing legal advice to the Committee. This may be the Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.
5. "Independent Person" means the individual appointed by the Council under the Localism Act 2011 whose view will be sought and taken into account by the Committee before it makes a decision on the allegation.

Representation

6. The Subject Member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the Committee, another person.

Legal Advice

7. The Committee may take legal advice from its legal advisor at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Committee should be shared with the Subject Member and the Investigating Officer if they are present.

Setting the scene

8. After all the members and everyone involved have been formally introduced, the Chairman should explain how the Committee is going to run the hearing.

Preliminary procedural issues

9. The Committee should then resolve any issues or disagreements about how the hearing should continue, which have not been resolved during the pre-hearing process.

Making findings of fact

10. After dealing with any preliminary issues, the Committee should then move on to consider whether or not there are any significant disagreements about the facts contained in the investigator's report.

11. If there is no disagreement about the facts, the Committee can move on to the

next stage of the hearing.

12. If there is a disagreement, the Investigating Officer, if present, should be invited to make any necessary representations to support the relevant findings of fact in the report. With the Committee's permission, the Investigating Officer may call any necessary supporting witnesses to give evidence. The Committee may give the Subject Member an opportunity to challenge any evidence put forward by any witness called by the Investigating Officer.

13. The Subject Member should then have the opportunity to make representations to support his or her version of the facts and, with the Committee's permission, to call any necessary witnesses to give evidence.

14. At any time, the Committee may question any of the people involved or any of the witnesses, and may allow the Investigating Officer to challenge any evidence put forward by witnesses called by the Subject Member.

15. If the Subject Member disagrees with most of the facts, it may make sense for the Investigating Officer to start by making representations on all the relevant facts, instead of discussing each fact individually.

16. If the Subject Member disagrees with any relevant fact in the Investigating Officer's report, without having given prior notice of the disagreement, he or she must give good reasons for not mentioning it before the hearing. If the Investigating Officer is not present the Committee will consider whether or not it would be in the public interest to continue in his or her absence. After considering the Subject 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 Investigating Officer's report;
- (b) allow the Subject Member to make representations about the issue, and invite the Investigating Officer to respond and call any witnesses, as necessary; or
- (c) postpone the hearing to arrange for appropriate witnesses to be present, or for the Investigating Officer to be present if he or she is not already.

17. Cross-examination will not be permitted at the hearing and any questions will be at the discretion of and through the Chairman of the Committee.

18. The Committee will usually move to another room to consider the representations and evidence in private.

19. On their return, the Chairman will announce the Committee's findings of fact.

Did the Subject Member fail to follow the Code?

20. The Committee then needs to consider whether or not, based on the facts it has found, the Subject Member has failed to follow the Code of Conduct.

21. The Subject Member should be invited to give relevant reasons why the Committee should not decide, based on the findings of fact, that he or she has failed to follow the Code.

22. The Committee should then consider any verbal or written representations from the Investigating Officer.

23. The Committee should then consider any verbal or written representations from the Independent Person.

24. The Committee may, at any time, question anyone involved on any point they raised in their representations.

25. The Subject Member should be invited to make any final relevant points.

26. The Committee will then move to another room to consider the representations.

27. On their return, the Chairman will announce the Committee's decision as to whether or not the Subject Member has failed to follow the Code of Conduct.

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

28. If the Committee decides that the Subject Member has not failed to follow the Code of Conduct, the Committee can move on to consider whether it should make any recommendations to the authority.

If the Subject Member has failed to follow the Code

29. If the Committee decides that the Subject Member has failed to follow the Code of Conduct, it will consider any verbal or written representations from the Investigating Officer, the Independent Person and the Subject Member as to:

- (a) Whether or not the Committee should set a penalty; and
- (b) What form any penalty should take

30. The Committee may question the Investigating Officer, Independent Person and Subject Member, and take legal advice, to make sure they have the information they need in order to make an informed decision.

31. The Committee will then move to another room to consider whether or not to impose a penalty on the Subject Member and, if so, what the penalty should be.

32. On their return, the Chairman will announce the Committee's decision.

Recommendations to the authority

33. After considering any verbal or written representations from the Investigating Officer, the Committee will consider whether or not it should make any recommendations to the authority, with a view to promoting high standards of conduct among members.

The written decision

34. The Committee will announce its decision on the day and provide a short written decision on that day. **It will also issue a full written decision within two weeks of the hearing.** It is good practice to prepare the full written decision in draft on the day of the hearing before people's memories fade.

How to make a

Complaint

about the behaviour of a
local authority councillor in
Somerset

Version	0.1
Author	Tom Woodhams
Date	08 March 2023

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CODE OF CONDUCT FOR COUNCILLORS: INFORMATION AND GUIDANCE FOR POTENTIAL COMPLAINANTS

1. Introduction

1.1 Somerset Council (“the Council”) has legal obligations to:

1.1.1 promote and maintain high standards of conduct by its members and co-opted members; and

1.1.2 make arrangements to investigate and decide on allegations that its members and co-opted members have breached the Council’s Code of Conduct.

1.2 The Council’s Code of Conduct for councillors is available using the following link:

[INSERT HYPERLINK]

1.3 The responsibility for considering written complaints against elected or co-opted councillors of the Council sits with the Council’s Standards Committee. This committee is a group of councillors appointed by the Council to help maintain and promote high ethical standards. In addition to councillors from the Council, parish council and community representatives are co-opted onto the committee. The Council also appoints independent persons to advise the committee.

1.4 The Monitoring Officer, a senior officer of the Council, administers the process in respect of all complaints of alleged councillor misconduct on behalf of the Standards Committee and reports on breaches of the Council’s Code of Conduct to the Standards Committee.

1.5 The Council is also responsible for investigating complaints that city, town or parish councillors in Somerset have breached their particular council’s code of conduct. Where a complaint is about the conduct of a member of a city, town or parish council the allegations will be assessed against the relevant council’s code of conduct.

1.6 This guidance sets out:

1.6.1 how you may make a complaint that a councillor of Somerset Council or of a city, town or parish council in Somerset has failed to comply with their council’s code of conduct; and

1.6.2 how the Council will deal with any complaints about the conduct of a councillor of Somerset Council or of a city, town or parish council in Somerset.

- 1.7 A visual representation of the process for dealing with complaints as set out in this guidance is attached at Appendix D.
- 1.8 The Monitoring Officer will publish details of complaints received in accordance with the Monitoring Officer's media protocol.

2. Making a complaint

2.1 If you wish to make a complaint, please write to the Monitoring Officer at the address set out at paragraph 5 below.

- 2.2 In order to ensure that we have all of the information which we need to be able to process your complaint, we would recommend that you use our standard complaint form. This is available on request or can be downloaded at the following link:

<https://www.somerset.gov.uk/our-information/complain-about-a-county-councillor/>

- 2.3 Your complaint must be made in writing. If a disability prevents you from making your complaint in writing we will offer to put your complaint into writing and you will be asked to sign or otherwise indicate that you want to make a complaint in the terms set out. It will be your responsibility to provide any supporting documentation. If you are unwilling to sign the documentation or indicate your satisfaction, your complaint will be rejected unless the Monitoring Officer is satisfied that the circumstances justify an exception being made. We can also help if English is not your first language.
- 2.4 You are encouraged to read all of this guidance before submitting your complaint. We will acknowledge receipt of your complaint within three working days.

3. How should I set out my complaint?

- 3.1 It is very important that you set your complaint out fully and clearly, and provide all the information at the outset. You should also provide any documents or other material that you wish to be considered. If a complaint does not contain sufficient information then it may be rejected.
- 3.2 We recommend that you use our complaint form or provide a covering note summarising what you are complaining about, especially if your complaint includes a lot of supporting documentation. In the summary you should tell us exactly what each person you are complaining about said or did that has caused you to complain. If you are sending supporting documentation please cross-reference it against the summary of your complaint.
- 3.3 You should be as detailed as possible and substantiate your complaint where you can. Although you are not required to prove your complaint at this stage of proceedings, you do have to demonstrate that you have reasonable grounds

for believing that the councillor(s) complained about has breached the Code of Conduct.

- 3.4 You may wish to take consider taking advice, for example from the Citizen's Advice Bureau.

4. I am the complainant but I don't want my identity revealed

- 4.1 If you ask for your identity to be withheld, this request will be considered by the Monitoring Officer at the First Stage of the process.

- 4.2 As a matter of fairness and natural justice, the councillor you complained about should usually be told who has complained about them and receive details of the complaint. However, in **very** exceptional circumstances the Monitoring Officer may withhold your identity either on request from you, or otherwise where they are satisfied that it is in the interests of all parties to do so, having regard to the factors set out in paragraph 4.3 below.

- 4.3 The factors that the Monitoring Officer will take into account are:

4.3.1 whether you have reasonable grounds for believing that you or somebody closely connected to you, will be at risk of physical harm if your or their identity is disclosed;

4.3.2 whether you are reasonably concerned about the consequences to your employment or that of somebody closely connected to you, if your or their identity is disclosed;

4.3.3 whether you or someone closely connected to you suffers from a medical condition and there is evidence of medical risks associated with your or their identity being disclosed or confirmation from an appropriate medical professional that this is the case;

4.3.4 whether the specifics of the complaint will disclose who has made the complaint even without confirming your identity; and

4.3.5 whether in spite of any other factor, the public interest in proceeding with the complaint outweighs the complainant's interest in having their identity withheld.

- 4.4 If the Monitoring Officer decides to refuse your request for confidentiality, they will offer you the option to withdraw the complaint, rather than proceed with your identity being disclosed. The Monitoring Officer will balance whether the public interest in taking action on a complaint will outweigh your wish to have your identity withheld.

5. What you should do if you wish to submit a written complaint

- Get a copy of the code of conduct for the relevant council to see whether the behaviour you wish to complain about is covered by their code. **If it is not covered by the relevant code then we will not be able to deal with it.**
- Talk to / raise the matter with the Council's Monitoring Officer for general advice before submitting a formal complaint.
- Fully complete the attached complaint form (or ensure your letter of complaint addresses, in full, all of the issues covered in the complaint form).
- Submit the written complaint by post or e-mail to the address set out below, as soon as possible after the date of the alleged breach.

Address for submission of a written complaint

Scott Wooldridge
Monitoring Officer and Strategic Manager, Governance and Democratic Services
Democratic Services
Somerset Council
County Hall
Taunton
Somerset TA1 4DY

Or e-mail the Monitoring Officer at: **[EMAIL ADDRESS]**

6. Timescales for dealing with complaints

- 6.1 This procedure sets out how long it will usually take the Council to complete each stage of dealing with a complaint. The timescales are summarised in Appendix C. Parties must comply in a timely manner to requests for further information, and where information has not been provided within the specified timescales the Monitoring Officer will proceed in the absence of the information requested. This might lead to a complaint being rejected for lack of supporting evidence from the complainant or upheld for lack of contrary evidence from the Member concerned.
- 6.2 Where either of the parties is unable to comply with a given timescale for response they may request an extension by setting out their reasons in writing to the Monitoring Officer.
- 6.3 Any extension of a timescale is at the sole discretion of the Monitoring Officer who will only grant the extension where he / she is satisfied that it is in the public interest to do so. Where the Monitoring Officer does extend a timescale he / she will communicate the revised timescales to the parties together with the reason for their extension.

7. Is this a complaint that can be dealt with?

- 7.1 The assessment of a complaint will follow a two stage process. The first stage is to establish whether we can deal with your complaint.
- 7.2 The points listed under First Stage at paragraphs 8.3 and 8.4 below will help you decide whether this is something that can be dealt with by the Monitoring Officer on behalf of the Standards Committee. You should speak to the Monitoring Officer if you are not clear whether we can consider your complaint.
- 7.3 Please note that trivial, frivolous, vexatious and politically motivated tit-for-tat complaints are likely to be rejected.

8. First stage

- 8.1 When a complaint is received, the Monitoring Officer will carry out a jurisdictional test against which complaints will be filtered to determine whether the allegation is within these procedures and, if so, whether it should be rejected or proceed to Second Stage assessment. This First Stage process will be completed within 5 working days.
- 8.2 When there is insufficient information to make a determination as to whether the conduct complained of may demonstrate a potential breach of the Code of Conduct the Monitoring Officer may offer you a further 10 working days to provide further information to support the complaint. If further information is not provided within 14 days of being requested, the complaint will be rejected.
- 8.3 The Monitoring Officer (or his/her deputy) will make the decision about what action, if any, to take on your complaint. The matters that will be considered at this stage of the process are:-
- 8.3.1 Your complaint must be about one or more named councillors of the authorities listed on the attached Appendix A;
- 8.3.2 Your complaint must be about conduct that occurred while the councillor(s) complained about were in office. Conduct of an individual before they were elected, co-opted or appointed to the authority, or after they have resigned or otherwise ceased to be a councillor, cannot be considered;
- 8.3.3 Your complaint must be that the councillor has, or may have, breached the relevant Council's Code of Conduct;
- 8.3.4 Your complaint must relate to matters where the councillor was acting as a councillor or representative of their council and therefore is not a private matter.
- 8.3.5 Your complaint, if proven, would be a breach of the Code of Conduct

under which the councillor was operating at the time of the alleged conduct.

8.4 The following matters do not fall within the scope of the procedure for dealing with complaints about the conduct of members and will be rejected:

8.4.1 Complaints against a council as a whole. These will be rejected and should be referred directly to the council in question for consideration under their own procedures. We can tell you who to contact. These complaints should be pursued through the relevant council's own internal complaints procedure. For example, if a complaint relates to a councillor's behaviour in relation to the determination of a planning application, this procedure will relate only to the councillor's conduct and will not comment on the decision relating to the planning application, save to the extent necessary to explain the decision in relation to the code of conduct complaint;

8.4.2 Complaints about employees of a council. Complaints about the actions of people employed by the relevant council e.g. the clerk of a city, town or parish council, also do not fall within the jurisdiction of the Standards Committee. Again these complaints should be pursued through the relevant council's own internal complaints procedure.

9. Second Stage

9.1 Complaints that satisfy the initial jurisdictional test at the first stage will then be considered further to determine whether they merit further investigation. The criteria to be taken into account in reaching a decision are set out below. Your complaint will usually be rejected at this stage if, in the opinion of the Monitoring Officer, any of the following criteria applies:

9.1.1 The complaint is the same or substantially the same as a complaint previously dealt with whether submitted by you or some other person;

9.1.2 It is over 6 months since the alleged behaviour occurred and it would be unfair, unreasonable or otherwise not in the public interest to pursue unless there are, in the Monitoring Officer's opinion, exceptional circumstances, such as there has been a failure to declare a disclosable pecuniary interest which would warrant the complaint being progressed;

9.1.3 The allegation is anonymous and there are no exceptional compelling reasons to progress the complaint;

9.1.4 The allegation discloses a potential breach of the Code of Conduct, but the complaint is not serious enough to merit any action and

(i) the resources needed to investigate and determine the complaint are wholly disproportionate to the allegations; and/or

- (ii) whether, in all the circumstances, there is no overriding public benefit in carrying out an investigation;
- 9.1.5 The complaint appears on an objective basis to be malicious, vexatious, politically motivated or tit-for-tat or is part of a series of complaints from the complainant and it is not in the public interest to pursue it;
- 9.1.6 The councillor has remedied or made reasonable endeavours to remedy the issues to which the complaint relates and the complaint does not disclose sufficiently serious potential breaches of the Code of Conduct to merit further consideration;
- 9.1.7 The complaint is about a person who is no longer a councillor of a relevant council and there are no overriding public interest reasons to merit further consideration;
- 9.1.8 The complaint is from a councillor about another councillor of their council and the Monitoring Officer considers the allegations to be such that the issues between the councillors ought to be capable of resolution between them, whether with or without the assistance of their Clerk or some other person; and
- 9.1.9 That a simple apology, training or conciliation would be the appropriate response;
- 9.1.10 That a reasonable offer of local resolution is offered by the councillor but is rejected by you;
- 9.1.11 It would otherwise be inappropriate to expend the Council's resources on determining the complaint having regard to the circumstances of the complaint, any previous related complaints and the public interest.
- 9.2 It is important to note that not every complaint that falls within the jurisdiction of the Standards Committee will be referred for investigation. The Monitoring Officer or the Standards Committee (as appropriate) must decide whether this is appropriate. The Monitoring Officer will endeavour to resolve complaints without the need for a formal investigation wherever possible.

10. Behaviour that constitutes a criminal offence

- 10.1 Where a complaint is received which discloses behaviour that may constitute a criminal offence the Monitoring Officer will determine whether to refer such allegations to the police or other appropriate body. If the conduct relates to the failure to declare a disclosable pecuniary interest this will be done by initially undertaking the assessment of the complaint in the manner set out at the First Stage 1 prior to referral in order to determine if a potential failure to declare a disclosable pecuniary interest has occurred.

- 10.2 Where a complaint is referred to the police or some other body the Council will not take any action on the complaint, other than the referral, until the body to whom the complaint has been referred to decide to take no action or any action they take has been finally determined.
- 10.3 The Council will take such action as is necessary to ensure that it does not compromise the integrity of any investigation or proceedings undertaken by another body in relation to the allegations.
- 10.4 If the police or other body decide to progress the complaint, then no further action will be taken on the complaint by this Council. If they decide not to progress the complaint, the Council will proceed to consider the complaint at Second Stage of the process (see paragraph 9 above).

11. Multiple complaints about a councillor

- 11.1 There may be instances when a number of complaints will be received about the same councillor from different complainants that relate to the same incident. When a complaint is substantially the same, it will be processed as a single complaint taking into consideration all of the complaints received up to the time the complaint is processed. A single decision notice will be issued and will reflect the fact there has been more than one complainant associated with the matter, though all may not be named. If further complaints relating to the same matter are received after the complaint is being processed these will not be added to the complaint but the complainants will be advised that a complaint about this matter is already being considered.

12. Complaints about a matter that has been assessed

- 12.1 There are occasions when a complaint is received on a matter that is the same or similar to a matter that has already been assessed. If this is the case the complaint will be rejected. In these circumstances you will be sent a copy of the decision notice that has previously been issued. The name of the original complainant(s) will be redacted from the decision notice.

13. Anonymous complaints

- 13.1 The Council will not normally allow anonymous complaints as that would be against the principles of transparency and fairness and make matters more difficult to investigate. However, there may be exceptional compelling reasons as to why an anonymous complaint could be accepted without detriment to the process and where the allegation can be evidenced without reference to the complainant.

14. What happens once you submit your complaint?

- 14.1 **First Stage:** When you submit your complaint we will write to you to let you know we have received it within 3 working days confirming the identity of the officer dealing with the complaint, the reference number allocated, and the procedure to be followed. The Monitoring Officer will then consider whether the complaint meets the jurisdictional tests at the First Stage (see paragraph 8 above). The Monitoring Officer will advise you within 5 working days as to whether your complaint meets the test at Stage 1 and if so, the procedure that will then follow to consider whether the Second Stage criteria (at paragraph 9 above) are met.
- 14.2 **Second Stage:** Complaints will be categorised as follows and an assessment will be made as to whether there is some evidence which would suggest that there may have been a material breach of the Code of Conduct. The decisions that can be reached at any of these levels are;
- 14.2.1 No further action should be taken in relation to the complaint
- 14.2.2 The complaint should be dealt with through a process of informal resolution in the first instance
- 14.2.3 The matter should be referred for formal investigation
- 14.3 In reaching this decision, no finding of fact will be made.
- 14.4 If further action is required (i.e. the decision at stage 2 is either to move to informal resolution or to formal investigation, the Monitoring Officer will decide whether to deal with the complaint at level 1 (paragraphs 14.5 – 14.7) or level 2 (paragraphs 14.8 – 14.10).

Level 1 Complaint

- 14.5 Complaints which are about procedural issues or unhappiness with decisions and are not Code related or which do not contain any evidence of any breach of the Code or are technical minor breaches will be determined at this stage by the Monitoring Officer without further inquiry and the Complainant advised accordingly within 20 working days of receipt of the complaint. The Monitoring Officer may confer with an Independent Person where he/she thinks fit, when determining a complaint at Level 1. This is an individual who is not a councillor and who the Council is required to appoint to assist it in dealing with complaints against councillors.
- 14.6 The authority may also notify the councillor that a complaint has been received against them and invite their comments on it within 10 working days. In deciding whether or not to notify the councillor we will weigh up different factors. For example, would telling the councillor risk the complainant being intimidated or evidence destroyed, or if the complaint seems to fall outside of the jurisdiction of the Code of Conduct is there any need to hear from the councillor? If the decision is made not to notify the councillor about the complaint but the councillor becomes aware of the complaint and wishes to know what has been

alleged and the identity of the complainant, then this information will be provided to them (unless the complainant has requested confidentiality and the Monitoring Officer has agreed to this request).

- 14.7 If the Monitoring Officer receives more than 1 complaint about a councillor in relation to the same instance of conduct, all of which could be classed as Level 1, then the Monitoring Officer can decide to treat those complaints as a Level 2 complaint.

Level 2 Complaint

- 14.8 If the complaint does not fall within Level 1 then we will notify the councillor to whom the complaint relates, provide details of the complaint and invite them to make representations. These must be received by the Monitoring Officer within 10 working days of receiving the notification. The Monitoring Officer may also contact the clerk of the City, Town or Parish council, where appropriate and such other persons as the Monitoring Officer feels appropriate, to provide additional information.
- 14.9 The Monitoring Officer will assess the complaint, any representations by the councillor and any additional information requested. However the purpose of this stage is not to conduct a formal investigation and only preliminary enquiries will be made, such as to establish whether a councillor was in fact present at the meeting to which the complaint relates.
- 14.10 On the completion of this initial assessment the Monitoring Officer will contact you to advise you whether your complaint relates to a potential breach of the code of conduct and what action is proposed, if any. The councillor will be similarly informed. This will all happen within 20 working days from the date we receive your complaint or additional information (where requested). Before making any decision, the Monitoring Officer will discuss your complaint with the "Independent Person".

15. Informal Resolution

- 15.1 An informal resolution is a more proportionate way of dealing with relatively minor allegations, one-off incidents or underlying disagreements between individuals. It is important to note that dealing with a matter by alternative resolution at the initial assessment stage is making no finding of fact as there has been no formal investigation.
- 15.2 Matters which the Monitoring Officer might consider appropriate for informal resolution may include:
- 15.2.1 the same particular breach of the Code by many councillors, indicating poor understanding of the Code and the authority's procedures;
- 15.2.2 a general breakdown of relationships, including those between councillors and officers, as evidenced by a pattern of allegations of minor

disrespect, harassment or bullying to such an extent that it becomes difficult to conduct the business of the relevant council;

15.2.3 misunderstanding of procedures or protocols;

15.2.4 misleading, unclear or misunderstood advice from officers;

15.2.5 lack of experience or training;

15.2.6 interpersonal conflict;

15.2.7 allegations and retaliatory allegations from the same councillors;

15.2.8 allegations about how formal meetings are conducted;

15.2.9 allegations that may be symptomatic of governance problems within the council, which are more significant than the allegations in themselves.

15.3 Informal resolution could either be directed at the councillor who is the subject of the complaint, the councillor and yourself as complainant, or at the council more generally.

15.4 Informal resolution can include such things as training, providing an apology, withdrawing a remark, mentoring, conflict resolution, mediation.

15.5 Both yourself and the councillor will be consulted before a decision is made to proceed with informal resolution.

16. Referral for Investigation

16.1 If the Monitoring Officer considers following an assessment at level 2 that the complaint is both very serious in terms of the potential breach of the code and an investigation is warranted in the public interest *to establish* the facts then the Monitoring Officer or someone acting on their behalf will undertake this. Only very exceptionally will a complaint result in an investigation.

16.2 Because the circumstances of each serious complaint will vary it would be unrealistic to impose set timescales on each investigation at this stage. However, having reviewed the circumstances the Monitoring Officer will propose timescales for the completion of the investigation and will clearly communicate those to all interested parties. The Monitoring Officer will keep all parties informed of the progress of the investigation and where extensions to timescales are required, will clearly communicate to all parties the revised timescales and the reasons giving rise to the need to extend timescales. The Monitoring Officer will let all those involved know that this is the case and the process that will be followed.

16.3 At the end of an investigation, the Monitoring Officer will issue a draft report and invite comments from the complainant and councillor. The Monitoring Officer will then issue a final report which he/she send to the complainant, the

Standards Committee, the councillor complained about, the Independent Person and the Clerk to the city, town or parish Council (where relevant).

16.3.1 **Option 1** - If the investigation reveals no failure to comply with the code or a minor/technical breach may have occurred or identifies a training requirement as opposed to any other form of sanction as being the appropriate response, then the Monitoring Officer, after consulting with the Independent Person, is authorised to issue guidance to either party, close the matter and issue the report to the complainant and the councillor complained about. The Monitoring Officer has the discretion to refer the matter to the Standards Committee before exercising that power if they consider it appropriate.

16.3.2 **Option 2** - If the investigation reveals a more significant failure to comply with the code (which is not minor or technical in nature or where a need for training is not really the issue) then the Monitoring Officer in consultation with the Independent Person is authorised to seek a local resolution of the complaint providing all parties agree (acting reasonably). If a local resolution is not appropriate or not agreed by the parties then the outcome of the investigation will either be (1) reported to the Standards Committee's Hearings Panel for a local oral *hearing* (see paragraph 16.5 below) or (2) where local resolution is considered by the Monitoring Officer to be appropriate but has not been agreed by the parties, the outcome of the investigation will form the basis of an Investigation Outcome report which will be published and issued to all parties. This will set out the nature of the complaint, the outcome of any investigation, the local resolution suggested by the Monitoring Officer and the response from the parties to this.

16.4 The decision as to whether to proceed with Option 1 or 2 above shall rest with the Monitoring Officer in consultation with the Independent Person. In making his/her decision, the Monitoring Officer will have regard to the relative costs involved and which option best serves the public interest.

16.5 **Oral Hearing stage** – All hearings will be held in accordance with the rules on public access to meetings and information of the Council. However, within the limits set by those rules the hearing will be conducted on a relatively informal basis, both parties will be able to make representations and call witnesses. At the end of the hearing the Panel, after consulting with the Independent Person will decide whether, on the balance of probabilities there has been a failure to comply with the Code of Conduct and what “sanction” or “sanctions” (if any) should be imposed.

16.5.1 If an oral hearing is required and reaches a finding that there has been a failure to comply with the Code then there is a limited range of sanctions available as set out at Appendix B to this guidance. There is no ability for the Standards Committee to suspend or disqualify a councillor.

16.5.2 Although there is no right of appeal against the decisions of the Monitoring Officer or Panel, if you are unhappy with the procedures followed (as opposed to the outcome) then you are still entitled to complain to the Local Government Ombudsman or challenge a decision through the Courts by way of Judicial Review.

16.5.3 The procedure the Council has adopted is designed to be proportionate, timely and fair to both sides. Its overriding objective is to seek to provide pragmatic local solutions to local problems wherever possible and to avoid costly and time consuming investigations/hearings.

Behaviour covered by the Code of Conduct

You can complain about a councillor breaking any part of their council's Code of Conduct. As each council can adopt their own code there is no longer a standard code of conduct that applies to all local authorities. This means you need to have seen the code of conduct relating to the councillor about whom you wish to complain and that the behaviour you wish to complain about is covered by the code. The Standards Committee cannot consider any complaints that fall outside of the relevant code of conduct.

The code that relates to councillors of Somerset Council covers the following areas:-

- Treating others with respect
- Not bullying any person
- Not harassing any person
- Promoting equalities and not discriminating unlawfully against any person
- Not compromising or attempting to compromise, the impartiality of anyone who works for or on behalf of the Council
- Not intimidating any person likely to be involved in any investigation or proceedings about someone's misconduct
- Not disclosing confidential information given in confidence or acquired or improperly using information gained as a result of their role for the advancement of those connected with them or preventing anyone from getting information they are entitled to by law
- Not bringing their role or the Council into disrepute
- Not using their position improperly, to their own or someone else's advantage or disadvantage
- Not misusing the Council's resources
- When using resources or authorising their use, acting in accordance with the Council's requirements and not used for political purposes
- Paying due regard and giving reasons for departing from any advice from the Council's Chief Finance Officer or Monitoring Officer
- Undertaking Code of Conduct training and co-operating with any Code of Conduct investigation and/or determination

- Not making trivial or malicious complaints against other councillors
- Complying with any sanction imposed where they have been found to have breached the Code of Conduct
- Failing to register or disclose their interests
- Taking part in the discussion or making a decision where they have a “disclosable pecuniary interest”
- Failing to register any gifts or hospitality (including its source) that they have received in their role or refused as a councillor worth over £50.

Any breaches in relation to requirements around “disclosable pecuniary interests” are matters for the Police as a criminal offence may have been committed. We suggest you speak to the Council’s Monitoring Officer first as they should be able to advise you whether or not it is a matter for the Police.

Although we have encouraged the Town & Parish Councils to adopt similar provisions they are not required to do so. Accordingly, their code may look quite different so you do need to see a copy. The Clerk to the relevant City, Town or Parish Council should be able to provide you with a copy. Alternatively, once provided, we hold copies of all City, Town and Parish Council codes on our website. The Code adopted by this Council is also available on our website at:

Sanctions available to Standards Committees

The sanctions available to the Standards Committee are as set out below. In relation to the Town & Parish Councils in our area, we can only **recommend** a particular sanction to them but we do not have the power to enforce compliance.

The Standards Committee does not have the power to suspend or disqualify a councillor. The sanctions available are:-

- Report its findings to Council or City/Town/Parish Council for information;
- Issue (or recommend to City/Town/Parish to issue) a formal censure
- Recommending to the councillor's Group Leader (or in the case of un-grouped councillors, recommend to council) that he/she be removed from any or all Committees or Sub-Committees of the Council (or recommend such action to the City/Town/Parish Council);
- Recommending to the Leader of the Council that the councillor be removed from the Executive, or removed from particular Portfolio responsibilities;
- Instructing the Monitoring Officer to (or recommend to the City/Town/Parish) to arrange training for the councillor;
- Removing from all outside appointments to which he/she has been appointed or nominated by the authority (or recommend to the City/Town/Parish Council);
- Withdrawing facilities (or recommend to the City/Town/Parish Council) provided to the councillor by the Council, such as a computer, website and/or email and internet access;
- Restricting contact (or recommend to the City/Town/Parish Council) to named officers or requiring contact be through named officers;
- Excluding the councillor from the Council's offices or other premises (or recommend to the City/Town/Parish Council), with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings;
- If relevant, recommend to council that the councillor be removed from their role as leader of the Council;

- If relevant, recommend to the secretary or appropriate official of a political group that the councillor be removed as group leader or other position of responsibility.

Timescales

All timescales relate to the communication of the outcome of the relevant stage to the complainant and refer to the date on which the complaint is first received.

Stage	Cumulative timescale
Acknowledgement	3 working days
First Stage – jurisdictional test	5 working days
Extension of time to allow complainant to provide further information where there is insufficient information initially provided	+ up to 14 days (add the extension granted to timescales below)
Determination of a level 1 complaint	20 working days
Decision on a level 2 complaint as to whether the complaint relates to a potential breach of the code of conduct and what action is proposed	20 working days
Referral for investigation	No timescales

Process flowchart

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COMPLAINTS AGAINST COUNCILLORS PROCESS

	Stage 1 (5 Days) Initial Assessment	Stage 2 - Preliminary Enquiries	Investigation	Hearing Panel
Level One Complaint	<p>DAY ONE: Complaint received by Monitoring Officer (MO)</p> <p>Complaint acknowledged within 3 DAYS, confirming the Officer dealing with it, the reference number and an explanation of the process</p> <p>MO will advise the complainant if the complaint falls within the scope of the Standards Committee process within 5 DAYS.</p>	<p>MO will categorise the complaint - at what level and is there evidence of a material breach of the Code</p> <p>Category One: Minor breaches will be determined by MO with no or very limited further inquiry, and the complainant will be advised within 20 WORKING DAYS after receipt of the complaint, or as soon as possible thereafter.</p>		
Page 7 Informal Resolution		<p>Category 2. For minor breaches, is an Informal resolution, such as training, possible with no formal investigation?</p> <p>MO considers appropriate action and will consult with the complainant and member before deciding to proceed.</p>		
Level Two Complaint	<p>DEFINITIONS:</p> <p>MO = Monitoring Officer IP = Independent Person Days = Working Days Hearing Panel = a sub group of the Standards Committee, comprising the Chair or Vice Chair and two nominated members</p> <p>NB: The MO has sole discretion to extend timescales where it is deemed to be in the public interest</p> <p>Please refer to the document 'How to make a Complaint about the behaviour of a local authority councillor in Somerset' for further details of the process</p>	<p>Category 3. Refer for formal investigation</p> <p>Member will be informed at this stage, and invited to comment within 10 days</p> <p>If the assessment indicates a potential breach the complainant is advised of the proposed course of action, within 20 WORKING DAYS after receipt of the complaint or additional information.</p>	<p>MO will propose a timescale for the investigation and communicate with all interested parties. MO will consult with the Independent Person (IP), council clerks or other relevant persons.</p> <p>Post investigation, MO distributes draft outcomes report to the Councillor and complainant for comments. MO then issues final report to Complainant, Councillor, Standards Committee, IP, and Clerk to parish/Town council.</p> <p>– If no breach is found, the case is closed in consultation with the IP.</p>	<p>If a Breach is established and a local solution cannot be found or agreed by all parties the case is referred to the Hearings Panel.</p> <p>Where upheld the Panel can impose, or report to the Council or Parish Council with a recommendation for sanctions.</p> <p>Publication of the decision and outcomes will be in accordance with the media protocol</p> <p>There is no right of appeal on the decision. However complaints about procedure can be made to the Local Gov Ombudsman, or pursued through the Courts.</p>

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Draft Media Protocol

Event	Method	Audience	Person responsible	Notes
Reminder of standards committee including role and process for making complaints	Press release/and or Website	Local press	Comms Team	Twice a year
Issue of Standards Committee agenda	Published on website and front page of agenda sent to Local media	Local press/all members	Comms Team/Monitoring Officer	This may prompt further media enquiries
Press query - On receipt of a complaint	Verbal or written	Query only	Comms/Monitoring Officer	<i>If a query is raised by the press in which they name the Member complained about:</i> Confirm name of member; date complaint received; type of person complaining (e.g. member of public); relevant parts of the Code. This information will not be provided until 3 workings days after a member has been notified in writing of the complaint.
Press query – Following consideration of a complaint by the Monitoring Officer or Standards Committee (initial sifting)	Verbal or written	Query only	Comms/Monitoring Officer	The Council will not publicise decisions in relation to Code of Conduct complaints at this stage. <i>If a query is raised by the press in which they name the Member complained about:</i> Confirm name of member; date complaint received; type of person complaining (e.g. member of public); relevant

				parts of the Code; date complaint considered; reason for non-referral (if applicable); if investigation will take place; if action other than investigation will take place and if so, what. . This information will not be provided until 3 working days after a member has been notified in writing of the decision.
Press query – during an investigation.	Verbal or written	Query only	Comms/Monitoring Officer	Confirm that an investigation is ongoing; give generic info about investigations; explain the possible outcomes of investigations. Explain that no further comments can be made until the investigative process is complete.
Press query – following an investigation and where there has been no breach, no further action is needed or the matter has been resolved in some other way (other action).	Verbal or written	Query only	Comms/Monitoring Officer	The Investigation report will not be published but matter should be reported to standards committee. If the matter has generated local interest the Council may consider putting out a brief statement explaining the outcome and reasoning. Requests for a copy of the Investigation Report would be dealt with under the Freedom of Information Act 2000.
Press query – hearing and whether in the public domain	Verbal or written	Query only	Comms/Monitoring Officer	There is a presumption that a hearing following an

				investigation would normally be held in public unless there are lawful reasons for all or part of it to be heard as exempt or confidential matters.
Results of hearings of Committee	Press release following recommended template	Local press/all members/website news area	Comms/Monitoring Officer	<p><i>The final investigation report:</i> Whether a copy can be provided will depend on whether the report is confidential or considered to be in the public domain.</p> <p><i>The outcome of the hearing:</i> If the Member is found in breach but no action is needed, the Council will issue a public summary which will say that the councillor has failed to follow the Code but that no action needs to be taken, outline what happened and give reasons for the panel's decision not to take any action.</p> <p>If the Member is found to be in breach and a sanction is imposed, a public summary will be issued to say that the Member failed to follow the Code, outlining what happened; explaining what sanction has been imposed and giving reasons for the decision made by the panel.</p>

				If the Member is found not to have breached the Code ; a public notice will only be issued if the Member has no objection.
Press query regarding number of complaints made about a Councillor	Verbal or written	Query only	Comms/Monitoring Officer	The number of complaints can be confirmed. In the event of a large number of names needing to be checked, a Freedom of Information request may be required.
Press query regarding name of complainant	Verbal or written	Query only	Comms/Monitoring Officer	The names of complainants will not be disclosed as this might deter complainants from bringing legitimate concerns to the Council's attention. In addition, by revealing the names of complainants we run the risk of compromising our duty to protect whistleblowers.
Press query regarding cost of complaint and or investigation	Verbal or written	Query only	Comms/Monitoring Officer	The Council does not keep a record of time spent on individual complaints. For specific investigations, a Freedom of Information request will be required.

PART D – Standards Hearings Sub-Committee Arrangements

1. General

- 1.1 The Standards Hearing Sub-Committee deals with the assessment and determination of complaints under the Members' Code of Conduct against Members and Co-opted Members where referred by the Monitoring Officer following consultation with the Council's Independent Person. Where an investigation finds evidence of a failure to comply with the Code of Conduct and a local resolution is not appropriate or not possible, a Standards Hearing Sub-Committee shall be convened by the Chair of the Standards Committee (or, where they are the subject of the complaint, the deputy Chair) on the request and advice of the Monitoring Officer to consider and determine the complaint.
- 1.2 The Standards Hearing Sub-Committee will have authority to determine the complaint referred to it and apply sanctions under the Council's procedure.
- 1.3 Given the wider provisions in place for determining complaints against members, it is expected that these arrangements will only be required to be used in exceptional circumstances where the alleged breach of the Code of Conduct is particularly serious and a satisfactory outcome has not been achieved through the other stages of the process.
- 1.4 The terms of reference will be formally approved by the Council.
- 1.5 These terms of reference shall be reviewed by the Standards Committee at least annually to ensure that they remain fit for purpose and in accordance with the law and any regulations. Any revisions will be agreed by the Council.

2. Membership, Chair and Quorum

Number of Members	3
Substitute Members Permitted	No
Political Balance Rules apply	No
Appointments/Removals from Office	As set out in para 4 below
Restrictions on Membership	As set out in para 4 below
Restrictions on Chair/Vice-Chair	Only the Chair or (in their absence) the Vice Chair of the Standards Committee may chair the Hearing Panel
Quorum	3
Number of ordinary meetings per Council Year	None – the Standards Hearing Sub-Committee only meets when convened to hear specific complaints by the Monitoring Officer

3. Terms of Reference

3.1 The Standards Hearing Sub-Committee will:

- (i) hear and determine complaints in relation to serious allegations of breaches of the Council's Code of Conduct by Members and co-opted Members as referred to it by the Monitoring Officer;
- (ii) where it has determined in a case referred to it by the Monitoring Officer that a Member has breached the Council's Code of Conduct for Members decide on an appropriate sanction from among those detailed in paragraph 5 below;
- (iii) on the advice of the Monitoring Officer, adopt a procedure for hearings which:
 - complies with the rules on access to information set out in the Local Government (Access to Information) Act 1985 (as amended, updated or replaced);
 - upholds the principles of natural justice and the right to a fair trial;
 - has regard to any advice and guidance on the conduct of hearings into member conduct issued by the Local Government Association from time to time;

- is appropriate and proportionate taking into account the nature and complexity of the allegations concerned.

4. Membership

4.1 The Standards Hearing Sub-Committee comprises 3 Members.

4.2 Subject to paragraph 4.3, the Members of the Standards Hearing Sub-Committee will be:

- (i) The Chair or (in their absence or disqualification under paragraph 4.3) the Vice Chair of the Standards Committee; and
- (ii) 2 other Members of the Standards Committee nominated by the Chair (or in their absence or disqualification under paragraph 4.3) the Vice Chair of the Standards Committee.

4.3 No Member who is the subject of a complaint to be determined by the Standards Hearing Sub-Committee may:

- (i) act as a member of the Standards Hearing Sub-Committee for the hearing; or
- (ii) nominate a representative to be a member of the Standards Hearing Sub-Committee.

5. Sanctions

5.1 Where the Standards Hearing Sub-Committee has determined in a case referred to it by the Monitoring Officer that a Member has breached the Council's Code of Conduct for Members (or that a member of a city, town or parish council has breached their city, town or parish council's code of conduct for members) it may make a report to the Council (or, where appropriate, the city, town or parish council) for information and may further impose, or recommend that the Council (or the city, town or parish council where appropriate) imposes, any of the following sanctions which the Standards Hearing Sub-Committee determines to be appropriate having regard to its findings:

- (i) a recommendation to the Council (or, where appropriate, the city, town or parish council) that it should make a motion of censure in relation to the Member's conduct;
- (ii) a recommendation;
 - in the case of the Council, to the leader of the Member's political group (where the Member is a member of a political group, and otherwise to the Council) that the Member is removed; or
 - in the case of a member of a city, town or parish council, to the city, town or parish council, that the member is removed;
 from any or all Committees or Sub-Committees of the Council of which they are a member;
- (iii) a recommendation:
 - in the case of an Executive Member, to the Leader of the Council that the Member is removed from the Executive, or removed from particular Executive responsibilities;
 - in the case of the Leader of the Council, to the Council that the Member be removed from their role as Leader of the Council;
- (iv) an instruction to the Monitoring Officer to arrange training for the Member which is appropriate to the Member's conduct (or where appropriate, a recommendation to the city, town or parish council that such training should be arranged);
- (v) the removal of the Member from all outside appointments to which he/she has been appointed or nominated by the Council (or where appropriate, a recommendation to the city, town or parish council that such action should be taken);
- (vi) the withdrawal for a specified period of facilities provided to the Member by the Council, such as a computer, website and/or email and internet access (or where appropriate, a recommendation to the city, town or parish council that such action should be taken);

- (vii) the exclusion for a specified period of the Member from the Council's offices or other premises , with the exception of meeting rooms as necessary for attending Council, Executive, Committee and Sub-Committee meetings (or where appropriate, a recommendation to the city, town or parish council that such action should be taken);
- (viii) if relevant, a recommendation to the secretary or appropriate official of a political group that the Member be removed as group leader or other position of responsibility;
- (ix) A recommendation to the Council (or where appropriate, to the city, town or parish council) that contact between the Member and officers of the Council should be restricted to specified officers only.

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