

## **APPENDIX B**

### **INVESTIGATION & DETERMINATION OF COMPLAINTS**

- 6.1 If the Monitoring Officer decides that a complaint merits formal investigation, he will appoint an Investigating Officer to investigate the complaint that has been referred on for investigation.
- 6.2 The Investigating Officer would normally write to the Subject Member.
- 6.3 The Subject Member will be provided with a copy of the complaint. The Subject Member will be requested to provide any relevant information the Investigating Officer needs to investigate the Complaint.
- 6.4 In exceptional cases, where it is appropriate to keep the identity of the Complainant confidential or disclosure of details of the complaint to the Subject Member might prejudice the investigation, the Monitoring Officer withhold the Complainant's details or delay notifying the Subject Member until the investigation has progressed sufficiently.
- 6.5 At the end of his/her investigation, the Investigating Officer will produce a draft report. This draft will be sent in confidence to the Complainant and the Subject Member, to give them an opportunity to identify any matter in that draft report which is either factually incorrect or which may require further consideration. Having received and taken account of any comments on the Draft Report, the Investigating Officer will send the Final Report to the Monitoring Officer.
- 6.6 The Monitoring Officer will review the Investigating Officer's report and, if he is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to the Subject Member and the Complainant notifying them of either:
  - (a) he is satisfied that no further action is required, and provide them both a copy of the Investigating Officer's final report, or
  - (b) following review of the Investigating Officer's report that either the complaint will be
    - (i) sent for determination before a Standards Determination Sub Committee or,
    - (ii) after consulting the Independent Person, seek a local resolution.

### **Local Resolution**

- 6.7 The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and the Complainant and seek to agree fair resolution which also helps to ensure higher standards of

conduct for the future. Such resolution may include the Subject Member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the Council. If the Subject Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Audit and Corporate Governance Committee for information, but will take no further action.

### **Process for the Determination of Complaints**

- 6.8 If the Monitoring Officer considers that local resolution is not appropriate, then the Monitoring Officer will convene a Standards Determination Sub Committee to determine the complaint. It will conduct a hearing which will decide whether the member has failed to comply with the Code of Conduct and if so, whether to take any action in respect of the member.
- 6.9 The set up and structure of the Standards Determination Committee is provided for by the Council's Constitution.
- 6.10 The Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and may issue directions as to the manner in which the hearing will be conducted.

### **Conduct of a Sub Committee hearing**

- 6.11 The Monitoring Officer will present the Investigating Officer's report to the Sub-Committee.
- 6.12 The Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the Subject Member has failed to comply with the Code of Conduct. The Subject Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Sub Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.
- 6.13 If the Sub Committee, with the benefit of any advice from the Independent Person, concludes
  - (a) that the Subject Member did not fail to comply with the Code of Conduct, then they can dismiss the complaint
  - (b) that the Subject Member did fail to comply with the Code of Conduct, the Chair will inform the Subject Member of this finding and the Sub-Committee will then consider what action, if any, the Sub-Committee should take as a result of the Subject Member's failure to comply with the Code of Conduct. In doing this, the Sub-Committee will give the Subject Member an opportunity to make

representations to the Sub-Committee and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

- 6.14 The Council has delegated to the Sub Committee powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Sub Committee may authorise the Monitoring Officer to –
- (a) Publish any findings in respect of the Subject Member's conduct;
  - (b) Report the findings to the Audit and Corporate Governance Committee for information;
  - (c) Recommend to the Subject Member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
  - (d) Recommend to the Leader of the Council that the Subject Member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
  - (e) Arrange training for the Subject Member;
  - (f) Remove from all outside appointments to which the Subject Member has been appointed or nominated by the Council;
  - (g) Withdraw facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
  - (h) Exclude the Subject 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.
- 6.15 The Sub Committee has no power to suspend or disqualify the Sub Member or to withdraw members' or special responsibility allowances.
- 6.16 At the end of the hearing, the Chairman will state the decision of the Sub-Committee as to whether the member failed to comply with the Code of Conduct and as to any actions which the Sub-Committee resolves to take.
- 6.17 The Monitoring Officer will issue a decision notice, in consultation with the Chairman of the Sub Committee. The decision notice will be sent to the Complainant and the Subject Member. Thereafter a summary of the decision may be available for public inspection and the decision will be reported to the next convenient meeting of the Audit and Corporate Governance Committee.

## **Appeals**

- 6.18 There is no right of appeal against a decision of the Monitoring Officer or of the Standards Determination Sub-Committee to the Council.

## **Independent Person**

- 6.19 The Independent Person is invited to attend all meetings of the Sub Committee and his/her views are sought and taken into consideration before the Sub-Committee takes any decision on whether the member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

## **Revision of these arrangements**

- 6.20 In the interests of fairness, the Monitoring Officer may vary any of these arrangements as appropriate. The Chair of the Standards Sub Committee may depart from the arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.