

# Agenda

## Standards Committee

Tuesday, 8 November 2022 at 7.30 pm

New Council Chamber, Town Hall, Reigate



This meeting will take place in the Town Hall, Castlefield Road, Reigate. Members of the public, Officers and Visiting Members may attend remotely or in person.



Members of the public may observe the proceedings live on the Council's [website](#).

### Members:

#### N. C. Moses (Chair)

P. Harp (Vice Chair)

R. Absalom

Z. Cooper

R. Ritter

D. Powell (Co-opted Member)

M. Lodge (Co-opted Member)

### Substitutes:

**Conservatives:** M. A. Brunt, T. Schofield and S. T. Walsh

**Residents Group:** N. D. Harrison

**Green Party:** J. C. S. Essex

**Mari Roberts-Wood**  
Managing Director

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Published 31 October 2022

**Reigate & Banstead**  
**BOROUGH COUNCIL**  
Banstead | Horley | Redhill | Reigate

**1. Apologies for absence**

To receive any apologies for absence.

**2. Minutes of the previous meeting**

(Pages 5 - 6)

To approve the minutes of the previous meeting of the Committee held on 7 June 2022.

**3. Declarations of interest**

To receive any declarations of interest.

**4. Member Complaints 2021-22**

(Pages 7 - 20)

To receive a report on the number of Member Complaints in the year 2021-22.

**5. Urgent business**

To consider any item(s) which, in the opinion of the Chair, should be considered as a matter of urgency – Local Government Act 1972, Section 100B (4) (b).



**Our meetings**

As we would all appreciate, our meetings will be conducted in a spirit of mutual respect and trust, working together for the benefit of our Community and the Council, and in accordance with our Member Code of Conduct. Courtesy will be shown to all those taking part.



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**Accessibility**

The Council's agenda and minutes are provided in English. However, the Council also embraces its duty to anticipate the need to provide documents in different formats, such as audio, large print or in other languages. The Council will provide such formats where a need is identified prior to publication or on request.



**Notice is given** of the intention to hold any part of this meeting in private for consideration of any reports containing "exempt" information, which will be marked accordingly.

## Minutes of a meeting of the **Standards Committee** held at the **New Council Chamber - Town Hall, Reigate** on **Tuesday, 7 June 2022** at **7.30 pm**.

**Present:** Councillors R. Absalom, Z. Cooper, P. Harp, and N. C. Moses

**Attended remotely:** Councillors Lodge and Essex (Substitute)

### **1 Apologies for absence**

Apologies for absence had been received from Councillor David Powell, the Representative for Horley Town Council and from Councillor Ritter; Councillor Essex was attending virtually as substitute for Councillor Ritter. Apologies for absence had also been received from Joyce Hamilton, Monitoring Officer, who had been due to present agenda items 6 and 7.

### **2 Election of the Chair of the Committee**

The Committee elected a Chair for this municipal year 2022/23. Councillor N. Moses was proposed by Councillor R. Absalom and seconded by Councillor Z. Cooper.

**RESOLVED** that Councillor Nadean Moses be appointed as Chair for the municipal year 2022/23.

### **3 Election of the Vice-Chair of the Committee**

The Committee elected a Vice-Chair for this municipal year 2022/23. Councillor P. Harp was proposed by Councillor Z. Cooper and seconded by Councillor R. Absalom.

**RESOLVED** that Councillor Peter Harp be appointed as Vice-Chair for the municipal year 2022/23.

### **4 Minutes of the previous meeting**

**RESOLVED** that the minutes of the previous meeting of the Committee held on 8 June 2021 be confirmed and signed as a correct record.

### **5 Declarations of interest**

There were no declarations of interest.

# Agenda Item 2

Standards Committee, Tuesday, 7th June, 2022

## 6 Member Complaints 2021-22

This item was deferred to a later date, yet to be arranged, as the Monitoring Officer had been unable to attend the meeting.

## 7 Standards Committee Work Programme 2022-23

This item was deferred to a later date, yet to be arranged, as the Monitoring Officer had been unable to attend the meeting.

## 8 Urgent business

There was no urgent business.

The meeting finished at 7.38 pm

# Agenda Item 4



<b>Signed off by</b>	Monitoring Officer
<b>Author</b>	Alex Vine, Democratic and Electoral Services Manager
<b>Telephone</b>	Tel: 01737 276067
<b>Email</b>	alex.vine@reigate-banstead.gov.uk
<b>To</b>	Standards Committee
<b>Date</b>	Tuesday 8 <sup>th</sup> November 2022
<b>Executive Member</b>	Leader of the Council

<b>Key Decision Required</b>	N
<b>Wards Affected</b>	(All Wards);

<b>Subject</b>	Member Complaints 2021-22
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<b>Recommendations</b>
That the Committee receives and notes the Member Complaints Report for 2021-22.
<b>Reasons for Recommendations</b>
To demonstrate the promotion and maintenance of high standards of conduct by Councillors.
<b>Executive Summary</b>
<ol style="list-style-type: none"><li>1. This report summarises the discharge of the Standards function during the 2021-22 municipal year. This report includes but is not limited to:<ol style="list-style-type: none"><li>a. The Member Code of Conduct</li><li>b. Complaints against Members</li><li>c. The role of the Monitoring Officer</li><li>d. Maintenance of the Register of Interests.</li></ol></li></ol>
<b>The Standards Committee may receive and note this report</b>

# Agenda Item 4

## **Statutory Powers**

2. The Localism Act 2011 requires Councils to have in place locally focussed processes for regulating the conduct of Members. The Act also imposes a duty on Councils to promote and maintain high standards of conduct by Members.

## **Code of conduct**

3. All Members were provided with Code of Conduct training after the local elections in May 2022.
4. The Member Code of Conduct was comprehensively reviewed during 2019/20 by the Monitoring Officer and the Governance Task Group, in accordance with the findings of the review conducted by the Committee on Standards in Public Life.
5. The Governance Task Group agreed the revised Code of Conduct in March 2020 and recommended the Code to Council for approval in July 2020 where it was duly approved. A summary of the revisions are set out below for ease of reference and the full amended code is attached:
  - a. Defining Bullying/harassment and examples of such behaviours
  - b. Consideration of the application of the Code of Conduct to Social Media
  - c. Introduction of a requirement to declare gifts and hospitality over £25.

## **Complaints against Members**

6. The Council's Standards Committee is responsible for dealing with allegations that a member may have failed to observe the Council's Member Code of Conduct and has introduced procedures to ensure fairness and transparency whilst, at the same time, providing proportionate, cost effective and timely advice.
7. The procedure for dealing with complaints involves the following four stages:
  - a. initial consideration by the Monitoring Officer (Stage 1).
  - b. local resolution (Stage 2).
  - c. referral to an Assessment Panel (Stage 3).
  - d. determination by a Hearings Sub-Committee (Stage 4).
8. Three councillor complaints were received in the 2021-22 municipal year.
9. One alleged that a Member breached section 1.3(c)(i) of the Code of Conduct, which covers "bullying or harassment, including, without limitation: spreading malicious rumours, or insulting someone by word or behaviour, being offensive, intimidating, or misusing power to undermine, humiliate, denigrate or injure the recipient".
10. At stage 1 of the complaints process, the Monitoring Officer attempted to contact the complainant a number of times to request further information, however no response was given. As there was insufficient information to consider the complaint further, the investigation of the complaint was therefore closed.
11. The remaining two complaints alleged that a Member breached section 1.3(c) of the Code of Conduct as a result of posting inflammatory comments on social media, including:

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- (xv) “making abusive, derogatory, patronising, suggestive or sexualised comments”.
  - (xviii) “offensive e-mails, tweets or comments on social networking sites, where you are acting in your role as a Member”.
  - (xix): “trolling via social networking sites, where you are acting in your role as a Member”.
  - (xxiii) "display of offensive material, or material that may be perceived as offensive by a designated group of people".
12. Due to a parallel investigation undertaken by Surrey County Council, the two complainants chose to withdraw their complaints. Useful insights were gained from this complaint, and they are detailed in the following section.

## Learning points

### Social media use

13. With the decline in local media readership, social media has an increasingly important role for the council in engaging with key audiences and delivering its messages directly, using the channels they prefer.
14. As social media is a direct means of communicating with residents, it can be a useful communications channel for Members to reach their constituents and key stakeholders. However, it is also a platform which should be used respectfully and with care.
15. The Councillor Code of Conduct and relevant legislation applies online and in social media. If you are referring online in any way to your role as a councillor, including commenting as a councillor or about Council related matters, you are deemed to be acting in your ‘official capacity’ and any conduct may fall within the code. This can be the case even when a councillor uses their personal social media channels.
16. Taking these points into consideration, and in view of the complaints received in the 2021-22 municipal year, Members are reminded to be mindful of the [Code of Conduct \(link to Council website\)](#) and the [‘Communications protocol for Members’ \(link to extranet restricted website\)](#) when communicating on social media.
17. Members receive Code of Conduct and communications training annually at the induction day event, which covers the use of social media and standards of conduct online. The ‘Communications protocol’ is currently being reviewed by the Communications and Customer contact team and will be circulated to Members once finalised.
18. The Council’s committee meetings guidance was reviewed in July 2022 to include a new ‘social media use policy’, which states:
- a. The full attention of Councillors who are involved in the decision-making will be required during any formal debate or vote on any item under their consideration. These Councillors must not be distracted by using social media or any mobile devices during the time that the debate and vote is underway.*

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- b. To minimise disruption or disturbance to others attending the meeting, all attendees are asked to ensure that their phones or other mobile devices are set on silent or vibrate mode during meetings.*
- c. No Councillor in attendance, whether as a decision-maker or observer, is permitted to use social media or mobile devices during an 'exempt' session or disclose in any way the content of the items under discussion.*
- d. Any comments made using social media (e.g tweets or blog posts) are subject to the Council's Code of Conduct and could open councillors to potential complaints and investigations.*
- e. Further information about the Council's corporate use of social media is available in the Council's Member Communications Protocol.*

## **Role of the Monitoring Officer**

20. The Role of the Monitoring Officer is held by the Head of Legal and Governance, a qualified lawyer.

## **Maintenance of the Register of Interests**

21. The register of interest forms are completed by Members electronically, verified, and published on the Council's website.

## **Legal Implications**

22. The Constitution sets out the role of the Standards Committee, and the Monitoring Officer, in promoting high standards of conduct. This committee helps to promote and maintain the highest standards of conduct amongst members of the Council, and ensures that Councillors act in accordance with the Local Government Code of Conduct.

## **Financial implications**

23. There are no financial implications.

## **Risk implications**

24. Reputational – the conduct of Members reflects on the reputation of other Members and the Council as a whole. Breaches of the code of conduct may be of significant public interest and may therefore represent a reputational risk to the Council.
25. Personal liability – Councillors are personally responsible for the content they publish on any form of social media. Publishing an untrue statement about a person which is damaging to their reputation may incur a defamation action for which the Member concerned will be personally liable. The same applies if a Member passes on any similar untrue statements they receive.

## **Background Powers**



## Agenda Item 4

26. Reigate and Banstead Borough Council Members' Code of Conduct - [https://www.reigatebanstead.gov.uk/info/20400/your\\_council\\_documents/1236/member\\_code\\_of\\_conduct](https://www.reigatebanstead.gov.uk/info/20400/your_council_documents/1236/member_code_of_conduct)
27. Procedures for dealing with complaints under the member code of conduct process (appendix 1).
28. LGA Guide for Councillors on handling intimidation (includes advice on using social media) - [https://www.local.gov.uk/sites/default/files/documents/Councillors%20guide%20to%20handling%20intimidation%20updated%20Apr%2021\\_0.pdf](https://www.local.gov.uk/sites/default/files/documents/Councillors%20guide%20to%20handling%20intimidation%20updated%20Apr%2021_0.pdf)
29. LGA Councillors workbook on supporting residents with complex issues - [https://www.local.gov.uk/sites/default/files/documents/11%2058\\_LGA%20Cllr%20Workbook\\_Supporting%20residents%20with%20complex%20issues\\_July%202017.pdf](https://www.local.gov.uk/sites/default/files/documents/11%2058_LGA%20Cllr%20Workbook_Supporting%20residents%20with%20complex%20issues_July%202017.pdf)
30. LGA Overview of social media for councillors – <https://www.local.gov.uk/our-support/leadership-workforce-and-communications/comms-hub-communications-support/social-media-0>
31. LGA Guide to the role of councillors on social media – <https://www.local.gov.uk/our-support/leadership-workforce-and-communications/comms-hub-communications-support/social-media-1>
32. LGA Social media do's and don'ts – <https://www.local.gov.uk/our-support/guidance-and-resources/communications-support/digital-councils/social-media/get-started/dos-and-donts>
33. Reigate and Banstead Borough Council Members' Communications Protocol (restricted extranet website) – <https://reigate-bansteadextranet.moderngov.co.uk/ecSDDisplay.aspx?NAME=SD919&ID=919&RPID=2807106>

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# Reigate and Banstead Borough Council

## Procedures for Dealing with Complaints Under the Member Code of Conduct



### Introduction

1. The Council takes all allegations of Member misconduct extremely seriously and seeks to secure the highest standards of conduct at all times.
  2. The Council's Standards Committee is responsible for dealing with allegations that a Member may have failed to observe the Council's Member Code of conduct and has introduced procedures to ensure fairness and transparency whilst, at the same time, providing proportionate, cost effective and timely action.
  3. The Committee has therefore introduced the following four stage procedure:
    - initial consideration by the Monitoring Officer (Stage 1)
    - local resolution (Stage 2)
    - referral to an Assessment Panel (Stage 3)
    - determination by a Hearings Sub-Committee (Stage 4)
- (Note: All stages may not be required. See also paragraph 5 below).
4. The aim is to resolve complaints within 3 months of receipt although in complex cases requiring investigation this may not always be possible. All interested parties will be kept informed of progress in dealing with the complaint through the above stages.
  5. In advance of the four stages referred to under paragraph 3 above, it is open to any person who is concerned about a Member conduct issue, to contact the Council's Monitoring Officer for informal confidential advice.

### Criteria for Complaints

6. Complaints must:
  - relate to a serving Member or co-opted Member of the Council
  - name who the complaint is against
  - relate to conduct within the last six months
  - relate to conduct that occurred at a time when the person against whom a complaint is made was a Member of the Council
  - explain the alleged breach of the Member Code of Conduct
  - be made in writing and, where appropriate, provide relevant documentation

6. Complaints must not:
- be vexatious, frivolous or politically motivated
  - be anonymous
  - relate to the Members private life

### **Initial Consideration by the Monitoring Officer (Stage 1)**

7. All allegations of Member misconduct must be referred to the Council's Monitoring Officer to consider and determine whether:
- the criteria set out above is met
  - no further action is required
  - the complaint appears to show a breach of the Code
  - a local settlement is appropriate or
  - referral of the allegation to an Assessment Panel, if necessary
8. Complaints will be acknowledged in writing within five working days of receipt. At the same time the Member against whom the allegation is made will be provided in writing with details and his or her initial views sought. The Member involved will also be informed of his/her right to consult with an Independent Person.
9. The Monitoring Officer will consult with one of the Council's Independent Persons giving an initial indication that the complaint is either to be rejected ("no further action"); or accepted as meeting the required criteria leading to local resolution (Stage 2) or referral to the Assessment Panel (Stage 3). Having consulted the Independent Person the Monitoring Officer will determine what course of action is to be taken and notify in writing the Independent Person accordingly.
10. Interested parties will also be notified in writing of the proposed action, procedures involved, where appropriate, and the reasons for the decision. Determinations under this delegation will be reported to the Standards Committee by the Monitoring Officer on a quarterly basis. In the case complainants the decision of the Monitoring Officer is final. Information about the complaint may be shared by the Monitoring officer with the Leader of the Council and relevant group leaders.

### **Local Settlement (Stage 2)**

11. The Standards Committee is aware that the formal investigation of complaints is both costly and time consuming. Whilst formal investigation may be necessary in some cases, it may be possible for complaints to be dealt with more rapidly and effectively through early informal resolution of the matter.

12. The Monitoring Officer is therefore authorised, upon receipt of a complaint, to consider and, if appropriate, explore the potential for local resolution to the satisfaction of the complainant, to avoid the need for referral to the Assessment Panel. Any attempt at local resolution at this stage does not take away the complainant's right to have the complaint of Member misconduct considered by the Assessment Panel.
13. In dealing with a complaint and whether it is capable of local resolution, the Monitoring Officer will consult an Independent Person appointed for this purpose. A key factor in local resolution will be the nature and complexity of the allegation and, typically, whether an apology and/or training would bring matters to a close. Local resolution is not, however, solely limited to these remedies.
14. The decision to proceed with local resolution rests with the Monitoring Officer following consultation with the Independent person and with the agreement of the complainant and the Member involved. This decision will be confirmed in writing to all parties.

### **Referral to an Assessment Panel (Stage 3)**

15. Where local settlement cannot be achieved or is not appropriate (having regard to the nature and complexity of the allegation) the Monitoring Officer must arrange for referral to and consideration by an Assessment Panel.
16. The Assessment Panel shall be chaired by the Chairman or Vice-Chairman of the Standards Committee (but not both), and comprise the Chairman together with two other Members of the Committee. In the event that a complaint relates to a Parish Councillor from Horley Town Council or Salfords and Sidlow Parish Council one of the members of the assessment panel shall be a member of the other Parish Council.
17. Interested parties will be advised of the date time and location of the Panel and given the opportunity to provide written representations in advance of the meeting. No parties will be invited to the Assessment Panel at this stage. This is to ensure that the assessment of complaints is undertaken swiftly; additionally it is not expected that all the facts of the case need be considered in full at this preliminary stage.
18. The Panel (only) will be provided with a report by the Monitoring Officer, which will include the following:
  - details of the complaint
  - details of the Member's response to the complaint
  - any evidence which is available without the need for investigation
  - the outcome of consultation with the Independent Person
  - details of any attempt to negotiate a local settlement
  - written representations from any interested party
  - such other papers as the Monitoring Officer considers appropriate

19. Proceedings are at the discretion of the Chairman (upon advice from the Monitoring Officer or his/her nominated representative) but generally will be conducted as follows:
- introduction of Panel Members and others in attendance
  - outline of purpose of the meeting and how it will proceed
  - the Panel is not bound by the Access to Information rules and will not take place in public unless there are exceptional circumstances which dictate otherwise
  - the Panel will consider the Monitoring Officer's report and determine whether or not, on the basis of the complaint, there appears to have been a breach of the Code
  - in the light of these considerations, the Panel will recommend to the Monitoring Officer one of the following courses of action:
    - close the case on the basis that the evidence does not disclose an apparent breach of the Code of Conduct.
    - request that the complaint be formally investigated (on the basis that the alleged conduct appears sufficiently serious to merit the imposition of a penalty/sanction against the Member) leading to consideration by a Hearings Sub-Committee
    - other appropriate action short of formal investigation, for example requiring an apology, providing formal training (either individual or Council wide), securing conciliation or mediation or reviewing procedures to minimise conflict. This is not an exhaustive list and, in the main, will apply to less serious cases and where the parties involved are willing to engage in an amicable resolution.
20. The decision whether to close the case or take further action is delegated to the Monitoring Officer based on the recommendation of the Panel. The Monitoring Officer will write to all parties within 10 working days to advise them of his decision based on the outcome of the Assessment Panel.

#### **Determination by a Hearings Sub-Committee (Stage 4)**

21. Where a formal investigation has been undertaken, the Monitoring Officer must arrange for the relevant report to be considered by a Hearings Sub-Committee. The Monitoring Officer can appoint an independent investigator or a senior officer of the Council for the purposes of conducting the investigation.
22. The Hearings Sub-Committee shall comprise the Chairman or Vice-Chairman of the Standards Committee (but not both), together with two other Members of the Committee. As far as possible, the Sub-Committee must reflect the political balance of the Council. In the event that a complaint relates to a Parish Councillor from Horley Town Council or Salfords and Sidlow Parish Council one of the members of the assessment panel shall be a member of the other Parish Council.
23. The conduct of Sub-Committee meetings shall be in accordance with the Council's Constitution as supplemented by these procedures.

#### ***Pre-hearing Process***

24. Upon receipt, the draft Investigator's report shall be sent to the complainant and relevant Member so that they can comment on any matters of fact. Parties will have two weeks in which to comment. Absence of response will be taken as meaning that there is no disagreement on facts in the draft report.
25. Once the Investigator's final report has been submitted, the Monitoring Officer or an informal meeting of the Hearings Sub-Committee may conduct a pre-hearing process in order to narrow the issues between the parties and make appropriate provision for the smooth running of the Hearing. Where this happens the Monitoring Officer will provide a letter to all parties outlining the issues to be determined and the arrangements for progressing all such matters.

### ***Hearings Procedure***

#### *General*

26. All interested parties will be:
  - notified in writing (no less than two weeks in advance) of the date, time and place of the Sub Committee (and Hearing)
  - provided with the Agenda and related reports for the Sub Committee (and Hearing)
  - allowed representation at the Hearing and given the opportunity to request the attendance of witnesses
27. The Investigator will be in attendance at the Hearing and will be given the opportunity to request the attendance of witnesses. The Council will be represented by the Monitoring Officer or his/her nominated representative. A representative of Democratic Services will be present.
28. Following election, the Chairman will:
  - introduce Members of the Sub-Committee and others in attendance
  - explain the purpose of the meeting and how it will proceed
29. The Monitoring Officer or his/her nominated representative will advise the Chairman whether the Hearing should be in public or private. The Access to Information Rules apply. In order to give confidence to the public it is expected that the Sub-Committee will take place in public unless there are exceptional circumstances which dictate otherwise.
30. The Sub-Committee will resolve any other issues or disagreements about how the Hearing should continue, which have not been resolved during the pre-hearing process.

#### *Disagreements about facts*

31. The Investigator will be invited to make representations to support the findings of his/her report and call supporting witnesses. The Member or their representative will be entitled to challenge the evidence given by any witness after each witness has completed their evidence.
32. Any Member of the Sub-Committee may then ask questions.
33. The Member or their representative will then be invited to make representations and give evidence to support their version of events. The Investigator will be entitled to challenge that evidence after the Member or representative has completed their evidence.
34. Any Member of the Sub-Committee may then ask questions.
35. The Member or their representative will then call any supporting witnesses in turn and may question them to ensure that their evidence on the facts is clear.

36. The Investigator will be entitled to challenge that evidence, after each witness has completed their evidence.
37. Any Member of the Sub-Committee may then ask questions.

*Disagreement over facts that have not been identified by the Member in advance of the Hearing*

38. The Sub-Committee will not allow the Member to raise a disagreement with the facts, which was not raised prior to the Hearing, unless the Member satisfies the Sub-Committee there are good reasons for not raising the disagreement before.
39. After considering the position and the Member's explanation for not raising the disagreement at an earlier stage the Sub-Committee may:
  - (a) continue the Hearing, relying on the information in the Investigator's report;
  - (b) allow the Member to make representations about the issue and invite the Investigator to respond and call any witnesses necessary; or
  - (c) adjourn the Hearing.

*Determining whether the Member has failed to follow the Code*

40. The Member or their representative will be invited to make representations as to why the Sub-Committee should not decide the Member has failed to follow the Code.
41. Any Member of the Sub-Committee may then ask questions.
42. The Investigator will be asked to make representations as to why the Sub-Committee should find there has been a breach.
43. Any Member of the Sub-Committee may then ask questions.
44. The Member or their representative will be invited to make any final points.
45. The Sub-Committee will adjourn and in private, with the Monitoring Officer or his/her nominated representative, consider its decision based on the facts presented.
46. The Hearing will reconvene and the Chairman will announce the Sub-Committee's findings of fact and whether the Member has failed to follow the Code of Conduct.

*Procedure where there is a finding that the Code has been breached*

47. The Investigator and then the Member or their representative will be invited to make representations as to:
  - (a) whether or not the Sub-Committee should set a penalty/sanction; and
  - (b) what form any penalty/sanction should take.
48. Any Member of the Sub-Committee may then ask questions of the Investigator or Member or his/her representative; and take advice from the Monitoring Officer or his/her representative.
49. The Sub-Committee will adjourn and in private, with the Monitoring Officer or his/her nominated representative, consider what if any, penalty/sanction should be imposed on the Member presented.



50. The Sub-Committee will reconvene and announce its decision(s) and confirm that a full written summary with the decision will be sent to all interested parties as soon as possible and in any event within the following ten working days.
51. The full written summary and decision will be placed on the Council's web for a period of four years or until the Councillor involved ceases to be a Member of the Council.

#### **Withdrawing a Complaint**

54. A complaint can be withdrawn at any stage by the complainant unless in the opinion of the Monitoring Officer it is in the wider interests of the Council that it be determined.

