

Agenda

Standards Committee

Tuesday, 7 November 2023 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:

P. Harp (Chair)

J. C. S. Essex

J. Dwight

J. Hudson

S. A. Kulka

C. Hughes (Co-opted)

Lodge (Co-opted)

Substitutes:

Conservatives:

F. Kelly

Residents Group:

G. Hinton

Green Party:

R. Ritter

Liberal Democrats

M. Elbourne

Mari Roberts-Wood
Managing Director

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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 6 June 2023.

3. Declarations of interest

To receive any declarations of interest.

4. Annual Member Complaints 2022-23

(Pages 7 - 22)

To receive a report of the Deputy Monitoring Officer in relation to Member complaints and standards of conduct during the 2022-23 municipal year.

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.



Streaming of meetings

Meetings are broadcast live on the internet and are available to view online for six months. A recording is retained for six years after the meeting. In attending any meeting, you are recognising that you may be filmed and consent to the live stream being broadcast online, and available for others to view.



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.

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Minutes of a special meeting of the **Standards Committee** held at the **New Council Chamber - Town Hall, Reigate** on **Tuesday, 11 July 2023 at 6.30 pm.**

Present: Councillors P. Harp (Chair); J. C. S. Essex (Vice-Chair), J. Dwight, J. Hudson and S. A. Kulka

Attended remotely: Councillors Lodge (Co-Opted Member)

7 Apologies for absence

Apologies for absence were received from Councillor C. Hughes (Co-opted Member for Horley Town Council).

8 Minutes of the previous meeting

RESOLVED that the minutes of the previous meeting of the Committee held on 6 June 2023 be confirmed and signed as a correct record.

9 Declarations of interest

There were no declarations of interest.

10 Appointment of Independent Persons 2023 - 2027

The Committee received a report of the Deputy Monitoring Officer regarding the appointment of Independent Persons for Standards for a four-year term ending in May 2027.

Section 28 (7) of the Localism Act 2011 required that the Council appointed at least one Independent Person, whose views may be sought regarding any allegations of misconduct against a councillor.

Following a joint recruitment and selection process involving six other local authorities in Surrey, it was recommended that shortlisted candidates listed under Annex 1 be appointed by the Committee.

RESOLVED to appoint the following people to act as an Independent Person for Standards of Conduct for a four-year term of office ending in May 2027:

- Andrea Armstrong
- Bill Donnelly
- Jane Clarke
- John Smith; and,
- Vivienne Cameron.

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Standards Committee, Tuesday, 11th July, 2023

11 Urgent business

There was no urgent business.

The meeting finished at 6.34 pm



Signed off by	Deputy Monitoring Officer
Author	Alex Vine, Democratic and Electoral Services Manager and Deputy Monitoring Officer
Telephone	Tel: 01737 276067
Email	alex.vine@reigate-banstead.gov.uk
To	Standards Committee
Date	7 th November 2023, 7:30pm

Subject	Annual Standards and Member Complaints report 2022-23
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Recommendations
That the Committee receives and notes the Member Complaints Report for 2022-23.
Reasons for Recommendations
To demonstrate the promotion and maintenance of high standards of conduct by Councillors.
Executive Summary
<ol style="list-style-type: none"> 1. This report summarises the discharge of the Standards function during the 2022-23 municipal year. This report includes but is not limited to: <ol style="list-style-type: none"> a. The Member Code of Conduct b. Complaints against Members c. The role of the Monitoring Officer d. Maintenance of the Register of Interests.
The Standards Committee may receive and note this report

Agenda Item 4

Statutory Powers

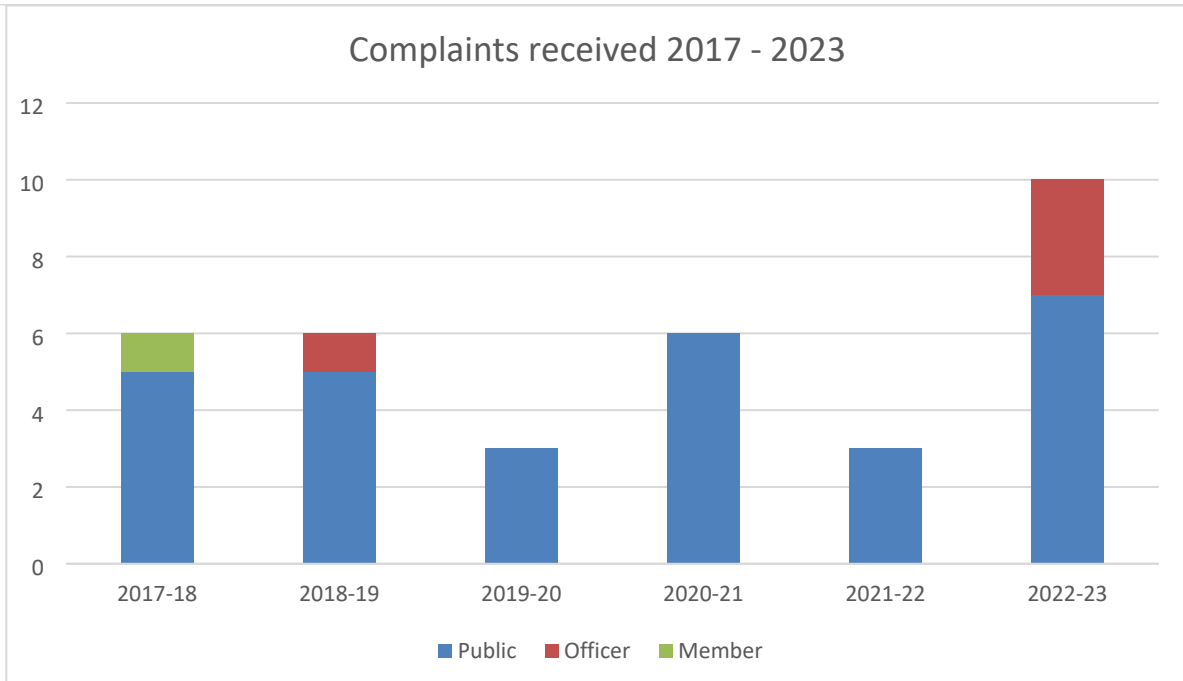
2. The Localism Act 2011 requires Councils to have in place locally focussed processes for regulating the conduct of Members. The Act also imposes a duty on Councils to promote and maintain high standards of conduct by Members.

Code of conduct

3. The Member [Code of Conduct](#) was 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.
4. 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.
5. A further review of the Code of Conduct is expected next year, in view of the [LGA's Model Code of Conduct](#) and forming part of a wider review of the [Council's Constitution](#).
6. All Members were provided with mandatory Code of Conduct training after the local elections, on 21st June 2023. Further training will be provided after the elections in May 2024, when the reviewed Code of Conduct is expected to be in place.

Summary of complaints received 2022-23

7. 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.
8. The procedure for dealing with complaints, attached at Annex 1 to this report, 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).
9. Ten formal councillor complaints were received in the 2022-23 municipal year, representing a 100% increase on the rolling average of complaints received each year (five). This uplift may be attributed to the submission of multiple complaints against Councillors in respect of singular incidents (see paragraphs 12 and 23).
10. Of these ten formal complaints:
 - a. Three were submitted by officers against a Member and the remaining seven were submitted by members of the public.
 - b. Two related to an alleged breach of a resident's personal data.
 - c. Four related to Members' conduct during formal committee meetings.
 - d. Three alleged offensive and racist comments on social media.



11. Historical annual complaints reports for the previous three municipal years are available to view via the links below:

- [Complaints 2019-20 \(Standards Committee, 1st September 2020\)](#)
- [Complaints 2020-21 \(Standards Committee, 8th June 2021\)](#)
- [Complaints 2021-22 \(Standards Committee, 8th November 2022\)](#)

Complaints about conduct during formal committee meetings

Case study A – comments during Planning Committee, December 2022

12. Three members of the public complained against a councillor’s comments during a Planning Committee meeting in December 2022.

13. Agreement was subsequently reached between the complainants and the Councillor to settle the complaint informally via an apology.

Case study B – comments during Full Council, February 2023

14. A member of the public made a complaint relating to a Councillor’s comments during a Full Council meeting in February 2023.

15. As this complaint related to a former Councillor, it was agreed with the Monitoring Officer and the Independent Person following the end of their term of office that it was not appropriate to investigate the matter further.

16. We wrote to the former Councillor to point out that on this occasion their behaviour was perceived by a member of the public as falling below the standards expected of a Councillor.

General observations about the use of mobile phones

17. More generally speaking, concerns have been raised by officers on several occasions about the use of mobile phones during formal committee meetings. In this regard, the Council’s committee meetings guidance of July 2022 states:

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- (i) *“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.*
- (ii) *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.*
- (iii) *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.”*

18. In response to these concerns, Democratic Services circulated reminders via the weekly Member newsletter about the Council’s policy on the use of mobile phones during formal committee meetings.

Complaints about conduct on social media

Case study C – disclosure of personal data and alleged racist conduct.

- 19. A member of the public lodged a complaint against a councillor alleging a breach of conduct relating to Facebook posts. This complaint was referred to a Standards Assessment Panel on Monday 26th June, comprising of three Members of the Standards Committee.
- 20. In relation to the allegation of racism, the Panel recommended that the case be closed as there was no proof that the Councillor had misspelt the complainant’s name deliberately, rather than inadvertently, and therefore no proof on the balance of probabilities that the Councillor had breached the Code of Conduct in respect of this matter.
- 21. In relation to the allegation of revealing the fact of the complainant’s relationship with another Councillor, the Panel considered that this was not a breach of the GDPR but found that the Councillor had nevertheless breached the Code of Conduct, specifically paragraph 1.3 (1)(h) relating to the disclosure of confidential information.
- 22. The Panel recommended that the Councillor should apologise to the complainant for having revealed the fact of their relationship with another Councillor and that the Councillor should undergo one-to-one training on the use of social media, preferably with a member of the Communications team.

Case study D – alleged racist conduct.

- 23. Two officers made a complaint against a councillor alleging a breach of the Code relating to offensive, racist comments posted on “X” (formerly known as Twitter).
- 24. The complaint was referred to the Assessment Panel, whereupon it was recommended that the complaint be closed with no further action on the basis that the Councillor was not acting in an official capacity and that the Code of Conduct could not therefore be applied under paragraph 1.2 (1)(b), which states that –

“1.2 Scope

1) *You must comply with this Code whenever you:*

a) conduct the business of the authority, which includes the business of the office to which you are elected or appointed; or

b) act, claim to act or give the impression you are acting as a representative of your authority.

25. In reaching its conclusion, the Panel noted that a separate investigation by the Councillor's respective political group was underway at the time.

26. In addition, mandatory Equalities and Diversity training is being arranged for all Members to promote respect for others, in line with the Council's Code of Conduct and the Equalities Act 2010.

Complaints about disclosure of personal data

27. In addition to the disclosure of personal data investigated under Case Study C (paragraph 19), another complaint against a Councillor alleged that their personal information (e.g. name and email address) was inadvertently shared with a third party.

28. Further to consultation with the Independent Person, complainant and Councillor, this complaint was informally settled by apology.

29. All Members are required to attend mandatory Data Protection training, which was delivered as part of the Member Learning and Development Programme on 27th June 2023.

Learning points

Social media use

30. 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.

31. 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. This has been reflected in a steady increase over the past decade in the number of complaints about Members' conduct on social media.

32. The Council does not currently have any specific guidance relating to Member conduct on social media in relation to its own Code of Conduct. It is therefore recommended that the Monitoring Officer (or a Deputy), following a review of the Code of Conduct, produces corresponding social media guidance for Members which aligns with the revised Code. If the LGA's Model Code of Conduct is adopted, then the existing social media guidance produced by the LGA will be circulated to Members following the review of the Code and as part of the annual induction process.

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When does the Code apply?

- 33.** 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.
- 34.** However, Case Study C highlighted a lack of clarity about when the Code applied when using a personal social media account. The view of the Independent Person was that the Code could potentially be applied, but ultimately the Assessment Panel concluded that it did not apply.
- 35.** Taking these points into consideration, and in view of the complaints received in the 2022-23 municipal year, the following remedies are planned:
 - a.** Greater clarity is needed in terms of when the Code applies, both in terms of when Members are commenting online and when sitting on an Assessment Panel considering the conduct of others. A review of the Code of Conduct is expected to consider this issue; and subsequent training for all Members will promote a greater understanding of the scope of the Code.
 - b.** The review of the Code of Conduct is recommended to include the provision of a new Social Media Protocol for Members in respect of their conduct online. This should provide greater clarity and understanding about expected standards of conduct online in the future.

The Monitoring Officer

- 36.** The Monitoring Officer is Joyce Hamilton, the Strategic Head of Legal and Governance.
- 37.** Section 5 of the Local Government and Housing Act 1989 requires that every local authority designates a Monitoring Officer. The Committee on Standards in Public Life summarised the role of the Monitoring Officer as "the lynchpin of the arrangements for upholding ethical standards in an authority".
- 38.** The functions and responsibilities of the Monitoring Officer are defined in the law and Constitution (see [Article 13.3](#)), and generally fall into four key elements as follows:
 - a.** The guardian of good governance.
 - b.** The overview and upkeep of the Constitution.
 - c.** The Section 5 duty to report unlawful conduct.
 - d.** The promotion of Standards of Conduct of Councillors.
- 39.** The Monitoring Officer is supported by three Deputy Monitoring Officers, including:
 - a.** Agnes Krofah, Legal Services Manager.
 - b.** James Hitchcock, Legal Solicitor.
 - c.** Alex Vine, Democratic and Electoral Services Manager.
- 40.** Complaints against Members of the Council are considered and investigated by the Monitoring Officer or one of their Deputies in consultation with an Independent

Person, unless there is a conflict of interest, in which case an external Independent Person may be appointed to conduct an investigation.

Independent Persons

41. The Localism Act introduced a new ethical standards regime for local government in July 2012. Amongst other things, it requires the Council, in some circumstances, to seek the views of an Independent Person before it takes a decision on an allegation of misconduct by a councillor which it has decided to investigate.
42. The Monitoring Officer may consult with the Independent Person and decide whether a complaint merits a formal investigation. The Independent Person's views may also be sought by the Council at any other stage in a misconduct complaint, or by a councillor against whom an allegation has been made.
43. The Standards Committee [resolved to appoint five Independent Persons jointly with other local authorities in Surrey at a special meeting held on 11th July 2023.](#)

Register of Interests

44. The register of interest forms are completed by Members electronically, verified, and the [Register of Interests is published on the Council's website.](#)
45. The Register is audited annually, typically during January and February, in order for the return of 'Related Party Transactions' to be included within the Annual Statement of Accounts after the financial year ending in April.
46. However, any changes to the Code of Conduct affecting the treatment of interests must also be reflected in the Register of Interests within 28 days of it taking effect, and therefore the Register (and instructions for Members) will be refreshed immediately after the Code has been reviewed.
47. Members are responsible for updating their own entry in the Register of Interests within 28 days of their personal circumstances changing, or within 28 days of acceptance of office after their election.
48. The Monitoring Officer is responsible for ensuring Members are sufficiently trained and informed to complete their Register of Interests accurately.

Legal Implications

49. 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

50. There are no financial implications.

Risk implications

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51. 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.
52. 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 Papers

53. Reigate and Banstead Borough Council Members' Code of Conduct - https://www.reigatebanstead.gov.uk/info/20400/your_council_documents/1236/member_code_of_conduct
54. Procedures for dealing with complaints under the member code of conduct process (appendix 1).
55. 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%202021_0.pdf
56. 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
57. 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>
58. 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>
59. 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>
60. 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>

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.

