

9.04 Standards Regime - Arrangements

- (a) That the Managing Director (People and Places) be appointed as the Proper Officer to receive complaints of failure to comply with the Code of Conduct;
- (b) That the Managing Director (People and Places) be given delegated power, after consultation with the Independent Person, (as to which see (f) below) to determine whether or not a complaint merits formal investigation and, if appropriate to arrange such investigation. She be asked to seek resolution of complaints without formal investigation wherever practicable, and that she be given discretion to refer decisions on investigation to the Assessment Sub-Committee of the Standards Committee where she feels that it is inappropriate for her to take the decision, and to report quarterly to Standards Committee on the discharge of this function;
- (c) Where the investigation finds no evidence of failure to comply with the Code of Conduct, the Managing Director (People and Places) be asked to close the matter, providing a copy of the report and findings of the investigation to the complainant and to the member concerned, and to the Independent Person, and reporting the findings to the Standards Committee for information;
- (d) Where the investigation finds evidence of a failure to comply with the Code of Conduct, the Managing Director (People and Places) in consultation with the Independent Person be authorised to seek local resolution to the satisfaction of the complainant in appropriate cases, with a summary report for information to Standards Committee. Where such local resolution is not appropriate or not possible, she is to report the investigation findings to a Hearings Sub-Committee of the Standards Committee for local hearing;
- (e) That Council delegate to Hearings Sub-Committee such powers as can be delegated to take decisions in respect of a member who is found on hearing to have failed to comply with the Code of Conduct, such actions to include –
 - (1) Reporting its findings to Council [*or to the Parish Council*] for information;
 - (2) Recommending to the 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;
 - (3) Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;

- (4) Instructing the Managing Director (People and Places) to *[or recommend that the Parish Council]* arrange training for the member;
- (5) Removing *[or recommend to the Parish Council that the member be removed]* from all outside appointments to which he/she has been appointed or nominated by the authority *[or by the Parish Council]*;
- (6) Withdrawing *[or recommend to the Parish Council that it withdraws]* facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- (7) Excluding *[or recommend that the Parish Council exclude]* 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.

(f) Independent Person

- (1) The "arrangements" adopted by Council must include provision for the appointment by Council of at least one Independent Person. The Independent Person must be appointed through a process of public advertisement, application and appointment by a positive vote of a majority of all members of the Council.

A person is considered not to be "independent" if -

- (a) he/she or has been within the last 5 years, an elected or co-opted member or an officer of the Borough Council or of any of the Parish Councils within its area;
- (b) he/she is, or has been within the last 5 years, an elected or co-opted member of any Committee or Sub-Committee of the Borough Council or of any of the Parish Councils within its area subject to transitional arrangements); or
- (c) he/she is a relative or close friend of a current elected or co-opted member or officer of the Borough Council or any Parish Council within its area, or any elected or co-opted member of any Committee of Sub-Committee of such Council.

For this purpose, "relative" comprises -

- (a) the candidate's spouse or civil partner;
- (b) any persons with whom the candidate is living as if they are spouses or civil partners;
- (c) the candidate's grandparent;
- (d) any person who is a lineal descendent of the candidate's grandparent;
- (e) a parent, brother, sister or child of anyone in Paragraphs (a) or (b);

- (f) the spouse or civil partner of anyone within Paragraphs (c), (d) or (e); or
- (g) any person living with a person within Paragraphs (c), (d) or (e) as if they were spouse or civil partner to that person.

(2) Functions of the Independent Person

The functions of the Independent Person(s) are –

- (a) They must be consulted by the authority before it makes a finding as to whether a member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that member (this means on a decision to take no action where the investigation finds no evidence of breach or, where the investigation finds evidence that there has been a breach, on any local resolution of the complaint, or on any finding of breach and on any decision on action as a result of that finding);
- (b) They may be consulted by the authority in respect of a standards complaint at any other stage; and
- (c) They may be consulted by a member or co-opted member of the Borough Council or of a Parish Council against whom a complaint has been made.

This causes some problems, as it would be inappropriate for an Independent Person who has been consulted by the member against whom the complaint has been made, and who might as a result be regarded as prejudiced on the matter, to be involved in the determination of that complaint.

Note: The Council has decided to appoint one Independent Person and a Reserve Independent Person who can act in the event that the Independent Person is unable to discharge the function. An allowance of £500 is paid to the Independent Person and £250 to the Reserve Independent Person.