

North Tyneside Council

Standards Committee

Code of Conduct for Member and Co-opted  
Members

Arrangements for Dealing with Allegations of  
Breaches of the Code of Conduct for  
Members and Co-opted Members

(May 2022)

# Standards Committee

## Code of Conduct for Member and Co-opted Members

### Arrangements for Dealing with Allegations of Breaches of the Code of Conduct for Members and Co-opted Members

#### **1. Context**

These arrangements set out how the Authority will deal with a complaint that an elected or co-opted member of the Council has failed to comply with the Authority's Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Authority must have in place "arrangements" under which allegations that a Member or Co-opted Member of the Council or a Committee or Sub-Committee of the Authority, has failed to comply with the Code of Conduct can be investigated and decisions made on such allegations. Such arrangements must provide for the Authority to appoint at least one Independent Person, whose views must be sought by the Authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Authority at any other stage, or a Member or Co-opted Member against whom an allegation has been made. The Authority has appointed three Independent Persons.

#### **2. The Code of Conduct**

The Authority has adopted a Code of Conduct for Members and Co-opted Members, which is attached as Appendix 1 to these arrangements, and which is available for inspection on the Authority's website. It is incorporated into the Authority's Constitution.

#### **3. Receipt of a complaint**

A complaint against a Member or Co-opted Member will be sent by the Complainant in writing or by email to –

The Monitoring Officer  
Law and Governance  
Quadrant,  
Silverlink North,  
Cobalt Business Park,  
North Tyneside,  
NE27 0BY

Or – [standards@northtyneside.gov.uk](mailto:standards@northtyneside.gov.uk)

The Monitoring Officer is the senior officer of the Authority who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of member misconduct.

In order to ensure that the Authority has all the information which it needs to be able to process a complaint, it is encouraged that the complaint form at Appendix 2 is completed and submitted. The complaint form is available from the Authority's website.

Although the Localism Act 2011 requires complaints to be submitted in writing, that requirement must be read in conjunction with the Equality Act 2010 and the Authority's duty to make reasonable adjustments under that Act.

The Monitoring Officer will acknowledge receipt of the complaint to the complainant and ordinarily provide the subject member of the complaint, with a copy of the complaint within 5 working days of receiving it and will keep all parties informed of the progress of the complaint. The Monitoring Officer will also seek comments from the subject member of the complaint to assist in the initial assessment of the complaint.

#### **4. Request for confidentiality**

If a complainant wants to keep their name and address confidential, they are required to indicate this in the space provided on the complaint form, or in their written complaint if the complaint form is not used, and this will be considered by the Monitoring Officer. Only in exceptional circumstances would a complainant be granted confidentiality. As a matter of fairness, the complainant's identity would normally be disclosed to the subject member, and in many instances it would not be practical or possible to investigate a complaint without the identity of the complainant being revealed.

If confidentiality is granted, and the complaint proceeds, the Monitoring Officer will determine whether or when the subject member will be advised of the complaint and the identity of the complainant. The procedure set out below will be adjusted as appropriate to accommodate the decision of the Monitoring Officer.

Where a request for confidentiality is refused by the Monitoring Officer, the complainant will be advised of that refusal and will be given the option to withdraw the complaint within 7 working days. If the complaint is withdrawn the matter will be then closed and the subject member will not be informed of the complaint. If the complainant refuses to withdraw the complaint or does not respond within the specified timescale, then the subject member will be sent a copy of the complaint and the complaint will proceed as set out in paragraph 6 below.

## **5. Anonymous Complaints**

It should be noted that anonymity and confidentiality are different concepts. Anonymity means that the identity of the complainant is unknown to the Authority, whereas confidentiality means that the Authority knows the identity of the complainant which is withheld for a specific reason.

The Authority will not normally investigate anonymous complaints on the basis that to do so would be against the principles of transparency and fairness and make matters more difficult to investigate. However, if there are exceptional and compelling reasons an anonymous complaint may be accepted. This may be for example where the allegation can be evidenced without reference to the complainant and where it is considered that the public interest in investigating the allegation outweighs the issue of anonymity.

## **6. Will the complaint be investigated?**

The Monitoring Officer will review every complaint received and, after consultation with one of the Independent Persons and consideration of the initial comments of the subject member, decide whether the complaint will be investigated. The decision will be based on whether the allegation, if proved, would constitute a failure to observe the Code of Conduct as well as having regard to the Authority's adopted assessment criteria (attached at Appendix 3). This decision will normally be taken within 28 days of receipt of the complaint. The parties will be advised of the Monitoring Officer's decision together with the reasons for that decision – subject to any decision on confidentiality arising as referred to above.

Where the Monitoring Officer requires additional information in order to come to a decision, he/she may go back to the complainant for such information and may request information from the subject member of the complaint.

If the complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer may refer the complaint to the Police or other regulatory agencies irrespective of a request for confidentiality by the complainant.

A copy of the subject member's initial comments will normally be provided to the complainant with the assessment decision unless there are particular reasons, in the view of the Monitoring Officer, not to.

## **7. Informal Resolution**

The Monitoring Officer may consider that a complaint can be reasonably resolved informally. In such a case, the Monitoring Officer will consult with one of the Independent Persons, the subject member, and the complainant to seek agreement to a fair resolution of the complaint which also helps to ensure high standards of conduct for the future. If the subject member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee for information but will take no further action.

## **8. How is the investigation conducted?**

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer. The Investigating Officer may be another officer of the Authority, an officer of another Authority or an external investigator.

The Investigating Officer will write to the subject member and will ask them to provide their explanation of events, and to identify what documents or other materials they believe the Investigating Officer needs to see and consider.

The Investigating Officer will decide whether he/she needs to meet or speak to the complainant to understand the nature of the complaint and so that the complainant can explain their understanding of events and suggest what documents or other materials the Investigating Officer needs to see, and who the Investigating Officer needs to consider.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to the subject member and to the complainant, to give both an opportunity to identify any matter in that draft report which they disagree with or which they consider requires more consideration. A copy of the draft report will also be sent to the Monitoring Officer.

Having received and taken account of any comments which the complainant or subject member may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

## **9. What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**

The Standards Committee or Sub-Committee will review the Investigating Officer's report and, if it is satisfied that the Investigating Officer's report is sufficient and it agrees that there is no evidence of a failure to comply with the Code of Conduct, it will instruct the Monitoring Officer to write to the subject member and to the complainant, notifying both that they are satisfied that no further action is required, and give both a copy of the Investigating Officer's final report.

If the Standards Committee do not agree with the conclusion that there is no evidence of a failure to comply with the Code of Conduct, it will refer the matter for a hearing before the Committee or its Sub-Committee.

In considering the report, the Standards Committee/Sub-Committee will consult with one of the Authority's Independent Persons.

If the Standards Committee/Sub-Committee is not satisfied that the investigation has been conducted properly, it may ask the Investigating Officer to reconsider his/her report. Upon the receipt of the report back from the Investigating Officer the Committee will consider whether to accept the report or refer it to a hearing.

## **10. What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?**

### **a. Local Resolution**

Where the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct, there may still be an opportunity for local resolution, avoiding the necessity of a hearing. An investigation report may cause a member to recognise that his/her conduct was at least capable of giving offence, and /or identify other appropriate remedial action, and the complainant may be satisfied for instance, by recognition of fault or an apology. It would only be appropriate for the Monitoring Officer to agree a local resolution at this stage after consultation with one of the Authority's Independent Persons and the Chair of the Standards Committee. In addition, this would be conditional on the complainant being satisfied with the outcome. A summary report on any local resolution of a complaint would be reported to the Standards Committee for information.

### **b. Referral for Hearing**

If local resolution is not possible, the Monitoring Officer will then refer the matter for a hearing before the Committee/Sub-Committee.

## **11. The Hearing**

Where the Standards Committee/Sub-Committee has referred a matter for a hearing the procedure at Appendix 4 will apply.

## **12. What action can the Standards Committee/Sub-Committee take where a Member has failed to comply with the Code of Conduct?**

Full Council has delegated to the Standards Committee/Sub-Committee such of its powers to take action in respect of individual Members as may be necessary to promote and maintain high standards of conduct.

Accordingly, the Standards Committee/Sub-Committee may –

- (i) Issue a formal censure;
- (ii) Report its findings in respect of the subject member's conduct to full Council;
- (iii) Recommend to the subject member's group leader (or in the case of un-grouped councillors, recommend to full Council) that they be removed from any or all Committees or Sub-Committees of the Authority;
- (iv) Recommend to the Elected Mayor that the subject member be removed from positions of responsibility for a specified period;
- (v) Instruct the Monitoring Officer to arrange training for the subject member;
- (vi) Recommend to full Council that the subject member be removed from all outside appointments to which they have been appointed or nominated by the Authority;

- (vii) Recommend to the Mayor that the subject member be removed from all outside appointments to which they have been appointed by the Mayor.
- (viii) Recommend to full Council that it withdraws facilities provided to the subject member by the Authority for a specified period, such as a computer, website and/or email and internet access;
- (ix) Recommend to full Council that it excludes the subject member from the Authority's offices or other premises for a specified period, with the exception of meeting rooms as necessary for attending full Council, a Committee or Sub-Committee meeting and/or restricts contact with officers to named officers only;
- (x) If relevant recommend to the secretary or appropriate official of a political group that the member be removed as group leader or other position of responsibility.

The Standards Committee/Sub-Committee has no power to suspend or disqualify the subject member or to withdraw or suspend allowances.

### **13. What happens at the end of the Hearing?**

At the end of the hearing, the Chair will state the decision of the Standards Committee/Sub-Committee as to whether a member has failed to comply with the Code of Conduct and as to any actions which the Standards Committee/Sub-Committee resolves to take.

As soon as reasonably practicable after that, the Monitoring Officer in consultation with the Chair of the Committee/Sub-Committee, will prepare a formal decision notice, and send a copy to the subject member and the complainant, make that decision notice available for public inspection on the Authority's website and, if so directed by the Standards Committee/Sub-Committee, report the decision to the next convenient meeting of full Council.

### **12. Review of decisions**

Procedures for the review of decisions are set out in Appendix 5.

### **13. What is the Standards Committee?**

The Standards Committee is a politically balanced Committee of Council. It consists of nine Members of the Authority who are drawn from each political party. Subject to those requirements, it is appointed on the nomination of party group leaders in proportion to the strengths of each party group on the Council.

The Independent Persons are invited to attend meetings of the Committee/Sub-Committee and their views are sought and taken into consideration before the Committee/Sub-Committee takes any decision on whether a 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.

The Independent Persons do not, however, have voting rights on the Committee/Sub-Committee. Their role is an advisory one.

#### **14. Who are the Independent Persons?**

The Independent Persons are persons who have applied for the post following advertisement of a vacancy for the role and are appointed by the Authority.

A person does not qualify as “independent”, if they are (or at any time in the last 5 years have been) a Member, Co-opted Member or officer of the Authority, or if they are a relative or close friend of such a Member, Co-opted Member or officer. “Co-opted” member is defined so as to include current independent members of Standards Committee.

For this purpose, “relative” comprises –

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

The Authority has three Independent Persons to ensure the availability of an Independent Person for consultation at all appropriate times and to avoid any conflicts of interest arising, as an Independent Person must also be available to be consulted by a member who is the subject of a misconduct complaint.

#### **15. Revision of these arrangements**

The Standards Committee/Sub-Committee, on the advice of the Monitoring Officer, may depart from these arrangements where it is necessary to do so in order to secure the effective and fair consideration of any matter. The arrangements will also be subject to periodic review by the Authority.

## North Tyneside Council

### Code of Conduct for Elected Members and Co-opted Members

North Tyneside Council (“the Authority”) has adopted the following Code of Conduct which has effect from 19 May 2022 and which sets out the conduct that is expected of elected and co-opted members of the Authority when they are acting in that capacity.

#### Definitions

For the purposes of this Code of Conduct, a “member” means an elected member or co-opted member of the Authority and the elected mayor.

A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as a person who is not a member of the Authority but who

- a) is a member of any committee or sub-committee of the Authority, or;
- b) is a member of, and represents the Authority on, any joint committee or joint sub-committee of the Authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” also includes the fire and rescue authority, police authority, joint authority, and combined authority.

#### Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist members in modelling the behaviour that is expected of them, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against them. It is also to protect members, the public, fellow members, officers, and the reputation of the Authority. It sets out general principles of conduct expected of all members and their specific obligations in relation to standards of conduct. The Authority encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of members and local government.

#### General principles of member conduct

Everyone in public office at all levels who serve the public or deliver public services, including members and officers of the Authority should uphold the **Seven Principles of Public Life**, also known as the ‘Nolan Principles’ (see Annex 1 to the Code of Conduct). Building on these principles, the following general principles have been developed specifically for the role of members.

In accordance with the public trust placed in them, when acting in their capacity as a member a member should, on all occasions:

- act with integrity and honesty
- act lawfully
- treat all persons fairly and with respect; and
- lead by example and act in a way that secures public confidence in the role of members.

When undertaking the role of member, a member should:

- Act impartially and exercise their responsibilities in the interests of the local community
- Not improperly seek to confer an advantage, or disadvantage, on any person
- Avoid conflicts of interest
- Exercise reasonable care and diligence; and
- Ensure that public resources are used prudently in accordance with the Authority's requirements and in the public interest.

### **Application of the Code of Conduct**

This Code of Conduct applies to members as soon as they sign their declaration of acceptance of the office of councillor or attend their first meeting as a co-opted member of the Authority and continues to apply for as long as they remain a member of the Authority.

This means the Code of Conduct applies whenever a member (a) conducts the business of the Authority (including the business of the office of an elected member or co-opted member) or (b) act, claim to act or give the impression of acting as a representative of the Authority.

The Code of Conduct applies to all forms of communication and interaction, including: -

- face-to-face meetings
- online or telephone meetings
- written communication
- verbal communication
- non-verbal communication
- electronic and social media communication, posts, statements and comments.

Members are expected to uphold high standards of conduct and show leadership at all times when acting as a member.

The Authority's Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and members are encouraged to seek advice from the Monitoring Officer on any matter that may relate to the Code of Conduct.

Members are encouraged to read the supporting guidance produced by the Local Government Association on the Model Councillor Code of Conduct on which this Code of Conduct is largely based. The link to the guidance is here:

<https://local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct>

## **Part 1 - General conduct**

This section sets out members' obligations, which are the minimum standards of conduct required of members. Should member conduct fall short of these standards, a complaint may be made against members, which may result in action being taken.

### **1. Respect**

#### **As a member:**

- 1.1 You must treat other members and members of the public with respect.**
- 1.2 You must treat officers of the Authority, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

“Respect” means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a member, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. Whilst greater allowance may be given for robust political debate between members, bearing in mind the right to freedom of expression, members should not, however, subject individuals, groups of people or organisations to personal abuse.

In contact with the public, members should treat the public politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in members. In return, members have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening members are entitled to stop any conversation or interaction in person or online and report them to the Monitoring Officer, the relevant social media provider or the police. This also applies to fellow members, where action could then be taken under this Code of Conduct, and local authority employees, where concerns should be raised in line with the Authority's Protocol on Member/Officer Relations in Part 8.6 of the Authority's Constitution.

## **2. Bullying, harassment, and discrimination**

### **As a member:**

- 2.1 You must not bully any person.**
- 2.2 You must not harass any person.**
- 2.3 You must promote equalities**
- 2.4 You must not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises “bullying” as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or telephone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Members have a central role to play in ensuring that equality issues are integral to the Authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

## **3. Impartiality of officers of the Authority**

### **As a member:**

- 3.1 You must not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the Authority.**

Officers work for the Authority as a whole and must be politically neutral whilst at work (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. Members can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, members must not

try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

#### **4. Confidentiality and access to exempt information**

**As a member:**

##### **4.1 You must not disclose information:**

- a) given to you in confidence by anyone**
- b) acquired by you which you believe, or ought reasonably to believe, is of a confidential nature, unless**
  - i. you have received the consent of a person authorised to give it;**
  - ii. you are required by law to do so;**
  - iii. the disclosure is made to a third party for the purposes of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
  - iv. the disclosure is:**
    - a. reasonable and in the public interest; and**
    - b. made in good faith and in compliance with the reasonable requirements of the Authority; and**
    - c. you have consulted with the Monitoring Officer prior to its release.**

**4.2 You must not use knowledge gained solely as a result of your role as a member for the advancement of yourself, your friends, your family members, your employer, or your business interests.**

**4.3 You must not prevent anyone from getting information that they are entitled to by law.**

The Authority must work openly and transparently, and its proceedings and printed materials open to the public, except in certain legally defined circumstances. Members should work on this basis, but there will be times when it is required by law that discussions, documents, and other information relating to or held by the Authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## **5. Disrepute**

### **As a member:**

#### **5.1 You must not do anything to bring your role or the Authority into disrepute.**

Members are trusted to make decisions on behalf of their community and their actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. Members should be aware that their actions might have an adverse impact on them, other members and/or the Authority and may lower the public's confidence in their or the Authority's ability to discharge their/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring the Authority into disrepute.

Members are able to hold the Authority and fellow members to account and are able to constructively challenge and express concern about decisions and processes undertaken by the Authority whilst continuing to adhere to other aspects of this Code of Conduct.

## **6. Use of position**

### **As a member:**

#### **6.1 You must not use, or attempt to use, your position improperly to the advantage or disadvantage of yourself or anyone else.**

Members of the Authority are provided with certain opportunities, responsibilities, and privileges, and make choices all the time that will impact others. Members should not take advantage of these opportunities to further their own or others' private interests or to disadvantage anyone unfairly.

## **7. Use of the Authority's resources and facilities**

### **As a member:**

#### **7.1 You must not misuse the Authority's resources.**

#### **7.2 You must, when using the Authority's resources or authorising their use by others: -**

- a. Act in accordance with the Authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate,**

**or be conducive to, the discharge of the functions of the Authority or of the office to which you have been elected or appointed.**

Members are provided with resources and facilities by the Authority to assist with the carrying out of their duties and may include: -

- office support
- stationary
- equipment such as telephones and computers
- transport
- access and use of the Authority's buildings and rooms.

## **8. Complying with the Code of Conduct**

**As a member:**

- 8.1 You must undertake Code of Conduct Training provided by the Authority.**
- 8.2 You must cooperate with any Code of Conduct investigation and/or determination.**
- 8.3 You must not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**

**You must comply with any sanction imposed on you following a finding that you have breached the Code of Conduct.**

It is extremely important for Members to demonstrate high standards, and for their actions to be open to scrutiny and for members not to undermine public trust in the Authority or its governance. If members do not understand or are concerned about the Authority's processes in handling a complaint, they should raise those concerns with the Authority's Monitoring Officer.

## 9. Interests

### As a member:

#### 9.1 You must register and disclose your interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the Authority.

Members need to register their interests so that the public, officers and fellow members know which of their interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects members by allowing them to demonstrate openness and a willingness to be held accountable. Members are personally responsible for deciding whether or not they should disclose an interest in a meeting, but it can be helpful for members to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by members when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

**Members should note that failure to register or disclose a Disclosable Pecuniary Interest as set out in Annex 2 of the Code of Conduct is a criminal offence under the Localism Act 2011.**

Parts 2 and 3 of the Code of Conduct set out the detailed provisions on registering and disclosing interests. If in any doubt members should always seek advice from the Authority's Monitoring Officer.

## 10. Gifts and hospitality

### As a member:

- 10.1 **You must not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on your part to show favour from persons seeking to acquire, develop or do business with the Authority or from persons who may apply to the Authority for any permission, licence or other significant advantage.**
- 10.2 **You must register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 10.3 **You must register with the Monitoring Officer any significant gift or hospitality that you have been offered but have refused to accept.**

In order to protect the position of members and the reputation of the Authority, members should exercise caution in accepting any gifts or hospitality which are (or

which members reasonably believe to be) offered to them because they are a member. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case members could accept it but must ensure it is publicly registered. However, members do not need to register gifts and hospitality which are not related to their role as a member, such as Christmas gifts from their friends and family. It is also important to note that it is appropriate for members to accept normal expenses and hospitality associated with their duties as a member. If members are unsure, contact your Monitoring Officer for guidance.

## **11. Scrutiny of decisions taken**

### **As a member:**

- 11.1 You must not take part in the scrutiny process of a decision being reviewed by the Overview, Scrutiny and Policy Development Committee (or Sub-Committee) when you were involved in the decision that is being reviewed by the Overview, Scrutiny and Policy Development Committee (or sub-committee).**
- 11.2 You must attend before the Overview, Scrutiny and Policy Development Committee (or sub-committee) if required to do so and to otherwise assist it.**

“Scrutiny” means the formal examination of a policy or decision previously approved or taken by, or on behalf, of the Authority in order to reach a view as to its merits or effectiveness.

## **12. Safeguarding**

### **As a member:**

- 12.1 You must report any suspicion you have or any intelligence/information you have received on any safeguarding issue regarding children or vulnerable adults, including potential or actual sexual exploitation, to the Authority and where appropriate to the Police.**

Safeguarding children, young people and vulnerable adults is everyone’s business in North Tyneside including members.

## **Part 2 - Registration of interests**

13. Within 28 days of becoming a member, your re-election, or appointment/re-appointment to office you must register with the Authority's Monitoring Officer your registerable personal interests so that they can be recorded in the Authority's Register of Members' Interests. In the Code of Conduct your "registerable personal interests" means: -
- (a) any Disclosable Pecuniary Interest as set out in Annex 2 of the Code of Conduct; **or**
  - (b) other registerable interests held by you as set out in Annex 3 of the Code of Conduct.

**You must ensure that your Register of Interests is kept up-to-date and within 28 days of becoming aware of any new Disclosable Pecuniary Interest, or of any change to such an interest, or any new other registerable interest, or any change thereto, you must notify the Monitoring officer of that change in writing.**

**NOTE: Failure without reasonable excuse to register a Disclosable Pecuniary Interest within the 28-day period is a criminal offence under section 34 Localism Act 2011 as well as being a breach of the Code of Conduct.**

**It is also a criminal offence under section 34 of the Localism Act 2011 to knowingly provide information relating to a Disclosable Pecuniary Interest that is false or misleading or is provided recklessly as to whether the information is true and not misleading as well as being a breach of the Code of Conduct.**

**The requirements placed upon you by the Localism Act 2011 are in addition to any other legislative requirement to disclosure specified information e.g. election expenses. It may be the case that the same information has to be disclosed more than once so that the information can appear in different locations.**

14. Where you think that disclosure of the details of any of your registerable personal interests could lead to you, or a person connected with you, being subject to violence or intimidation, the Monitoring Officer may at your request make a note on the Register that you have a personal interest, details of which are withheld. This is known as a "sensitive interest".

## **Part 3 – Disclosure of Non-registerable interests**

15. You will have a non-registerable personal interest when you attend a meeting of the Authority and you are, or ought reasonably to be aware, that a decision in relation to an item of business which is to be transacted might reasonably be regarded as affecting your wellbeing, or financial position, or the wellbeing or financial position of a person described in paragraph 16 to a greater extent than most inhabitants of the area affected by the decision.

16. The persons referred to in paragraph 15 are:
- (a) a member of your family;
  - (b) any person with whom you have a close association;
  - (c) in relation to persons described in (a) and (b), their employer, any firm in which they are a partner, or company of which they are a director or shareholder; and
  - (d) a body included under Other Registrable Interests in Annex 3 of the Code of Conduct.

NOTE:

- (a) “A member of your family” means: your partner (i.e. your spouse, civil partner, or anyone with whom you live in a similar capacity); your parent or parent-in-law; any child, stepchild or sibling of you or your partner; your grandparent, grandchild, aunt, uncle, nephew, or niece; and the partners of any of those people.
  - (b) You have a “close association” with someone if your relationship is such that a reasonable member of the public might think you would be prepared to favour or disadvantage that person when deciding a matter which affects them).
  - (c) “Authority” in this Code of Conduct means Council, Cabinet, or one of their Committees, Sub-Committees, working groups, Boards, or other decision-making bodies, and all references to Authority should be read as such, unless the context indicates otherwise.
17. When you attend a meeting of the Authority, and you are aware that you have a non-registerable interest in an item of business (as defined in paragraph 15) you must disclose that interest to the meeting before consideration of that item begins or (if later) when you become aware of the interest.

#### **Part 4 - Non-Participation in Authority Business**

18. When you attend a meeting of the Council or Cabinet, or one of their committees or sub-committees, and you are aware that the criteria set out in paragraph 19 are satisfied in relation to any matter to be considered, or being considered at that meeting, you must: -
- (a) Declare that fact to the meeting;
  - (b) Not participate (or further participate) in any discussion of the matter at the meeting;
  - (c) Not participate in any vote (or further vote) taken on the matter at the meeting; and
  - (d) Leave the room whilst the matter is being discussed.

19. The criteria for the purposes of paragraph 18 are that:
- (a) You have a registerable or non-registerable personal interest in the matter which is such that a member of the public knowing the relevant facts would reasonably think it so significant that it is likely to prejudice your judgement of the public interest; **and either**
  - (b) The matter will affect the financial position of yourself or one of the persons or bodies referred to in paragraph 16 or in any of your register entries; **or**
  - (c) The matter concerns a request for any permission, licence, consent, or registration sought by yourself or any of the persons referred to in paragraph 16 or in any of your register entries.
20. If an Authority function can be discharged by you as a member acting alone (e.g. as a Cabinet member exercising an executive function) and you are aware that you have a registerable or non-registerable personal interest in any matter to be dealt with by you in that way which meets the criteria set out in paragraph 19, you shall not deal with that matter in any way (except to enable it to be dealt with by someone else).

**NOTE: Failure, without reasonable excuse, to comply with paragraphs 18 to 20 in relation to a Disclosable Pecuniary Interest is a criminal offence under section 34 Localism Act 2011 as well as being a breach of this Code of Conduct.**

21. Paragraphs 18 to 20 do not apply if (i) you have a relevant dispensation under section 33 of the Localism Act 2011 or (ii) the matter in question relates to any of the following functions of the Authority:
- (a) housing, where you are a Council tenant provided the matter does not relate particularly to your tenancy or lease;
  - (b) school meals or school transport, where you are a parent or guardian of a child in full-time education or a parent governor of a school, unless the matter relates particularly to the school your child attends;
  - (c) statutory sick pay where you are in receipt of, or entitled to receipt of, such pay;
  - (d) an allowance, payment or indemnity given to members;
  - (e) any ceremonial honour given to members; and
  - (f) setting council tax or a precept under the Local Government Finance Act 1992.

## **Annex 1 to Code of Conduct**

### **Nolan's Seven Principles of Public Life**

The principles are:

#### **Selflessness**

Holders of public office should act solely in terms of the public interest.

#### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

#### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

#### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

#### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

#### **Honesty**

Holders of public office should be truthful.

#### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Annex 2 to Code of Conduct

### Disclosable Pecuniary Interests

#### (As specified by the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012)

Please Note: The following interests are Disclosable Pecuniary Interests if they are an interest of either (a) yourself, or (b) your spouse or civil partner, or (c) a person with whom you are living as husband and wife, or (d) a person with whom you are living as if you were civil partners (all of whom are referred to as “relevant persons”):

-

**Employment, office, trade, profession or vocation** - Any employment, office, trade, profession or vocation carried on for profit or gain.

**Sponsorship** - Any payment or provision of any other financial benefit (other than from the Authority) made to you during the previous 12-month period for expenses incurred by you in carrying out your duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

**Contracts** - Any contract made between you, your spouse or civil partner or the person with whom you are living as if they were your spouse/civil partner (or a firm in which such person is a partner, or an incorporated body of which such person is a director or a body that such person has a beneficial interest in the securities of) and the Authority -

(a) under which goods or services are to be provided or works are to be executed; and

(b) which has not been fully discharged.

**Land and property** - Any beneficial interest in land which is within the area of the Authority.

**Licences** - Any licence (alone or jointly with others) to occupy land in the area of the Authority for a month or longer.

**Corporate tenancies** - Any tenancy where (to your knowledge): -

(a) the landlord is the Authority; and

(b) the tenant is a body that you, or your spouse or civil partner or the person with whom you are living as if they were your spouse/ civil partner is a partner of or a director of or has a beneficial interest in the securities of.

**Securities** - Any beneficial interest in securities of a body where –

(a) that body (to your knowledge) has a place of business or land in the area of the Authority; and

(b) either—

1. the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
2. if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, your spouse or civil partner or the person with whom you are living as if they were spouse/civil partner have a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Note: In the above descriptions, the following words have the following meanings –

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

## **Annex 3 to Code of Conduct**

### **Other Registerable Interests**

The other interests which you must register under paragraph 13(b) of the Code of Conduct are:

1. Any unpaid directorships
2. Any body of which you are a member or in a position of general control or management and to which you are nominated or appointed by the Authority;
3. Any body which
  - i. exercises functions of a public nature
  - ii. directed to charitable purposes or
  - iii. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management;
4. Any person from whom you have received within the previous three years a gift or hospitality with an estimated value of more than £50 which is attributable to your position as an elected or co-opted member of the Authority.

Note: These mean only your interests and not those of your spouse or civil partner.

## **Annex 4 to the Code of Conduct**

### **Associated Protocols**

The Authority has adopted the following Protocols which are intended to regulate the conduct of elected members or co-opted members and which the Authority has specifically declared should fall within the provisions of this Code of Conduct pursuant to paragraph 6 of the Code.

[None]



North Tyneside Council

Appendix 2

## Code of Conduct for Members and Co-opted Members of North Tyneside Borough Council

# COMPLAINT FORM

**This form can be either completed by hand and posted to the Monitoring Officer, or completed on a computer. If it is completed on a computer it can either be e-mailed to the Monitoring Officer, or printed and then posted. Address details are found at the end of the form.**

### What this form is for

This form is for registering a complaint that an Elected Member or Co-opted Member of North Tyneside Council has breached the Code of Conduct as adopted by the Authority with affect from 1 July 2012. This form can be found on the Standards Committee page of the North Tyneside Council website ([www.northtyneside.gov.uk](http://www.northtyneside.gov.uk)) [Complain against a councillor](#).

The points listed below will help you decide whether this is the correct form to use when making your complaint.

- Your complaint must be about conduct that occurred while the member(s) complained about were in office. Conduct of an individual before they were elected, co-opted or appointed to the Council, or after they have resigned or otherwise ceased to be a member, cannot be considered.
- The Code of Conduct came into effect on [date to be inserted]. If your complaint concerns matters that occurred before this date you should contact the office of the Monitoring Officer before making your complaint.
- Your complaint must be about one or more named members of North Tyneside Council.
- Your complaint must be that the member(s) has, or may have, breached the Code of Conduct.
- Complaints about dissatisfaction with a decision or action of the Authority or one of its committees, a service provided by the Authority or the Authority's procedures do not fall within the jurisdiction of the Standards Committee.

Complaints about the actions of people employed by the Authority also do not fall within the jurisdiction of the Standards Committee.

If your complaint does not meet these criteria you should make use of the Council's Corporate Complaints Procedure by contacting:

Customer and Member Liaison Office  
Quadrant  
The Silverlink North  
Cobalt Business Park  
North Tyneside  
NE27 0BY  
Tel: 0191 643 2280  
[CMLO@northtyneside.gov.uk](mailto:CMLO@northtyneside.gov.uk)

### **Explanation of the Complaints Process**

Complaints against Members of the Council are the responsibility of the Authority's Standards Committee. Complaints must be made in writing to the Monitoring Officer.

The first stage of the process is that normally within 28 days of receipt the Authority's Monitoring Officer will consider your complaint. It is not the task of the Monitoring Officer to consider whether or not the Member concerned has broken the Code of Conduct. Rather, he/she will decide whether the matter warrants referral for investigation or other action. Only if the matter is referred for investigation will the substance of the complaint be considered and a decision made about whether or not the Code has been breached.

The Monitoring Officer will decide:

1. whether the allegation, if proven, would constitute a failure to observe the Code of Conduct;
2. if it would constitute such a failure, whether the allegation is to be investigated. This decision will be guided by the Council's Assessment Criteria. The Assessment Criteria are available from the Monitoring Officer;
3. where the decision is not to investigate the allegation, whether to direct the Monitoring Officer to pursue an alternative course of action such as training for the Member concerned or conciliation between the complainant and the Member.

The Monitoring Officer will produce a summary of his decision, and to send it to the complainant and to the Member concerned unless to do so would in his/her opinion prejudice a subsequent investigation.

If an allegation is considered to require investigation, the matter will be referred by the Monitoring Officer for the investigation of the allegation.

Following the completion of an investigation into an allegation, unless the complaint can be resolved informally, the Authority's Standards Committee will meet to consider the allegation and the findings of the investigation.

If the allegation is upheld and a breach of the code of conduct is found the Standards Committee have a range of sanctions available to them.

Any queries regarding the Complaints process should be directed to the Monitoring Officer at the address at the end of this form.

## Making Your Complaint

1. Please provide us with your name and contact details

<b>Title:</b>	
<b>First name:</b>	
<b>Last name:</b>	
<b>Address:</b>	
<b>Daytime telephone:</b>	
<b>Evening telephone:</b>	
<b>Mobile telephone:</b>	
<b>Email address:</b>	

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

However, we will tell the following people that you have made this complaint:

- the Member(s) you are complaining about
- the Council's Independent Person(s) with whom the Monitoring Officer must consult before deciding whether the matter warrants referral for investigation or other action.
- the Standards Committee

We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate to be able to deal with it. If you have serious concerns about your name and a summary or details of your complaint being released, please complete section 5 of this form.

2. Please tell us which complainant type best describes you:

- Member of the public
- An elected or co-opted Member of an authority
- Member of Parliament

- Monitoring Officer
- Other council officer or authority employee
- Other ( )

3. Please provide us with the name(s) of the Member(s) of North Tyneside Council whom you believe has breached the Code of Conduct:

Title	First name	Last name

4. Please explain in this section (or on separate sheets) what the Member has done that you believe breaches the Code of Conduct. If you are complaining about more than one Member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

It is very important that you provide all the information you wish to have taken into account by the Monitoring Officer when he/she decides whether to take any action on your complaint. For example:

- You should be specific, wherever possible, about exactly what you are alleging the Member said or did. For instance, instead of writing that the Member insulted you, you should state what it was they said.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

**Only complete Section 5 if you are requesting that your identity be kept confidential.**

5. In the interests of fairness and natural justice, we believe Members who are complained about should be informed of who has made the complaint and be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint other than in exceptional circumstances.

The Monitoring Officer will consider the request for confidentiality as a preliminary matter before the substance of your complaint. We will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

**Additional Help**

6. Complaints must be submitted in writing. Electronic submissions are permissible. However, in line with the requirements of equalities legislation, we can make reasonable adjustments to assist you if you have an impairment that prevents you from making your complaint in writing.

We can provide information in other languages and in different formats, such as large print. An interpreter/translator service is also available if English is not your first language. If you have any problems in reading or writing, or need any support in completing this form, let us know. We can also help you find independent advice if needed.

If this applies to you, please contact the office of the Monitoring Officer at the address given below.

**The completed form should be sent to:**

The Monitoring Officer  
North Tyneside Council  
Quadrant  
The Silverlink North  
Cobalt Business Park  
North Tyneside  
NE27 0BY

Email: [standards@northtyneside.gov.uk](mailto:standards@northtyneside.gov.uk)

# Code of Conduct for Members - Assessment Criteria

The following two stage assessment criteria will be taken into account in deciding what action, if any, to take in relation to a complaint that a member has failed to comply with the requirements of the Code of Conduct for Members:

## **Jurisdictional Test (Can the Authority deal with this complaint?)**

The first stage assesses whether the Authority can deal with the complaint and assesses whether: -

1. The complaint is made against a member of the Authority.
2. The subject member was in office at the time of the alleged conduct made in the complaint.
3. The complaint relates to matters where the member was acting in that capacity or as a representative of the Authority and not private matters.
4. The complaint, if proven, would be a breach of the Code of Conduct for Members under which the Member was operating at the time of the alleged misconduct.

If the complaint fails one or more of these tests it cannot be investigated as a breach of the Code of Conduct and the complainant will be informed that no further action will be taken in respect of the complaint.

If there is any doubt about any of the tests, then the complaint will proceed to the next stage of the assessment criteria.

## **Second-Stage Criteria**

Once the stage one jurisdictional tests have been met, the Authority will then assess the complaint against the following criteria: -

1. Does the complaint contain sufficient information to demonstrate a potential breach of the Code of Conduct?

If not, and the information provided is insufficient to make a decision then unless, or until, further information is received, no further action will be taken on the complaint.

2. Are there alternative, more appropriate remedies that should be explored first?

If yes, the Monitoring Officer, in consultation with one of the independent Persons, the subject member and the complainant will seek to agree a fair resolution of the complaint, which also helps to ensure high standards of conduct in the future. If the subject member agrees and complies with the suggested resolution, the Monitoring Officer will take no further action in relation to the complaint.

3. Is the complaint made by one member against another?

If yes, a greater allowance for robust political debate (but not personal abuse) may be given, bearing in mind the right to freedom of expression.

4. Is the complaint in the view of the Authority malicious, politically motivated, or 'tit for tat'?

If yes, further action will not normally be warranted.

5. Would an investigation of the complaint be in the public interest, or the complaint, even if proven, be serious enough to warrant any sanction?

If no, further action will not be warranted.

6. Has a substantially similar complaint been previously considered by the Authority or by any regulatory body, and no new material evidence submitted within the current administration?

If yes, there may be nothing gained by further action being taken.

7. Is the complaint about something which happened a long time ago?

If yes, consideration will be given to any reason why there has been a delay in making the complaint.

8. Has the behaviour that is the subject of the complaint already been dealt with, for example, through an apology at the relevant meeting?

If yes, further action is unlikely to be warranted.

9. Does the complaint actually relate to dissatisfaction with a decision taken by the Authority rather than the specific conduct of an individual?

If yes, further action will not be warranted.

10. Does the complaint relate to someone who is no longer a member or who is seriously ill?

If yes, further action will not normally be warranted.

# Procedure for Standards Hearings

## 1. Introduction

This Appendix details the procedure to be adopted for the hearing of complaints by the Standards Committee or Standards Sub-Committee ('the Standards Committee') of North Tyneside Council where an investigation has been completed.

The person(s) making the complaint will be referred to in this procedure as the Complainant and the person against whom the complaint is made will be referred to as the Member.

The Investigating Officer means the Monitoring Officer or other person appointed by the Monitoring Officer to conduct a local investigation in relation to a matter referred to the Monitoring Officer for local investigation.

References to Monitoring Officer include any other person appointed by the Monitoring Officer to carry out the functions of the Monitoring Officer.

The Chair of the Standards Committee's primary responsibility is to ensure that a hearing is conducted in a fair yet timely manner and to minimise delay in reaching a decision on a complaint. The Chair of the Standards Committee may decide that a hearing of a complaint will proceed in the absence of a relevant party where the Chair is of the view that it is proper to proceed and to prevent unreasonable delay.

The Complainant and the Member are recommended to read this procedure alongside the Guidance published by the Local Government Association "Guidance on Local Government Association Model Councillor Code of Conduct"

<https://local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct> and the Association's Guidance "Guidance on Member

Model Code of Conduct Complaints Handling"

<https://www.local.gov.uk/publications/guidance-member-model-code-conduct-complaints-handling>

## 2. Legal Advice to the Standards Committee

Where the Monitoring Officer also takes the role of the Investigating Officer, he/she must arrange for a separate legal adviser for the Standards Committee in respect of the allegation.

## 3. Notifying the Member and Complainant

The Monitoring Officer shall send a copy of the Investigating Officer's final report to the Member, the Complainant and the Independent Persons.

The Monitoring Officer will ask for a written response from the Member within 14 days, stating whether or not s/he:

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

See Forms A to E at Appendix 6.

The Monitoring Officer will also inform the Member that if, at the meeting of the Standards Committee, s/he seeks to dispute any matter contained in the report, without having previously notified his/her intention to do so, the Standards Committee may either adjourn the meeting to enable the Investigating Officer to provide a response, or refuse to allow the disputed matter to be raised.

The Monitoring Officer will also seek the views of the Independent Persons on the report and on any action the Independent Persons feel should be taken in respect of it.

Upon receipt of the responses, the Monitoring Officer will discuss the responses of with the Chair of the Standards Committee and will complete the Pre-hearing Process Summary at Appendix 7.

The Member and the Investigating Officer are entitled to request that any witnesses they want should be called. However, the Chair of the Standards Committee, following advice from the legal adviser, may limit the number of witnesses, if he/she believes the number requested is unreasonable or that some witnesses will simply be repeating the evidence of earlier witnesses, or else will not provide evidence that will assist the Committee to reach its decision.

Nothing in this procedure shall limit the Chair of the Standards Committee from requesting the attendance of any additional witnesses whose evidence he/she considers would assist the Standards Committee to reach its decision.

The Chair of the Standards Committee, in consultation with the legal adviser will then:

- confirm a date, time and place for the hearing, which must be within three months from the date that the report was completed;
- confirm the main facts of the case that are agreed;
- confirm the main facts that are not agreed;
- confirm which witnesses will give evidence;
- outline the proposed procedure for the hearing, specifying which parts, if any, will be considered in private; and
- request the Monitoring Officer to provide this information, with the Agenda, to everyone in the hearing at least two weeks before the proposed date of the hearing.

#### **4. The Standards Committee**

The Standards Committee shall decide on the balance of probability, whether the grounds of the complaint are upheld. It shall do so by considering the report and, where appropriate, written or oral representations made by the Member, and any additional relevant information from the Investigating Officer or witnesses.

Each Standards Committee member shall have one vote, and all matters/issues shall be decided by a simple majority of votes cast. If there are equal numbers of votes for and against, the Chair will have a second or casting vote. There is no restriction on how the Chair chooses to exercise a casting vote.

The meeting of the Standards Committee will be open to the public and press unless confidential information or exempt information under Schedule 12A of the Local Government Act 1972 is likely to be disclosed.

#### **5. Procedure at the Hearing**

The initial order of business at the meeting shall be as follows:

- declarations of interest;
- consideration as to whether to adjourn or to proceed in the absence of the Member, if the Member is not present;
- introductions;
- any representation from the Investigating Officer and/or the Member as to reasons why the Standards Committee should exclude the press and public and determination as to whether to exclude the press and public. Where the Standards Committee decides that it will not exclude press and public, the

Monitoring Officer shall at this point provide copies of the agenda and reports to any members of the press and public who are present.

The purpose of the hearing is to test the robustness of the report, by examining the reasoning contained within the report and the quality of the evidence relied upon. This calls for an inquisitorial approach by the Standards Committee based on seeking information in order to identify potential flaws in the report and to clarify issues. The Standards Committee will control the procedure and evidence presented at the hearing, including the questioning of witnesses.

The Standards Committee may at any time seek legal advice from its legal adviser. Such advice will on all occasions be given in the presence of the Investigating Officer and the Member.

The procedure at the hearing will be as follows, subject to the Chair of the Committee being able to make changes as he or she thinks fit in order to ensure a fair and efficient meeting.

#### Examination of report and written representations

The Panel will consider the report together with any written response from the Member to the report. The Committee may require the Investigating Officer to answer questions put to him/her by members regarding the contents of the report.

The Committee must also take account of the views expressed by the Independent Persons in their response to the Monitoring Officer.

#### Oral evidence

If there is any disagreement as to the facts of the case, the Investigating Officer will be invited to make any necessary representations to support the relevant findings of fact in the report, calling supporting witnesses as agreed by the Chair.

Questions may be asked by the Committee at any point. The Member will not be permitted to directly question the Investigating Officer or the witnesses he/she calls.

If the Member wishes to challenge any oral evidence being presented, then these questions shall be directed through the Chair.

The Member will then be invited to make any necessary representations to support their version of the facts, calling supporting witnesses as agreed by the Chair.

Questions may be asked by the Committee/Sub-Committee at any point. The Investigating Officer will not be permitted to directly question the Member or the witnesses he/she calls. If they wish to challenge any oral evidence being presented, then these questions must be directed through the Chair.

Where the Member seeks to dispute any matter in the report which he/she had not given notice of intention to dispute in his/her written statement in response, the

Investigating Officer shall draw this to the attention of the Standards Committee/Sub-Committee. The Standards Committee may then decide:

- not to admit such dispute but to proceed to a decision;
- to admit the dispute, but to invite the Investigating Officer to respond
- to adjourn the meeting to enable the Investigating Officer to investigate and report on the dispute

Where appropriate the Investigating Officer will make representations on behalf of the Complainant to the Standards Committee/Sub-Committee.

The Standards Committee/Sub-Committee may adjourn the hearing to require the Monitoring Officer to seek further information or undertake further investigation on any point specified by the Committee/Sub-Committee.

#### Decision by the Standards Committee

The Standards Committee will consider in private session which of the following findings to adopt:

- that there is no evidence of any failure to comply with the Code of Conduct;
- that the Member has failed to comply with the Code of Conduct, but that no action needs to be taken;
- that the Member has failed to comply with the Code of Conduct and that a sanction should be imposed.

The available sanctions are: -

- (i) Issue a formal censure;
- (ii) Report its findings in respect of the subject member's conduct to full Council
- (iii) Recommend to the subject member's group leader (or in the case of un-grouped members, recommend to full Council) that they be removed from any or all Committees or Sub-Committees of the Authority;
- (iv) Recommend to the Elected Mayor that the subject member be removed from positions of responsibility for a specified period;
- (v) Instruct the Monitoring Officer to arrange training for the subject member;
- (vi) Recommend to full Council that the subject member be removed from all outside appointments to which they have been appointed or nominated by the Authority;
- (vii) Recommend to the Mayor that the subject member be removed from all outside appointments to which they have been appointed by the Mayor;
- (viii) Recommend to full Council that it withdraws facilities provided to the subject member by the Authority for a specified period, such as a computer, website and/or email and internet access;
- (ix) Recommend to full Council that it excludes the subject member from the Authority's offices or other premises for a specified period, with the exception of meeting rooms as necessary for attending full Council, a

- Committee or Sub-Committee meeting and/or restricts contact with officers to named officers only;
- (x) If relevant recommend to the secretary or appropriate official of a political group that the member be removed as group leader or other position of responsibility.

In deciding what sanction (if any) to take, the Standards Committee/Sub-Committee will consider all relevant circumstances including any views expressed by the Independent Persons.

The Standards Committee/Sub-Committee will then resume the public session and the Chair will announce the decision and the reasons for that decision.

If the matter is a complicated one, where the complaint has a number of aspects, the Standards Committee/Sub-Committee can decide to consider the evidence and reach a finding on each aspect separately.

The Standards Committee/Sub-Committee will then consider in open session whether there are any recommendations which it wishes to make arising from consideration of the allegation.

#### Notice of findings

The Monitoring Officer will make a short written decision available on the day of the hearing and a full written decision in draft will be prepared as soon as possible.

Within two weeks of the end of the hearing, the Monitoring Officer will circulate a full written decision, to the Member and the Complainant.

At the same time the Monitoring Officer shall arrange for a summary of the findings to be published as may be directed by the Standards Committee/Sub-Committee.

Where the Standards Committee/Sub-Committee determines that there has not been a breach of the Code of Conduct, the notice shall:

- state that the Standards Committee/Sub-Committee found that the Member had not failed to comply with the Code of Conduct and shall give its reasons for reaching that finding; and not be published if the Member so requests;

Where the Standards Committee/Sub-Committee determines that there has been a failure to comply with the Code of Conduct, but no action is required, the notice shall:

- state that the Standards Committee found that the Member had failed to comply with the Code of Conduct but that no action needs to be taken in respect of that failure specify the details of the failure; and give reasons for the decision reached;

Where the Standards Committee/Sub-Committee determines that there has been a failure to comply with the Code of Conduct and that a sanction should be imposed, the notice shall:

- state that the Standards Committee/Sub-Committee found that the Member had failed to comply with the Code of Conduct;
- specify the details of the failure;
- give reasons for the decision reached; and
- specify the sanction imposed

Copies of the agenda, reports and minutes of a hearing, as well as any background papers, apart from sections of documents relating to parts of the hearing that were held in private, will be available for public inspection for six years after the hearing.

#### Confidentiality and disclosure of information

Where the Chair of the Standards Committee/Sub-Committee considers that the report and/or any of the written statements in response are likely to disclose any exempt information and in consequence that it is likely that the Standards Committee/Sub-Committee will, during consideration of these matters, not be open to the public, he/she shall instruct the legal adviser to not provide copies of these papers to the press or public or permit their inspection by the press or public in advance of the meeting.

The Hearing will be held in public except for those parts of its proceedings which involve exempt information and during the deliberations of the Standards Committee/Sub-Committee.

# Review of Decisions

## Initial Assessment Decisions

If a complainant is aggrieved by a decision by the Monitoring Officer to not investigate a complaint, then the Complainant may request the Monitoring Officer to reconsider their decision.

The Monitoring Officer will consult the Independent Person not previously consulted on the Initial Assessment of the complaint and the Chair of the Standards Committee, and take their views into account, before deciding whether to uphold or vary their original decision.

## Findings of Standards Committee/Sub-Committee following a hearing

If a member is aggrieved by a finding of Standards Committee/Sub-Committee that they have failed to comply with the Code, or with the sanction imposed, they may request a review by an Independent Person from another local authority in accordance with the following procedure:

The member must request a review, with their detailed reasons for seeking a review, within 5 working days of the publication of the decision notice otherwise the decision of the Standards Committee/Sub-Committee will become final.

The request for a review must be in writing and must be submitted to the Monitoring Officer.

If a request for a review is received, the decision of the Standards Committee will be held in abeyance pending completion of the review process.

If a request for a review is received the decision of the Standards Committee (including all the papers considered by the Governance Committee) will be referred to an Independent Person of a neighbouring local authority. The Independent Person will review the case on the information provided and will provide a report to the Standards Committee. The report to the Standards Committee will provide any comments the Independent Person considers are appropriate and relevant taking into account the basis of the request for review from the Member.

Upon the receipt of the Independent Person's report, the Standards Committee/Sub-Committee will consider the Independent Person's comments, the reasons submitted for the review by the Member and will determine whether to confirm the decision of the Standards Committee/Sub-Committee, amend the decision or substitute it with an alternative decision – this could include concluding that no breach of the Code occurred.

No further right of appeal or review of the Standards Committee's/Sub-Committee's decision within the Authority is available. However, if the Member or the

Complainant considers that the Authority has failed to deal with the complaint properly, they may make a complaint to the Local Government Ombudsman.



North Tyneside Council

**FORM A**

**Subject Member's response to the evidence set out in the Investigation Report**

Please enter the number of any paragraph where you disagree with the findings of fact in the Investigation Report, 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
1		
2		
3		
4		
5		

Please attach separate sheets if necessary

Name \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_



North Tyneside Council

## FORM B

### Other evidence relevant to the allegation

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	
4	
5	
6	

Please attach separate sheets if necessary

Name \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_



North Tyneside Council

## FORM C

### Representations to be taken into account if a Member is found to have failed to follow the Council's Code of Conduct

Please set out below, using the numbered paragraphs, any factors that the Standards Committee should take into account if it finds that a Member has failed to follow the Council's Code of Conduct. Please note that no such finding has yet been made and these representations will only be taken into account if there is a finding by the Committee that there has been a breach of the Code of Conduct.

Paragraph number	Factors for the Standards Committee to take into account when deciding whether to sanction any censure, restriction of resources or allowances, etc.
1	
2	
3	
4	

Please attach separate sheets if necessary

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_



North Tyneside Council

## FORM D

### Arrangements for the Standards Committee Hearing

Please tick the relevant boxes.

<p>1 Are you planning to attend the Standards Committee hearing on the proposed date in the accompanying letter?</p> <p>If 'No', please explain why.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	<p>Reason:</p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
<p>2 Are you going to present your own case?</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	
<p>3 If you are not presenting your own case, will a representative present it for you?</p> <p>If 'Yes', please state the name of your representative.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	<p>Name:</p> <hr/> <hr/> <hr/> <hr/> <hr/>
<p>4 Is your representative a practising solicitor or barrister?</p> <p>If 'No', please go to Question 5.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	<hr/>

<p>5 Does your representative have any connection with the case? If 'Yes' please give details.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	<p>Details:</p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
<p>6 Are you going to call any witnesses?  If 'Yes' please give details on Form E attached.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	
<p>7 Do you, your representative or your witnesses have any access difficulties (for example, is wheelchair access needed)?  If 'Yes', please give details.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	<p>Details:</p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
<p>8 Do you, your representative or witnesses have any special needs (for example, is an interpreter needed)?  If 'Yes', please give details.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	<p>Details:</p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
<p>9 Do you want any part of the hearing to be held in private?  If 'Yes', please give reasons.</p>	<p>YES <input type="checkbox"/></p>	<p>Reasons:</p> <hr/> <hr/> <hr/> <hr/>





North Tyneside Council

## 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

NO

Outline of evidence:

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b Will the witness give evidence about what action the Standards 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

NO

Outline of evidence:

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Please attach separate sheets if necessary





Date \_\_\_\_\_



North Tyneside Council

## Checklist for the pre-hearing process summary

After the Standards Committee has received responses from the Subject Member and the Investigating Officer, it will prepare a summary in advance of the hearing of the main aspects of the case that will be heard.

The pre-hearing process summary should include:

The name of the Authority
The name of the Subject Member
The name of the complainant (unless there are good reasons to keep his/her identity confidential)
The Case reference number
The name of the Standards Committee Member who will chair the hearing
The name of the Investigating Officer
The name of the clerk of the hearing or other administrative officer
The date the pre-hearing summary was produced
The date, time and place of the hearing
A summary of the complaint
The relevant section or sections of the Council's Code of Conduct
The findings of fact in the investigation report which are agreed and the findings of fact in the investigation report which are not agreed
Whether the Subject Member or the Investigating Officer will attend or be represented
The names of any witnesses who will be asked to give evidence
An outline of the proposed procedure for the hearing