

**Manchester City Council
Report for Resolution**

Report to: Standards Committee - 19 November 2012
Subject: Update and Work Programme
Report of: The City Solicitor

Purpose of the Report:

1. To advise the Standards Committee of the formal appointment by Council at its meeting on 10 October 2012 of:-
 - (i) the Council's Independent Persons (as required by sub-section 28(7) of the Localism Act 2011) to assist the Council in dealing with any complaints that a Member has acted in breach of the Council's new local Code of Conduct for Members; and
 - (ii) the Independent Co-Opted Members of the Council's Standards Committee.
2. To provide the Standards Committee with a suggested work programme as set out at Appendix 1.
3. To provide the Standards Committee with a copy of the Code of Conduct and arrangements adopted at the City Council meeting on 11 July 2012 at Appendix 2.

Recommendations:

That the Standards Committee considers the suggested Work Programme and amends it as the Committee thinks appropriate.

Wards Affected:

All.

Financial Consequences for Revenue Budget:

None.

Financial Consequences for the Capital Budget:

None.

Contact Officers:

Susan Orrell 234 3087 s.orrell@manchester.gov.uk
Rodney Lund 234 4019 r.lund@manchester.gov.uk
Karen Chadwick 234 3539 k.chadwick@manchester.gov.uk

Background Documents:

1. Report of the City Solicitor to the Constitutional and Nomination Committee and City Council on 11 July 2012; and
2. Report of the City Solicitor to the Constitutional and Nomination Committee on the 10 October 2012 on “Appointment of Independent Persons for Consideration of Complaints against Members and Appointment of Independent Members of the Council’s Standards Committee”.

1. Independent Persons and Independent Members of the Standards Committee

- 1.1 On 10 October 2012 the Constitutional and Nomination Committee considered a report of the City Solicitor proposing the appointment of Independent Persons under the Localism Act 2011 and appointment of co-opted independent members of the Standards Committee.
- 1.2 The City Council approved the following appointments:
- 1.2.1 Elizabeth Carmichael is appointed to act as an Independent Person under the transitional arrangements for a term of office beginning on 10 October 2012 and ending on 30 June 2013, and Alan Eastwood and Naseem Malick are appointed to act as Independent Persons for a term of office of four years commencing 10 October 2012;
- 1.2.2 Amanda Isles and Stephen Hardy are appointed to act as Co-opted Independent Members of the Council's Standards Committee for an initial term of office of two years starting on the 10 October 2012; and
- 1.2.3 Stephen Hardy is appointed as Chair of the Standards Committee.

2. Work Programme

- 2.1 A suggested work programme is attached at Appendix 1.
- 2.2 The Standards Committee is asked to consider the suggested programme and agree a work programme for the period 19 November 2012 to 31 March 2012.

3. Code of Conduct and Arrangements

- 3.1 A copy of the Code of Conduct for Members of the Council together with the arrangements for dealing with complaints that Council members have failed to comply with the Council's Code of Conduct for Members that was adopted on 11 July 2012 is attached at Appendix 2.
- 3.2 The Standards Committee is asked to note the Code and arrangements adopted.

**Standards Committee
Work Programme – November 2012**

Monday 14 January 2013

<u>Item</u>	<u>Purpose</u>	<u>Lead Officers</u>
<p>Dispensations to be granted pursuant to Section 33 of the Localism Act 2011.</p>	<p>The purpose of this report is to consider what dispensations may need to be granted by (i) the Monitoring Officer and (ii) the Standards Committee pursuant to Section 33 of the Localism Act 2011.</p> <p>In particular the report will consider the issues raised by the fact that, following the introduction of the new Member Standards Regime required by the Localism Act 2011, it is no longer the case that Members can rely on the provisions of the previous National Code of Conduct which provided that Members would not have a prejudicial interest in any business of the Council where that business relates to the functions of:</p> <ul style="list-style-type: none"> (i) housing, where the Member is a tenant of the Council (provided that the functions do not relate particularly to the Member's tenancy or lease); (ii) an allowance, payment or indemnity given to Members; (iii) setting council tax or a precept under the Local Government Finance Act 1992. 	<p>Rodney Lund Kathryn Saldanha</p>
<p>Update on how the Council's new local Code of Conduct for Members and Arrangements for dealing with complaints that Council Members have failed to comply with the Council's Code of Conducts ("the Arrangements") are working in practice</p>	<p>The purpose of this report is to inform Standards Committee of issues arising from the introduction of the Council's new local Code of Conduct and Arrangements.</p>	<p>Susan Orrell Kathryn Saldanha</p>

Monday 11 March 2013		
Item	Purpose	Lead Officer
Revision of "Use of Council Resources Guidance for Members" (Part 6, Section C of the Council's 2012 Constitution)	The purpose of this report is to submit a revised draft of the Council's "Use of Council Resources Guidance for Members" to the Standards Committee for comment.	Michelle Chard Ben Walker
Revision of the Council's "Gifts and Hospitality Guidance for Members" (Part 6, Section D of the Council's 2012 Constitution)	The purpose of this report is to submit a revised draft of the Council's "Gifts and Hospitality Guidance for Members" to the Standards Committee for comment.	Karen Chadwick
Revision of the Council's "Member / Officer Relations Protocol" (Part 6, Section F of the Council's 2012 Constitution)	The purpose of this report is to submit a revised draft of the Council's "Member / Officer Relations Protocol" to the Standards Committee for comment.	Rodney Lund Karen Chadwick
Revision of "Code of Corporate Governance" (Part 6, Section G of the Council's 2012 Constitution)	The purpose of this report is to submit a revised draft of the Council's "Code of Corporate Governance" to the Standards Committee for comment in relation to those parts of the Code that deal with the major revisions to the Council's Member standards regime that have been introduced by the Localism Act 2011.	Andrew Blore Kathryn Saldanha
Update on how the Council's new local Code of Conduct for Members and Arrangements for dealing with complaints that Council Members have failed to comply with the Council's Code of Conduct for Members ("the Arrangements") are working in practice	The purpose of this report is to inform Standards Committee of issues arising from the introduction of the Council's new local Code of Conduct and Arrangements.	Susan Orrell Kathryn Saldanha
Draft Guidance on the Investigation of Complaints that a Council Member has failed to comply with the Council's Code of Conduct for Members.	The purpose of this report is to submit is to submit a draft Guidance on the Investigation of Complaints (as referred to in paragraph 6.2 of the Council's new Arrangements) to the Standards Committee for comment.	Karen Chadwick Margaret Foley

CODE OF CONDUCT FOR MEMBERS OF MANCHESTER CITY COUNCIL

(AS ADOPTED BY THE COUNCIL ON 11 JULY 2012)

Pre-ambule to Code of Conduct for Members

1. Introduction

The Council is determined to provide excellent local government for the people of the City. It promotes and maintains high standards of conduct by Members and Co-opted Members and has adopted a Code of Conduct for Members, in line with its obligations under section 27(2) of the Localism Act 2011.

2. General Principles of Conduct for Members and Co-opted Members

The Code and the Guidance are based on the following General Principles.

2.1 General Principles

Members and Co-opted Members must behave according to the highest standards of personal conduct in everything they do as a Member. In particular they must observe the following principles of conduct, some of which are set out in law.

2.2 Selflessness

Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

2.3 Honesty and Integrity

Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

2.4 Objectivity

Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

2.5 Accountability

Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

2.6 **Openness**

Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

2.7 **Personal Judgement**

Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

2.8 **Respect for Others**

Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

2.9 **Duty to Uphold the Law**

Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

2.10 **Stewardship**

Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

2.11 **Leadership**

Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

3. **Training**

- 3.1 Each Member must attend training on the Code of Conduct/ethical standards, in addition to any current requirements to receive training for specific Committees, for example Planning or Licensing Committees.

THE CODE OF CONDUCT

Part 1 General provisions

1. Introduction and interpretation

- 1.1 This Code applies to you as a Member of the Council.
- 1.2 It is your responsibility to comply with this Code. Failure to do so may result in a sanction being applied by the Council. Failure to take appropriate action in respect of a Disclosable Pecuniary Interest may result in a criminal conviction and a fine of up to £5,000 and /or disqualification from office for a period of up to 5 years. In this Code - “meeting” means any meeting of:
- (a) the Council;
 - (b) any of the Council’s Committees or Sub-Committees, Joint Committees or Joint Sub-Committees;
 - (c) the Executive or any committee of the Executive.
- 1.3 “Member” includes a Co-opted Member and an Appointed Member.

2. Scope

- 2.1 Subject to sub-paragraphs (2) and (3), you must comply with this Code whenever you are acting as a Member or Co-opted Member of the Council or an Appointed Member of a Joint Committee, and, references to your official capacity are construed accordingly.
- 2.2 This Code does not have effect in relation to your conduct other than where it is in your official capacity.
- 2.3 Where you act as a representative of the Council—
- (a) on another relevant authority, including the Greater Manchester Combined Authority, the Greater Manchester Fire & Rescue Authority and the Greater Manchester Waste Disposal Authority, you must, when acting for that other authority, comply with that other authority’s code of conduct; or
 - (b) on any other body, you must, when acting for that other body, comply with this Code, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

3. General obligations

- 3.1 You must not:
- (a) do anything which may knowingly cause the Council to breach the Equality Act 2010;

- (b) bully or be abusive to any person;
- (c) intimidate or attempt to intimidate any person who is or is likely to be:
 - (i) a complainant,
 - (ii) a witness, or
 - iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a Member (including yourself) has failed to comply with his or her authority's code of conduct; or
- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

4. You must not:

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
 - (i) you have 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 purpose of obtaining professional 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 Council; or
- (b) prevent another person from gaining access to information to which that person is entitled by law.

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.

6. You:

- (a) must not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

- (b) must, when using or authorising the use by others of the resources of your authority:
 - (i) act in accordance with the Council's reasonable requirements; and
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- 7.** (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by
- (a) The Council's Chief Finance Officer; or
 - (b) The Council's Monitoring Officer,
- where that officer is acting pursuant to his or her personal statutory duties.
- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

Part 2 - Disclosable pecuniary interests

8. Notification of disclosable pecuniary interests

- 8.1 Within 28 days of becoming a Member or Co-opted Member, you must notify the Monitoring Officer of any ‘disclosable pecuniary interests’.
- 8.2 *If you are an existing Member or Co-opted Member on 11 July 2012, Council Procedure Rule 29.2 requires you to notify the Monitoring Officer of disclosable pecuniary interests within 2 months of the adoption of the Code.*
- 8.3 A ‘disclosable pecuniary interest’ is an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in the table below.
- 8.4 "Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

Subject	Description
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 Council) made or provided within the 12 month period prior to notification of the interest in respect of any expenses incurred by you in carrying out 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 (a).
Contracts	Any contract which is made between you or your partner (or a body in which you or your partner has a beneficial interest) and the Council - (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	Any beneficial interest in land which is within the area of Manchester City Council.

Licences	Any licence (alone or jointly with others) to occupy land in the area of Manchester City Council for a month or longer.
Corporate Tenancies	Any tenancy where (to your knowledge) - (a) the landlord is the Council: and (b) the tenant is a body in which you or your partner has a beneficial interest.
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 Manchester City Council; and (b) either - (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) 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 or your partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For the purposes of the above table -

- (a) "a body in which you or your partner has a beneficial interest" means a firm in which you or your partner is a partner or a body corporate of which you or your partner is a director, or in the securities of which you or your partner has a beneficial interest.
- (b) "director" includes a member of the committee of management of an industrial and provident society.
- (c) "land" excludes an easement, interest or right in or over land which does not carry with it a right for you or your partner (alone or jointly) to occupy the land or receive income, and
- (d) "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.

9 Non participation in case of disclosable pecuniary interest

9.1 If you are present at a meeting and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting,

1. You must not participate in any discussion of the matter at the meeting.
2. You must not participate in any vote taken on the matter at the meeting.
3. If the interest is not registered, you must disclose the interest to the meeting.
4. *If the interest is registered, you are also required by Council Procedure Rule 29.3 and Executive Procedure Rule 3 to disclose it to the meeting.*
5. If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.
6. *You are also required by Council Procedure Rule 30 and Executive Procedure Rule 4 to withdraw from the room of the meeting whilst the matter is being considered.*

9.2 Where an Executive Member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the Executive Member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

10 Offences

10.1 It is a criminal offence to

- Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election.
- Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register.
- Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting.
- Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest.
- As an Executive Member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest.

- As an Executive Member discharging a function acting alone, and having a disclosable pecuniary interest in a matter, taking any steps in relation to such a matter.
- Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting.

10.2 The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

Part 3 - Other interests

11 Notification of personal interests

11.1 In addition to the disclosable pecuniary interests notifiable under the Localism Act 2011, you must -

(a) within 2 months of this Code being adopted by the Council in the case of existing Members or Co-Opted Members as on 11 July 2012; or

(b) within 28 days of your election or appointment to office (where that is later),

notify the Monitoring Officer in writing of the details of your other personal interests, where they fall within the categories set out in paragraph 11(2) below for inclusion in the register of interests.

11.2 You have a personal interest in any business of your authority where it relates to or is likely to affect -

(a) any body of which you are in a position of general control or management and to which you are appointed or nominated by your authority;

(b) any body -

(i) exercising 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 in a position of general control or management;

(c) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £100.

12 Disclosure of interests

12.1 Subject to paragraphs 12.4 to 12.7, where you have a personal interest described in paragraph 11.2 above or in paragraph 12.2 below in any business of your authority, and where you are aware or ought reasonably to be aware of the existence of the personal interest, and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

12.2 You also have a personal interest in any business of your authority where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a *relevant person* to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral ward, affected by the decision.

12.3 In paragraph 12.2, a *relevant person* is -

- (a) a member of your family or any person with whom you have a close association; or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in paragraph 11.2(a) or (b).

12.4 Where you have a personal interest in any business of the Council which relates to or is likely to affect a body described in paragraph 11.2(a) or 11.2(b)(i), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

12.5 Where you have a personal interest in any business of the Council of the type mentioned in paragraph 11.2(c), (gifts and hospitality) you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

12.6 Where you have a personal interest but, by virtue of paragraph 16, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

12.7 Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

13 Non participation in case of prejudicial interest

13.1 Where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and where that business -

- (a) affects your financial position or the financial position of a person or body described in paragraph 12.3 ;or
- (b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 12.3.

13.2 Subject to paragraphs 13.3 and 13.4, where you have a prejudicial interest in any business of your authority—

- (a) You must not participate in any discussion of the matter at the meeting.
- (b) You must not participate in any vote taken on the matter at the meeting.

- (c) You must disclose the interest to the meeting.
- (d) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.
- (e) *You are also required by Council Procedure Rule 30 and Executive Rule 4 to withdraw from the room of the meeting whilst the matter is being considered.*

13.3 Where you have a prejudicial interest in any business of the Council, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

13.4 Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a prejudicial interest that relates to the functions of your authority in respect of—

- (a) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
- (b) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay; and
- (c) any ceremonial honour given to members.

13.5 Where, as an Executive Member, you may discharge a function alone, and you become aware of a prejudicial interest in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

14 Interests arising in relation to Overview and Scrutiny Committees

In any business before an Overview and Scrutiny Committee of the Council (or of a Sub-Committee of such a Committee) where—

- (a) that business relates to a decision made (whether implemented or not) or action taken by the Executive or another of the authority's Committees, Sub-Committees, Joint Committees or Joint Sub-Committees; and
- (b) at the time the decision was made or action was taken, you were a member of the Executive, Committee, Sub-Committee, Joint Committee or Joint Sub-Committee mentioned in paragraph (a) and you were present when that decision was made or action was taken,

you may attend the meeting of the Overview and Scrutiny Committee for the purpose of explaining the reasons for the decision, or answering questions or giving evidence relating to the business, but you cannot participate otherwise in the discussion or in any vote on the matter.

Part 4 - General Matters relating to Parts 2 and 3

15 Register of interests

Subject to paragraph 16 any disclosable pecuniary interests or personal interests notified to the Monitoring Officer will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the authority's website.

16 Sensitive interests

This paragraph applies where you consider that disclosure of the details of a disclosable pecuniary interest or a personal interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees. In these circumstances, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a disclosable pecuniary interest, the details of which are withheld under Section 32(2) of the Localism Act 2011.

17 Dispensations

The Council may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest or a prejudicial interest.

MANCHESTER CITY COUNCIL

Arrangements for dealing with complaints that Council Members have failed to comply with the Council's Code of Conduct for Members (AS ADOPTED BY THE COUNCIL ON 11 JULY 2012)

1. Introduction

- 1.1 This procedure applies when a complaint is received that a Member or Co-opted Member of Manchester City Council or Ringway Parish Council Member has or may have failed to comply with the Code of Conduct for Members.
- 1.2 The person making the complaint will be referred to as "the Complainant" and the person against whom the complaint is made will be referred to as the "Subject Member".
- 1.3 No Member or Officer of Manchester City Council or Ringway Parish Council will participate in any stage of the arrangements if he or she has, or may have, any conflict of interest in the matter.

2. Making a complaint

- 2.1 A complaint must be made in writing either by post or e-mail to; The Monitoring Officer, Chief Executive's Department, Town Hall, Manchester or s.orrell@manchester.gov.uk
- 2.2 The Monitoring Officer will acknowledge receipt of the complaint within ten working days of receiving it and, at the same time, write to the Subject Member (and in the case of a complaint about Ringway Parish Council Member to the Clerk of the Parish Council also) with details of the allegations (subject to any representations from the Complainant on confidentiality, which are accepted as valid by the Monitoring Officer). The Subject Member may, within ten working days of receipt, make written representations to the Monitoring Officer which must be taken into account when deciding how the complaint should be dealt with. Representations received after this time may be taken into account, at the discretion of the Monitoring Officer, but will in any event not be considered after the Monitoring Officer has issued the initial assessment of the complaint.

3. Initial Assessment of Complaint

- 3.1 The Monitoring Officer will review the complaint and, following consultation with the Independent Person take a decision (initial assessment) as to whether it merits

investigation, or another course of action. This decision will normally be taken within 20 working days of receipt of a complaint.

The complaint will be rejected if;

- The complaint is not against one or more named Members or co-opted Members of Manchester City Council or Ringway Parish Council;
- The Subject Member was not in office at the time of the alleged conduct.
- The complaint, if proven, would not be a breach of the Code of Conduct under which the Subject Member was operating at the time of the alleged misconduct.

3.2 If the complaint has not been rejected on the grounds in 3.1 the Monitoring Officer will then go on to apply the following criteria in deciding whether a complaint should be accepted for investigation, dealt with informally, or rejected:

- Whether a substantially similar allegation has previously been made by the Complainant to Standards for England, or the Standards Committee, or the complaint has been the subject of an investigation by another regulatory authority;
- Whether the complaint is about something that happened so long ago that those involved are unlikely to remember it clearly enough to provide credible evidence, or where the lapse of time means there would be little benefit or point in taking action now;
- Whether the allegation is anonymous;
- Whether the allegation discloses a potential breach of the Code of Conduct, but the complaint is not serious enough to merit any action and
 - i. The resources needed to investigate and determine the complaint are wholly disproportionate to the allegations and
 - ii. Whether in all the circumstances there is no overriding public benefit in carrying out an investigation.
- Whether the complaint appears to be malicious, vexatious, politically motivated or tit for tat;
- Whether the complaint suggests that there is a wider problem throughout the Authority;

- Whether it is apparent that the Subject Member is relatively inexperienced as a Member or has admitted making an error and the matter would not warrant a more serious sanction;
- Whether training or conciliation would be the appropriate response.

The Monitoring Officer will consult with the Independent Person and then give his decision on how the complaint will be dealt with. The Monitoring Officer may in exceptional circumstances refer the question of how to proceed to [a Sub-Committee] of the Standards Committee.

4. Additional Information

- 4.1 The Monitoring Officer may require additional information to come to a decision and may request information from the Subject Member. Where the complaint relates to a Ringway Parish Member, the Monitoring Officer may also inform the Clerk of Ringway Parish Council of the complaint and seek the views of the Clerk of Ringway Parish Council before deciding whether the complaint merits formal investigation or other action. In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for an investigation.
- 4.2 Such informal resolution may involve the Subject Member accepting that his/her conduct was unacceptable and offering an apology, or taking other steps. Where the Subject Member or the Council (in appropriate cases) makes a reasonable offer of local resolution, but it is rejected by the Complainant, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.
- 4.3 If the complaint identifies criminal conduct or breach of other regulations by any person, the Monitoring Officer is authorised to report this to the Police or other prosecuting or regulatory authority, in addition to any action taken pursuant to the Code of Conduct.

5. Confidentiality

- 5.1 If a Complainant has asked for their identity to be withheld, this request will be considered by the Monitoring Officer at the initial assessment stage.
- 5.2 As a matter of fairness and natural justice the Subject Member should usually be told who has complained about them and receive details of the complaint. However, in exceptional circumstances, the Monitoring Officer may withhold the Complainant's identity if on request from the Complainant, or otherwise, they are satisfied that the Complainant has reasonable grounds for believing that they or any witness relevant to the complaint may be at risk of physical harm, or his or her employment may be jeopardised if their identity is disclosed, or where there are medical risks (supported by medical evidence) associated with the Complainant's identity being disclosed.

5.3 If the Monitoring Officer decides to refuse a request by a Complainant for confidentiality, they will offer the Complainant the option to withdraw the complaint, rather than proceed with his or her identity being disclosed. The Monitoring Officer will balance whether the public interest in taking action on a complaint will outweigh the Complainant's wish to have his or her identity withheld from the subject Member.

6. Investigation

6.1 The Monitoring Officer will appoint an Investigating Officer where a complaint merits formal investigation. The Investigating Officer may be a Council officer, an officer from another Council, or an external investigator.

6.2 The Investigating Officer will follow guidance issued by the Monitoring Officer on the investigation of complaints. The guidance will follow the principles of proportionality and the cost effective use of Council resources and shall be interpreted in line with these principles.

6.3 The Investigating Officer will ensure that the Subject Member receives a copy of the complaint – subject to the Monitoring Officer decision on confidentiality.

6.4 At the end of their investigation, the Investigating Officer will produce a report and will send a copy of that report to the Monitoring Officer. [*The Investigating Officer may before that produce a draft report and send copies to the Complainant and Subject Member for comments on matters of fact. The Investigating Officer will take such comments into account before issuing their report to the Monitoring Officer*]

7. Investigating Officer finding of no failure to comply with the Code of Conduct

7.1 Where the Investigating Officer's report finds that the Subject Member has not failed to comply with the Code of Conduct, the Monitoring Officer, in consultation with the Independent Person, will review the Investigating Officer's report and if satisfied, will confirm the finding of no failure to comply with the Code of Conduct.

7.2 The Monitoring Officer will write to the Complainant and the Subject Member (and to the Clerk of Ringway Parish Council, where the complaint relates to a Ringway Parish Member), with a copy of the decision and the Investigating Officer's report.

7.3 If the Monitoring Officer is not satisfied that the investigation has been conducted thoroughly, the Investigating Officer may be asked to reconsider the report and the conclusions.

8 Investigating Officer finding of sufficient evidence of failure to comply with the Code of Conduct.

Where the Investigating Officer's report finds that the Subject Member has failed to comply with the Code of Conduct, the Monitoring Officer will review the Investigating Officer's report and will then having consulted the Independent Person either send the matter for local hearing before the hearing panel or seek local resolution.

8.1 Local Resolution

If the Monitoring Officer considers that the matter can reasonably be resolved without the need for a hearing, they will consult with the Independent Person and the Complainant and seek to agree a fair resolution. Such resolution may include the Subject Member accepting that their conduct was unacceptable and offering an apology, and/or other remedial action. If the Subject Member accepts the suggested resolution, the Monitoring Officer will report the outcome to the Standards Committee and the Clerk to Ringway Parish Council (if appropriate) for information, but will take no further action. If the Complainant or the Subject Member refuses local resolution in principle or to engage with the agreed outcome, the Monitoring Officer will refer the matter for a local hearing without further reference to the Complainant or the Subject Member.

8.2 Local Hearing

Where, in the opinion of the Monitoring Officer, local resolution is not appropriate or the Complainant and/or Subject Member refuses to accept local resolution, then the Monitoring Officer will report the Investigating Officer's findings to the Hearing Panel which will conduct a local hearing before deciding whether the Member has failed to comply with a Code of Conduct and, if so, what action (if any) to take in respect of the Member.

9. Constitution of the Hearing Panel

The Hearing Panel is a sub-committee of the Council's Standards Committee. It will comprise of at least one of the independent Members co-opted to the Standards Committee and three elected Members of the Standards Committee of whom one should be a Member of the minority party. Where the complaint is about a Ringway Parish Council Member, the Hearings Panel will include at least one of the Ringway Parish Council Members co-opted to the Standards Committee.

The Independent Person is invited to attend all meetings of the Hearing Panel and their views must be sought and taken into consideration before the Hearing Panel takes any decision on whether the Subject 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.

10. The Independent Person

10.1 The Independent Person must be a person who has applied for the post following advertisement of a vacancy for the post, and appointed by a positive vote from a majority of all the Members of the Council at a meeting of the full Council.

10.2 A person is not eligible for appointment if they:

- are, a Member, co-opted Member or officer of the Council;
- subject to para 10.3 below, have within the past five years been a Member, co-opted Member or officer of Manchester City Council,
- are, or have been within the past five years, a Member or co-opted Member or officer of Ringway Parish Council; or
- are a relative or close friend of a person within the bullet points above.

10.3 A person may be appointed as an Independent Person if they are not a Member of the Standards Committee on 1 July 2012, but have held such a post at any time during the 5 years ending on 30 June 2012, provided that this only applies to appointments made before 1 July 2013.

10.4 For the purpose of paragraph 10.2, “relative” means:

- Spouse or civil partner;
- Living with the other person as husband and wife or as if they were civil partners;
- Grandparents of the other person;
- A lineal descendant of a grandparent of the other person;
- A parent, sibling or child of the person within the above bullet points;
- A spouse or civil partner of a person within the above bullet points; or
- Living with a person within the above bullet points as husband and wife or as if they were civil partners.

11. Action

Where a Hearing Panel finds that a Subject Member has failed to comply with the Code of Conduct, the Council has delegated to the Standards Committee (and the Standards Committee has sub-delegated to the Hearing Panel), such of its powers to take action in respect of Subject Members as may be necessary to promote and maintain high standards of conduct. Accordingly, the Hearing Panel may –

- Publish its findings in respect of the Subject Member’s conduct;

- Report its findings to Council (or to Ringway Parish Council) for information;
- Recommend to Council that the Member be censured;
- Recommend to the Subject Member's group leader (or in the case of ungrouped members recommend to Council) that he/she be removed from any or all committees or sub committees of the Council;
- Recommend to the Leader of the Council that the Subject Member be removed from the Executive, or removed from their portfolio responsibilities;
- Instruct the Monitoring Officer (or recommend to Ringway Parish Council) to arrange training for the Member;
- Recommend to Council (or recommend to Ringway Parish Council) that the Subject Member be removed from all outside appointments to which they have been appointed or nominated by the Council (or by Ringway Parish Council);
- Withdraw (or recommend to Ringway Parish Council that it withdraws) facilities provided to the Subject Member by the Council such as a computer, website and/or e-mail and internet access; or
- Place such restrictions on the Subject Member's access to staff, buildings or parts of buildings which may be reasonable in the circumstances

13. Withdrawal of a Complaint

In the event that a Complainant withdraws a complaint at any time prior to a decision having been made by a Hearing Panel, the Monitoring Officer may, following consultation with the Independent Person, decide that no further steps be taken in respect of that complaint but shall, in taking such a decision take into account any issues which may arise under Paragraph 3.1(c) of the Code of Conduct.

14 Revision of these Arrangements

The Council may by resolution or delegation to the Monitoring Officer agree to amend these arrangements and has delegated to the Chair of the Hearings Panel the right to depart from these arrangements where they consider that it is expedient to do so in order to secure fair consideration of any matters.

15. Appeals

Subject to judicial review or a decision of a local ombudsman, there is no right of appeal against the decision of a Monitoring Officer or of the Hearing Panel.

FLOW CHART COMPLAINTS

