**

**CODE OF CONDUCT**

**PROCESS FOR DEALING WITH ALLEGATIONS**

**1. Making complaints**

Any complaint that a Councillor has failed to comply with the Code of Conduct should be addressed to:

The Monitoring Officer

East Hampshire District Council

Penns Place

PETERSFIELD

GU31 4EX

A form for making complaints is available. Its use is encouraged, but is not essential providing the complaint includes all the necessary information.

**2. Initial action by Monitoring Officer (MO)**

On receiving the complaint the MO may dismiss it without further action if:

(a) The person complained about is no longer a Councillor of the relevant Council; or

(b) The MO considers that the complaint does not relate to behaviour in the Councillor’s official capacity as a Councillor; or

(c) The matter being complained about happened more than 12 months before the complaint was received; or

(d) The matter being complained about came to the complainant’s notice more than 6 months before the complaint was received.

The MO will inform the complainant and the Councillor accordingly.

If the MO does not dismiss the complaint on one of the above grounds, he/she will acknowledge it and inform the complainant of the procedure to be followed. The MO may ask the complainant for further information or clarification.

The MO will (other than in exceptional circumstances where he/she considers that it is not in the public interest to do so) send the Councillor complained about a copy of the complaint, and invite the Councillor to submit initial written comments within 10 working days.

The MO will also:

Ask the Councillor any specific questions the MO considers will assist the initial assessment of the complaint.

As an alternative to the above action, the MO may, if he/she considers it appropriate, refer the complaint to the Police and take no further action under this procedure.

**3. Initial assessment of the** **complaint**

Initial assessment will, if practicable, take place within 15 working days of receipt of the Councillor’s written comments under section 2 above.

The decision on the initial assessment will be made by the Monitoring Team. This will comprise the MO and the Independent Person (IP).

Before the Monitoring Team considers the complaint, the MO will send the IP:

1. A copy of the complaint;
2. A copy of the Councillor’s comments in response to the complaint; and
3. Any other information in the MO’s possession that he/she considers relevant.

The Monitoring Team’s decision on the initial assessment, with reasons, will be given in writing to the Councillor, the complainant and if the complaint was about a Parish/Town Councillor, the Clerk to the Parish/Town Council, within five working days.

There will be no right of appeal.

The decision will be available for public inspection.

**4. Decision options at initial assessment**

The Monitoring Team may decide:

1. To take no action (see Appendix 1); or
2. To attempt to resolve the matter informally between the complainant and Councillor, either in writing or by face-to-face meeting or by any other method it considers appropriate. In this case there will be no formal decision as to whether or not there was a breach of the Code of Conduct. If an attempt to resolve the matter in this way is not achieved to the satisfaction of the Councillor and the complainant, options (a), (c) and (d) will remain open; or
3. To arrange a hearing before a Panel of three Councillors drawn from the Governance Committee and the IP, at which the Councillor and complainant can state their case and, if appropriate, call witnesses. Procedures are set out at Appendix 2. The hearing will reach a formal decision as to whether the Councillor breached the Code of Conduct; or.
4. If the complaint is potentially complex, to arrange for a formal investigation to be undertaken, including interview of appropriate witnesses, and to seek the view of the investigator as to whether there has been a breach of the Code of Conduct. If the investigator considers there has been a breach of the Code, a hearing will be arranged as in (c). If the investigator considers that there has not been a breach of the Code, the MO will issue a formal finding to that effect.

**APPENDIX 1**

No action will be taken where any of the following apply:

a. the Monitoring Team considers that there is no prima facie evidence that the Code has been breached;

b. taking into account the nature of the allegation, the Monitoring Team considers that using public funds to examine the matter further would be disproportionate;

c. the Monitoring Team considers that the complaint appears to be vexatious, politically motivated, tit-for-tat or made by a persistent complainant;

d. the conduct complained about has already been the subject of investigation or enquiry by another public body;

e. the same, or substantially the same issue has been the subject of a previous Code of Conduct allegation, and the Monitoring Team considers that there is nothing further to be gained from a further investigation;

f. the Monitoring Team considers that there is not enough information to take the matter further;

g. the complaint was made anonymously;

h. the complainant has requested that their identity as complainant be withheld from the Councillor, and the Monitoring Team considers that the matter cannot reasonably be taken further in these circumstances;

i. the Councillor has already apologised for the action that was the subject of the complaint, and the Monitoring Team considers that this is sufficient to dispose of the complaint; or

j. the Monitoring Team considers that the complaint is essentially against the action of the Council as a whole and cannot properly be directed against an individual Councillor.

**APPENDIX 2**

**PROCEDURE FOR HEARINGS**

**General:**

Hearings will where possible be held within two months of the initial assessment decision where there is no prior investigation or within two months of receipt by the Monitoring Officer (MO) of the investigator’s report where there has been a prior investigation.

The Hearing will be before a Panel of three members drawn from the Governance Committee. One of the members will be elected Chairman.

The Independent Person (IP) appointed under section 28 of the Localism Act 2011 will also be present. His/her views will be requested and taken into account by the Panel but by law he/she cannot vote.

The MO or Deputy MO will be present as legal adviser to the Panel.

Both the Councillor and complainant will be invited to appear. They may present their own case or they may be represented.

They may bring witnesses (of a number the Panel considers is reasonable), in which case written statements from the witnesses must be lodged with the MO at least eight working days before the Hearing. ‘Character witnesses’ who cannot provide evidence on the matter complained about will not be permitted.

The cost of any attendance/representation must be borne by the party concerned.

All written evidence will be circulated to the Panel, the IP, the Councillor and the complainant at least five working days before the Hearing.

Written statements will not be read out at the Hearing as it will be assumed all those present are already familiar with their contents.

The legal advisor can speak at any time to advise the Panel on technical matters or ask questions of any party.

**Proceedings:**

The complainant can address the Panel and call witnesses (if any).

The Councillor can ask the complainant and witnesses questions.

The Panel and IP can ask the complainant and witnesses questions.

The Councillor can address the Panel and call witnesses (if any)

The complainant can ask the Councillor and witnesses questions.

The Panel and IP can ask the Councillor and witnesses questions.

The complainant can make a closing statement.

The Councillor can make a closing statement.

All those present except the Panel, the IP, the legal adviser and Clerk will leave the room while the Panel makes its decision.

The Panel’s decision will be announced orally as soon as possible, including any specific advice sought and given from the IP.

A written report of the Hearing and decision, with reasons, will be prepared, usually within five working days. A copy will be sent to all those present at the hearing and to the Clerk of the Parish/Town Council if the complaint was about a Parish/Town Councillor.

The written report will be available for public inspection.

**Decisions open to the Panel:**

These are:

1. That the Councillor did not fail to comply with his/her Council’s Code of Conduct;
2. That the Councillor failed to comply with his/her Council’s Code of Conduct, and that:
3. No action need be taken; or
4. The Councillor be censured; and/or
5. Whatever publicity the Panel considers appropriate be given to their findings; and/or
6. It be recommended to the Council (or to the Councillor’s political group where Committee appointments are made by political groups) that the Councillor be removed from a specific Committee(s), or from any other position to which the Council has appointed him/her.

The Panel may also make any recommendations it considers appropriate to the Council concerned on procedural amendments that might assist Councillors generally to follow the Code of Conduct.