

JOINT ESSEX COUNTY COUNCIL

AND

ESSEX FIRE AUTHORITY

STANDARDS COMMITTEE

PROCEDURE FOR THE

INVESTIGATION AND HEARING OF COMPLAINTS AGAINST

MEMBERS OF ESSEX COUNTY COUNCIL

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CHAPTER ONE

1 INTRODUCTION

- 1.1 The Localism Act 2011 requires Essex County Council to have a code of conduct for members and to establish processes for considering allegations that a councillor has not complied with the code.
- 1.2 This document sets out the process to be followed when an allegation is made.
- 1.3 Any reference to the Monitoring Officer includes a reference to a person authorised to act on behalf of the Monitoring Officer

2 INITIAL ASSESSMENT

- 2.1 The Monitoring Officer will decide whether a complaint is within the scope of the procedure, which involves consideration as to whether:
 - 2.1.1 the person complained about is a member of the authority;
 - 2.1.2 the member was in office at the time of the alleged conduct
 - 2.1.3 the Code of Conduct was in force at the time of the alleged misconduct;
 - 2.1.4 if proven, the alleged misconduct would constitute a breach of the Code of Conduct in force at the time of the alleged misconduct.
- 2.2 Complaints will not be accepted if the complaint is not, in fact, a complaint under the Code of Conduct. This may apply if, for example, the complaint is, in reality, a complaint about Council services or about a decision taken by the Councillor concerned which the complainant simply disagrees with.
- 2.3 If the complaint is not considered to be within the scope of the procedure the Monitoring Officer will write to the complainant and give a provisional view and invite representations from the complainant. A final decision will be made by the Monitoring Officer after considering any response from the complainant and the complainant. The relevant member will be informed accordingly.
- 2.4 If the Monitoring Officer considers that the complaint is one which falls within the scope of the procedure then, subject to paragraph 2.6, he or she shall, having regard to the assessment criteria set out in annexe 1, decide whether the complaint should be investigated.
- 2.5 If he or she determines that the complaint should not be investigated then the Monitoring Officer will write to the complainant and give a provisional view and invite representations from the complainant. A final decision will be made by the Monitoring Officer after considering any response from the complainant and the complainant and the relevant member will be informed accordingly.

- 2.6 The Monitoring Officer may refer the matter to the Standards Committee to decide whether a complaint should be investigated. This may happen, for example, if it is unclear whether a case should be investigated or where he or she feels unable to act for some reason. If this matter is referred to the Standards Committee for decide then the procedure in Annex 1 shall apply.
- 2.7 In any case where no further action is taken, the Monitoring Officer may wish to have an informal discussion with the member concerned to advise on reducing the risk of complaints in future.

3 INVESTIGATIONS

- 3.1 Where a complaint is to be investigated, the Monitoring Officer has delegated power to investigate.
- 4.1 The Monitoring Officer will either carry out the investigation personally or he or she may appoint another officer to carry out the investigation. In this document Investigator refers to the person who is carrying out the investigation.
- 4.2 The Monitoring Officer must inform the following of the decision to refer the matter for investigation:
- the councillor concerned;
 - the complainant; and
 - the standards committee of any other authority concerned (if any).
- 4.3 Investigators must always be aware of the obligations under the Data Protection Act 1998, the Human Rights Act 1998 and other relevant legislation, when carrying out an investigation or other action.
- 4.4 When conducting an investigation, the Investigator may make inquiries of any person he or she thinks necessary. However, there is no legal obligation for that person to respond.
- 4.5 The investigation must be undertaken fairly. In particular:
- (a) The member concerned must be given enough information to enable them to respond to the allegation.
 - (b) Information supplied by any person should be recorded in writing, in the form of a statement if appropriate.
 - (c) Further information should be sought from the complainant if necessary to consider a relevant point made by a complaint.
- 4.6 On completion of an investigation, the Investigator must produce a draft report which will normally include draft findings.
- 4.7 The draft report must be sent to the councillor concerned and the complainant, on a confidential basis, giving them 14 days in which to comment.

- 4.8 The Investigator must then produce a final report which sets out whether the Investigator has found there to be one or more breaches of the code of conduct. If it was not possible to make a finding, then the Investigator should make that clear in their report.
- 4.9 The Investigator must send their final report to:
- (a) The Complainant.
 - (b) The Councillor concerned.
 - (c) An Independent Person appointed by the Council under the Localism Act 2011.
 - (d) The Monitoring Officer (if the Monitoring Officer has not investigated personally).
- 4.10 The Independent Person shall be given seven days to provide advice on the draft report, or such longer period as is reasonable in the circumstances.
- 4.11 The Monitoring Officer will consider the report of the Investigator and the advice of the Independent Person and shall reach a view on whether he or she feels there has been a breach of the code of conduct. If necessary, the Monitoring Officer may ask for further investigations to be conducted before reaching a view. If the further investigations result in more information being available or a change in the conclusion of the report then the Independent Person shall be consulted again.
- 4.12 If the Monitoring Officer concludes that there has been a breach of the code of conduct then he or she will refer the matter to a Hearings Sub-Committee to be heard.
- 4.14 If the Monitoring Officer concludes that there has not been a breach of the code of conduct then he or she may either:
- (a) Close the complaint without referring the matter to the Hearings Sub-Committee; or
 - (b) Refer the matter to the Hearings Sub-Committee for a hearing.
- 4.15 In any case where the Monitoring Officer does not refer the matter to the Hearings Sub-Committee, he or she may still wish to have an informal discussion with the member concerned to advise on reducing the possibility of complaints in future.
- 4.15 If the decision is that the matter should proceed to a Hearing then the process in Annex 2 should be followed.

Annex 1 – Procedure to be followed by the Standards Committee when it considers whether a complaint should be investigated

- 1.1 The Committee will normally meet within 20 working days of receipt of the complaint.
- 1.2 The meeting will normally be held in private but subject to the usual Access to Information Rules.
- 1.3 At the start of the meeting the Chairman shall invite the Monitoring Officer to explain the role of the committee and the decisions they are able to make.
- 1.4 The committee are required to decide whether, with respect to each allegation:
 - (a) the Monitoring Officer should investigate it; or
 - (b) the Monitoring Officer should take any other steps in relation to the member concerned, for example, mediation, apology, training or an alternative measure to address the issue that has arisen; or
 - (c) no action should be taken.
- 1.5 The committee shall take into account the following criteria ('the Assessment Criteria') in making its decision whether or not to investigate a complaint:
 - (a) is the matter serious enough, if proven, to justify an investigation;
 - (b) is the alleged misconduct part of a continuing pattern of less serious misconduct which is unreasonably disrupting the business of the authority and in respect of which there is no other avenue left to deal with it;
 - (c) how much time has passed since the alleged conduct occurred;
 - (d) if the complaint is anonymous, does it contain documentary or photographic evidence indicating an exceptionally serious or significant matter;
 - (e) does it appear that the complaint is malicious, relatively minor, politically motivated or tit-for-tat;
 - (f) has the same or a substantially similar complaint has already been the subject of an investigation by this Authority or public body and there is nothing further to be gained by hearing the matter again;
 - (g) does it appears that the complaint is really about the dissatisfaction with a Council decision; and
 - (h) Is there likely to be enough information available to justify an investigation?
- 1.6 The Monitoring Officer will prepare a written summary of the Committee's decision.

- 1.7 The decision notice will be sent to the relevant parties within 5 working days and will be made available for public inspection, unless it is not in the public interest to do so or is likely to prejudice any subsequent investigation.

Annex 2 – Hearings Sub-Committee Procedure

1. Before the Hearing

Date of Hearing

- 1.1 A meeting of the Hearing Sub-Committee will be convened by ECC's Head of Democratic Services in consultation with the Chairman or the Standards Committee. The Monitoring Officer shall then, in consultation with the Chairman of the Sub-Committee, arrange the date, time and place for the Hearing. The Hearing shall normally take place within 3 months after the final report was sent to the Monitoring Officer. When setting the dates, the Monitoring Officer will consult with all relevant parties if possible, and will in any event notify all parties of the date, time and place of the Hearing as soon as possible.
- 1.2 Any objection to the proposed Hearing date must be notified in writing to the Monitoring Officer as soon as possible. The Monitoring Officer will act reasonably in considering any requests for an alternative Hearing date but is not obliged to re-schedule the Hearing, having particular regard to the requirement to convene a Hearing within three months. The Monitoring Officer will consult with the Chairman before re-scheduling the meeting.

Notice of procedure

- 1.3 Once the Hearing date has been set, the Monitoring Officer will send a copy of this Procedure Note and a note of any proposed departures from the procedure in it to the Member and to the Complainant and to the members of the Sub-Committee.

Pre-Hearing Questionnaire

- 1.4 Prior to the Hearing, the Monitoring Officer may ask the Member to complete a Pre-Hearing Questionnaire in respect of the findings in the report and other issues relevant to the Hearing. If a Questionnaire is sent it will ask some or all of the following questions:
- 1.5 Do you agree with the Investigator's findings of fact?
- 1.6 Do you agree you have breached the code of conduct as set out? If so, would you be willing to make an apology to the complainant? Would you be willing to undergo training if necessary in order to avoid a further breach occurring in future?
- 1.7 If there is found to be a breach, is there anything you would like to be taken into account by the Sub-committee when it considers whether a sanction should be imposed and what that sanction might be?
- 1.8 Will you be attending the Hearing or do you intend to submit only written representations;

- 1.9 Will you be represented by a solicitor or barrister or other person at the Hearing? If so, please confirm who and whether that person is connected to the matter in any way;
- 1.10 Do you wish to call any witnesses? If so, please provide the name and contact details for those witnesses and a brief description of the evidence each witness will give;
- 1.11 Do you intend to ask the Sub-Committee to consider any documentary or other written evidence not already provided? If so, please provide copies when responding to this questionnaire?
- 1.12 Do you wish to have any documents withheld from the public and, if so, please give your reasons for this request?
- 1.13 Would you like the Hearing to be held in private or public and, if so, please outline your reasons for the request? (Meetings will normally be held in public, but the Sub-Committee will consider the Member's request to hold it in private.);
- 1.14 Do you have any comments or questions on the procedure to be followed?
- 1.15 Do either you, or your witnesses or representative have any special access requirements or other special requirements?
- 1.16 The Member will be asked to respond to the Questionnaire within 14 days from the date the Questionnaire was sent.

The Investigator

- 1.17 The Monitoring Officer shall ask the Investigator to comment on:
- the response to the Questionnaire provided by the Member (if any) and whether the Investigator is able to accept any of the points raised in it.
 - whether the Investigator would like to call any witnesses and, if so, to provide the name and contact details for those witnesses and a brief description of the evidence they will give if different to the summary of their evidence in the Investigator's report.
 - whether the Investigator will be asking the Sub-Committee to consider any documentary or other written evidence not already provided (other than the report of the investigation) and, if so, to provide copies.
 - whether he or she thinks the Hearing should be held in private and, if so, the reasons why.
 - whether he or she would wish to have any documents withheld from the public and, if so, why.
 - any comments or questions on the proposed procedure.

- Whether the Investigator or any witnesses the Investigator intends to call have any special access requirements or other special requirements

Pre-Hearing Summary

- 1.18 The Monitoring Officer will write to the relevant parties prior to the Hearing date with a Pre-Hearing Summary setting out:
- the name of the Authority
 - the name of the Member
 - the name of the Complainant (unless in the Monitoring Officer considers that there are special circumstances which mean that the name of the Complainant should not be revealed)
 - the name of the Investigator
 - the name of the Chairman of the Sub-committee that will hear the matter
 - the date, time and place of the Hearing
 - a summary of the allegation
 - the findings of fact of the Investigator
 - the findings of fact which are not agreed by the Member, if any, the reasons for that disagreement and the comments from the Investigator on those reasons
 - a list of persons expected to attend the meeting, including any witnesses who have been invited to attend
 - whether the Sub-committee is likely to be asked to limit the number of witnesses who may be called
 - whether the person named by the Member as his or her representative (if not a solicitor or barrister) is likely to be permitted to act as the Member's representative
 - a list of documents to be considered by the Sub-Committee, including any written representations which the Member has asked to be placed before the Sub-committee (copies of the documents will be enclosed if possible but in any event will be sent to the parties prior to the Hearing)
 - a list of any documents that have been or will be withheld from the public
 - whether the Hearing is likely to take place in private

- whether there are anticipated to be any departures from the procedure set out in this Procedure Note which have not already been notified to the Parties.

Disputes on the Pre-Hearing Summary

- 1.19 If, having received the Pre-Hearing Summary, the Member and/or the complainant disagrees with any part of it he or she shall forthwith give notice of the disputed issues to the Monitoring Officer and should then seek to resolve the disputed issues through the Monitoring Officer prior to the Hearing. If necessary, the Member or the complainant can contact the Monitoring Officer to arrange a convenient time to meet the Monitoring Officer to discuss the issues. Any unresolved issues will be dealt with as a preliminary matter at the Hearing. Failure to notify the Monitoring Officer of any issues of dispute or any failure to attempt to resolve those issues with the Monitoring Officer prior to the Hearing may mean that the Sub-committee may decline to listen to the Member or the complainant on the disputed issues at the Hearing.

2 At the Hearing

- 2.1 The Sub-committee's quorum is three. Substitute Sub-committee members may be appointed where the original member cannot attend a scheduled Hearing. Sub-committee decisions will be made by simple majority with the Chairman having a casting vote in the case of equality.
- 2.2 The standard of proof to be applied is the balance of probabilities in any findings against the Member.
- 2.3 The Sub-committee may take advice from the Monitoring Officer at any time during the Hearing or while they are considering the outcome. This advice may be taken in private.
- 2.4 The Member may be represented or accompanied by a solicitor, counsel or, with the permission of the Sub-committee, another person.

Commencement of the Hearing

- 2.5 Seats will be reserved for the relevant parties and their witnesses. A separate seat will be provided for a witness when giving evidence.

Delay at start of Hearing

- 2.6 The Hearing shall commence on the date and at the time stipulated in the notice convening the meeting but the start may be delayed by the Chairman for a reasonable period if, having had regard to the advice of the officers present and any representations received from or on behalf of the parties he or she considers such delay to be reasonable in the circumstances. The Chairman will take into account the effect the delay may have on the likelihood of the Hearing being concluded in the one session.

Absent Member

- 2.7 If the Member is not present at the time the Hearing is due to start, the Chairman will ask the Monitoring Officer whether the Member has provided any reasons for his or her non-attendance. If the Sub-committee is satisfied with such reasons, it shall adjourn to another date. If the Sub-committee is satisfied that the Member received adequate notice of the Hearing and either no reasons for the Member's non-attendance were given or the Sub-committee considers the reasons given to be inadequate, then the Sub-Committee shall decide whether to proceed with the Hearing in his or her absence or adjourn to another date.

Chairman to deal with preliminary matters

- 2.8 At the start of the Hearing, the Chairman will deal with the following preliminary matters:
- Introductions of all persons present.
 - Declarations of interest.
 - Whether the parties have received a note of the procedure to be followed at the Hearing.
 - An explanation of the procedure to be followed (the Chairman may invite the Monitoring Officer to explain the procedure) and whether the procedure that will be followed is different to the procedure described in this Procedure Note (again, the Chairman may invite the Monitoring Officer to address this issue). Any questions on the procedure will also be dealt with.
 - Whether there are any outstanding issues or disagreements on the Pre-Hearing Summary and whether they have already been raised by the Member with the Monitoring Officer prior to the Hearing and whether there was any attempt at resolving them.

2.9 The Committee will then determine:

- whether the Member is entitled to be represented by the person nominated by him or her (if not a barrister or solicitor).
- whether all or any part of the Hearing should be conducted in private
- whether, acting reasonably, a limit should be placed on the number of witnesses which the Member or the Investigator will be entitled to call and if so, how many. This may be, for example, if the Sub-committee considers that witnesses will simply repeat earlier evidence or if their evidence is not relevant.

Explanation of Pre-Hearing Summary

- 2.10 The Chairman will ask the Monitoring Officer to present the Pre-Hearing Summary. As a copy would have already been sent to the parties this requirement can be dispensed with if the Sub-committee agrees.

Written Representations

- 2.11 In the event that the Member or the Investigator has submitted written representations prior to the Hearing, then they shall stand as read.

Findings of Fact

- 2.12 The Chairman will ask the Monitoring Officer to explain the findings of fact and those in respect of which the Member has given notice of dispute, if any.
- 2.13 If there is no dispute on the findings of fact the Chairman will, subject to the following paragraphs, move on to address whether there has been a breach of the Code of Conduct and in so doing will move onto the next stage in the process.
- 2.14 If there are any disputes on the findings of fact which have been notified to the Monitoring Officer, the Chairman will invite the Member or his or her representative to briefly outline the findings of fact which he or she disagrees with.
- 2.14 Except in exceptional circumstances, and except with the permission of the Sub-committee, the Member will not be entitled to raise any disputes on any findings of fact other than those in respect of which notice has already been given to the Monitoring Officer in response to the Questionnaire. If the Sub-committee do give permission then it may be necessary to adjourn the hearing.
- 2.15 Once the Member or his or her representative has briefly outlined the findings of fact with which the Member disagrees, the Investigator will be invited to make submissions to support the relevant finding(s) of fact in the report which are disagreed and may, with the Sub-committee's permission, call any necessary supporting witnesses to give evidence.
- 2.16 The Chairman may give the Member an opportunity to challenge any evidence put forward by any witness called by the Investigator. All challenges will be put through the Chairman of the Sub-Committee.
- 2.17 The Chairman will then give the Member an opportunity to make submissions to support his or her version of the facts and, with the Chairman's permission, to call witnesses to give relevant evidence.
- 2.18 The Chairman may give the Investigator an opportunity to challenge any of the evidence put forward by the Member or witnesses called by the Member or his representative. All challenges will be put through the Chairman of the Sub-Committee
- 2.19 At any time the members of the Sub-Committee and the Monitoring Officer may, with the permission of the Chairman, question any of the people involved or any of the witnesses.

Deliberations on Findings of Fact

- 3.1 The Sub-Committee will retire to deliberate in private with assistance from the Monitoring Officer or other officer in order to decide on the findings of fact.
- 3.2 The Sub-Committee will then reconvene and the Chairman will announce the Sub-committee's findings of fact.

Deliberations on whether there was a Breach of the Code of Conduct

- 4.1 Once the Chairman has announced the findings of fact, the Sub-Committee will go on to consider whether or not, based on the facts, the Member has breached the Code of Conduct.
- 4.2 The Chairman will invite the Member to make submissions on the reasons why, if any, he or she does not consider there to have been a breach of the Code of Conduct.
- 4.3 The Chairman will then invite the Investigator to respond to the Member's submission, and to identify which sections of the code, they consider that the Member has breached.
- 4.4 Members of the Sub-committee and the Monitoring Officer may at any time, but with permission of the Chairman, question anyone involved on any point raised in their submissions.
- 4.5 The Chairman will then invite the Member to make any final relevant points.
- 4.6 The Sub-committee will then retire to consider the submissions in private with assistance from the Monitoring Officer.
- 4.7 Once the Sub-committee has made its decision, the Sub-Committee will reconvene and the Chairman will announce the Sub-Committee's decision as to whether or not the Member has breached the Code of Conduct.
- 4.8 In reaching its decision the Sub-committee shall make one of the following findings:
 - (a) that the Member had not failed to comply with the Code of Conduct;
 - (b) that the Member had failed to comply with the Code of Conduct but that no action needs to be taken in respect of the matters which were considered by the Sub-Committee;
 - (c) that the Member had failed to comply with the Code of Conduct and that a sanction should be imposed.

Finding of No Breach of Code or No Further Action

- 4.9 If the Sub-committee finds no evidence of any breach of the Code of Conduct or if it finds that there is a breach but no further action is required to be taken, then no further action shall be taken save that the Chairman may set out any recommendations which the Sub-Committee considers should be made to the authority or to all or any of its members with a view to promoting high standards of conduct. The Chairman will seek the views of the Member, the

Investigator and the Monitoring Officer before the Sub-committee makes any such recommendations.

- 4.10 Where there is a finding that the Member has not failed to comply with the code of conduct, the Chairman will if the Member is present ask him whether he wishes the decision of the Sub-committee to be published in the local paper and, if not, then no notice shall be published.

Deliberations following Finding of Breach of Code

- 4.11 If the Sub-committee finds that the Member did breach the Code of Conduct, the Chairman will invite the Monitoring Officer to explain to those present what sanctions are available to the Sub-committee. The Monitoring Officer may where appropriate describe what sanctions have been imposed by Sub-committees at previous Hearings and any sanctions imposed specifically in relation to the Member concerned. The sanctions which are available to the Sub-committee are set out below.

The sanctions (all or any of the following):

- (a) Censuring or reprimanding the member or recommending the Council to do so;
- (b) Reporting its findings to Council;
- (c) Recommending to the Member that he or she make an apology to the complainant if they have not already done so.
- (d) Recommending to the appropriate person or body that the member be removed from any or all Committees or Sub-Committees of the Council or the Cabinet;
- (e) Requesting the Monitoring Officer to arrange training for the member;
- (f) Recommending to the appropriate person or body that the member be removed from all outside appointments to which the member has been appointed or nominated by the Authority;
- (g) Withdrawing facilities provided to the member by the Council e.g. photocopying facilities if that facility was previously abused by the member concerned;
- (h) Excluding the member from the Councils offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- (i) recommending to the appropriate person or body that a Member's membership of one or more committees or other bodies should be

suspended such time as he or she submits a written apology in a form specified by the Sub-Committee;

- (j) a recommending to the appropriate person or body that a Member's membership of one or more committees or other bodies should be suspended for a period up to a maximum of six months or until such time as he or she undertakes such training or conciliation as the Sub-Committee may specify;

'the appropriate person' includes, where relevant, the Leader of the Member's political group.

- 4.12 The Chairman may invite the Investigator to make any submissions that they wish to make about the sanction that he or she considers would be reasonable to impose and the date when it should take effect.
- 4.13 The Chairman will invite the Member to respond to the comments from the Investigator (if any) and to make submissions on the sanction to be imposed, the time when it should run from and any mitigating circumstances he or she believes may exist.
- 4.14 The Sub-Committee shall then retire once more to decide in private with assistance from the Monitoring Officer or Legal Adviser:-
 - i whether to impose a sanction
 - ii where a sanction is to be imposed -
 - (a) what that sanction should be; and
 - (b) when that sanction should commence, how long it should be for, whether the sanction should be suspended and, if so, in what circumstances; and
 - iii. any recommendations the Sub-committee considers it should make to the authority or any other person or body.
- 4.15 In determining the sanction to be imposed, the Sub-committee should consider all relevant information, including the factors listed in the following section of this guidance.
- 4.16 A sanction will normally commence forthwith but the Sub-Committee can direct or recommend that it commence on any date within a period of six months after the imposition of the sanction. For example, if there are no meetings which the Member would otherwise attend in the next few months the imposition of an immediate sanction would in practice have little impact and it may therefore be appropriate for the Sub-Committee to delay the imposition of the sanction.

Written decision of Findings

- 4.17 The Monitoring Officer shall in conjunction with the Chairman prepare a short written notice of the decision and the reasons for that decision and he or she shall send a copy to the Member, the Complainant and the members of the Sub-committee as soon as possible after the close of the Hearing. In the case of a suspended sanction, it will include an explanation of the steps which need to be taken by the Member if he or she is to avoid the sanction coming into effect.
- 4.18 Within two weeks after the close of the Hearing, the Monitoring Officer shall prepare a full written decision of the Sub-committee and shall send it to the following people:
- the Member
 - the Investigator.
 - the members of the Sub-committee
 - the Standards Committee of any other authority involved
 - the person(s) who made the allegation.
- 4.19 Where the Sub-committee finds that there has not been a failure to comply with the Code of Conduct then the full report shall state that fact and shall state the reasons for that finding.
- 4.20 Where the Sub-committee finds that there has been a failure to comply with the Code of Conduct but that no action needs to be taken in respect of that failure then the full report shall state that fact and shall also state the details of the failure and the reasons for the Sub-committee's finding.
- 4.21 Where the Sub-committee finds that there has been a failure to comply with the Code of Conduct then the full report shall state that fact and shall also state the details of the failure, the reasons for the Sub-committee's finding and the sanction to be imposed. 4.22 The Monitoring Officer shall arrange for the decision to be published on the Council's website unless there has been no breach, in which case the decision shall only be published by the Monitoring Officer if the Member concerned wishes the decision to be published..

Annex 3

Guidance on Appropriate Sanctions

1. When deciding what sanction to impose, the Sub-committee should make sure that it is reasonable and in proportion to the Member's behaviour. Before deciding what penalty to set, the Sub-committee should consider the following issues:
 - What were the consequences of the failure to follow the Code of Conduct for the Member, the Council and others?
 - How serious was the incident?
 - Did the Member know (or should reasonably have known) that he or she was failing to follow the Code of Conduct?
 - Did the Member get advice from officers before the incident? Was that advice acted upon in good faith?
 - Has there been a breach of trust?
 - Has there been financial impropriety (for example, improper expense claims or procedural irregularities)?
 - Does the Member accept he or she was at fault?
 - Did the Member apologise to the relevant people?
 - Did the Member agree to attend conciliation or training?
 - Has the Member previously been warned or reprimanded for similar misconduct and/or been found to be in breach of the Code on a previous occasion?
 - Is the Member likely to do the same thing again?
 - Are there any other factors that need to be considered?
 - Are there any cost implications for the Council e.g. the cost of arranging training or conciliation?
 - What is fair, reasonable and proportionate in all the circumstances?