

ESSEX COUNTY COUNCIL

ESSEX FIRE AUTHORITY

Role of Independent Persons in the Management of Allegations of Failure to Comply with Members Code of Conduct

- 1 Allegations of breach of the Code will be received and assessed, as to the appropriate action to be taken, by the Monitoring Officer. On receipt of an allegation the subject member will be informed.
- 2 In making that assessment the Monitoring Officer will have regard to whether the allegation:
 - identifies a possible and specific breach of the Code
 - is based upon recent events
 - is trivial in nature
 - is an attempt to reopen an allegation which has already been assessed or determined
 - is based on a misunderstanding and could best be dealt with by an explanation, discussion, apology or other action
 - reflects a party political difference which can best be resolved through the Council's or the Fire Authority's decision making or political group structures
 - is one to which it would be in the public interest, to devote investigative resources
- 3 Before completing their assessment the Monitoring Officer may, in his or her absolute discretion consult one of the authority's Independent Persons as to the application of the above criteria and shall have regard to the Independent Person's comments in completing their assessment
- 4 Having considered the allegation and having consulted the Independent Person on it the Monitoring Officer may either:
 - refer the allegation for investigation or

- in exceptional circumstances, refer the allegation to the Standards Committee or their Hearings Sub-Committee for assessment or
- determine that the allegation should not be investigated

5 Where the matter is referred to the Committee or Sub-Committee for consideration the Monitoring Officer shall submit a report to the Committee or Sub-Committee setting out his or her views on the criteria set out above and including any comments received from the Independent Person. Following their assessment the Committee or the Sub-Committee may either:

- refer the allegation to the Monitoring Officer for investigation or
- determine that the allegation should not be investigated

6 Following the completion of an investigation the Monitoring Officer shall refer the Investigator's report to an Independent Person for his or her comments on the Investigator's findings of fact and his or her findings as to breach of Code and for his or her comments as to the sanctions, if any, which should be considered by the Committee or the Sub-Committee.

7 In the event that the Investigator makes a finding of no case to answer then provided the Monitoring Officer seeks and takes into account the views of the Independent Person, the Monitoring Officer may determine that no further action be taken on an allegation.

8 In the event that the Investigator finds that there is a case to answer the Committee or Sub –Committee hearing the matter shall have regard to the views of the Independent Person before reaching a decision

9 Where following an investigation of an allegation it

- is not referred for hearing or
- is the subject of a hearing but the Committee or Sub-Committee find that there has been no breach of the Code

the Monitoring Officer or the Committee or Sub-Committee, as the case may be, may take such other action including the offering of advice or training to the subject member as they consider appropriate.

10 A member against whom an allegation has been made and who wishes to seek the views of an independent person should inform the Monitoring Officer who will direct the member to an independent person whose views have not previously been sought by the Monitoring Officer. Any views expressed by such independent Person shall be confidential to the member.