



Haverling

LONDON BOROUGH

ADJUDICATION & REVIEW COMMITTEE AGENDA – STANDARDS COMPLAINT

3.00 pm	Wednesday 23 March 2022	Town Hall
----------------	------------------------------------	------------------

Members 8: Quorum 3

COUNCILLORS:

**Conservative Group
(1)**

**Residents' Group
(0)**

**Upminster & Cranham
Residents' Group
(1)**

Timothy Ryan (Vice-Chair)

Linda Van den Hende

**Independent
Residents Group'
(0)**

**Labour Group
(0)**

**North Haverling Residents'
Group
(1)**

Martin Goode

For information about the meeting please contact:

Christine Elsasser Tel: 01708 433675

e-mail: christine.elsasser@onesource.co.uk

Protocol for members of the public wishing to report on meetings of the London Borough of Havering

Members of the public are entitled to report on meetings of Council, Committees and Cabinet, except in circumstances where the public have been excluded as permitted by law.

Reporting means:-

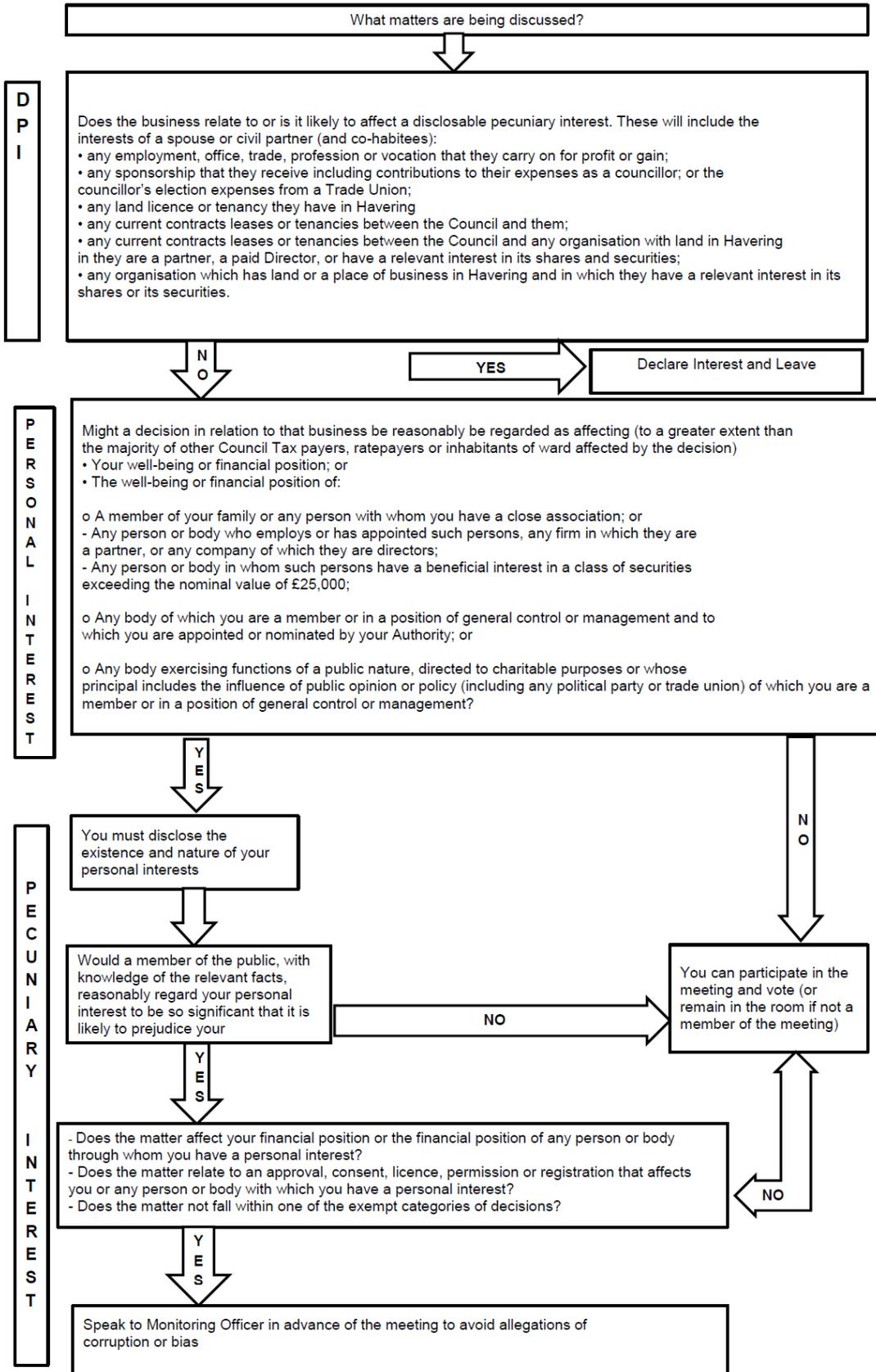
- filming, photographing or making an audio recording of the proceedings of the meeting;
- using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later; or
- reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later if the person is not present.

Anyone present at a meeting as it takes place is not permitted to carry out an oral commentary or report. This is to prevent the business of the meeting being disrupted.

Anyone attending a meeting is asked to advise Democratic Services staff on 01708 433076 that they wish to report on the meeting and how they wish to do so. This is to enable employees to guide anyone choosing to report on proceedings to an appropriate place from which to be able to report effectively.

Members of the public are asked to remain seated throughout the meeting as standing up and walking around could distract from the business in hand.

DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF



AGENDA ITEMS

1 CHAIRMAN'S ANNOUNCEMENTS

The Chairman will announce details of the arrangements in case of fire or other events that might require the meeting room or building's evacuation.

2 APOLOGIES FOR ABSENCE & SUBSTITUTE MEMBERS

(if any) – receive.

3 DECLARATIONS OF INTERESTS

Members are invited to declare any interests in any of the items on the agenda at this point of the meeting. Members may still declare an interest in an item at any time prior to the consideration of the matter.

4 CODE OF CONDUCT (Pages 1 - 28)

Reports attached.

5 EXCLUSION OF THE PUBLIC

To consider whether the public should now be excluded from the remainder of the meeting on the grounds that it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public were present during those items there would be disclosure to them of exempt information within the meaning of paragraph 1 of Schedule 12A to the Local Government Act 1972; and, if it is decided to exclude the public on those grounds, the Committee to resolve accordingly on the motion of the Chairman.

6 ASSESSMENT OF A COMPLAINT TO CONSIDER WHETHER IT SHOULD BE INVESTIGATED (Pages 29 - 48)

Reports attached.

Zena Smith
Democratic and Election
Services Manager

MEMBERS' CODE OF CONDUCT

Members or co-opted members of the Council of the London Borough of Havering have a responsibility to represent the community and work constructively with the Council's staff and partner organisations to secure better social, economic and environmental outcomes for all.

Principles of conduct in public office

In accordance with the provisions of the Localism Act 2011, when acting in the capacity of a Member, they are committed to behaving in a manner that is consistent with the following principles to achieve best value for the Borough's residents and to maintain public confidence in the Council.

SELFLESSNESS: Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP: Holders of public office should promote and support these principles by leadership and example.

Personal conduct

Accordingly, Members must act solely in the public interest and:

- Never improperly confer an advantage or a disadvantage or seek financial or other material benefits for family members, friends or close associates
- Never place themselves under a financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties
- Make all decisions on merit alone
- Are accountable to the public for their decisions and must co-operate fully with whatever scrutiny is appropriate to their office
- Be open as possible about their decisions and actions, and those of the Council, be prepared to explain the reasons for those decisions and actions
- Disclose any private interests, pecuniary or non-pecuniary, that relate to their public duties and take steps to resolve any conflicts of interest that arise, including registering and declaring interests in accordance with the Council's agreed procedures
- Ensure that they do not use, nor authorise the use by others of, facilities provided by the Council for any purpose that would be improper, including for party political purposes, and must have regard to any Local Authority Code of Publicity made under the Local Government Act 1986
- Promote and support high standards of conduct when serving in their public post, in particular as characterised by the requirements of this Code, by leadership and by example

As a Member of the Council, each Member will in particular address the statutory principles of the code of conduct by:

- Championing the needs of all residents and putting those interests first.
- Dealing with representations or enquiries from residents, members of local communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including their own financial interests or those of others connected to them, to deter them from pursuing constituents' casework, the interests of the Borough or the good governance of the Council in a proper manner.
- Exercising independent judgement and not compromising their position by placing themselves under obligations to outside individuals or organisations

who might seek to influence the way they perform their duties as members/co-opted members of the Council.

- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for their decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making the Council's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding members to account but restricting access to information when the wider public interest or the law requires it
- Behaving in accordance with all the Council's legal obligations, alongside any requirements contained within its policies, protocols and procedures, including on the use of the Council's resources.
- Valuing colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between Members and staff that is essential to good local government.
- Always treating people with respect, including the organisations and public they engage with and those they work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within the Council.

Members will be expected to comply with the Council's policies on Equality in Employment, Equality in Service Provision and Harassment and Bullying at Work.

Interests

¹Disclosable pecuniary interests

This section explains the requirements of the Localism Act 2011 (Ss 29-34) and The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, in relation to disclosable pecuniary interests.

These provisions are enforced by criminal sanction.

1. Notification of disclosable pecuniary interests

¹ The provisions concerning DPIs have been moved to the start of the interests section as these are the statutory provisions and have potential criminal consequences and it is important that they are at the front of member's minds when considering their interests.

Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'. You must within 28 days of becoming aware of any new disclosable pecuniary interest or a change to a disclosable pecuniary interest which is not included in the council's Register of Interests notify the Monitoring Officer.

A 'disclosable pecuniary interest' is an interest of yourself or an interest of which you are aware of your partner (which means spouse or civil partner, 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) within the following descriptions:

(In the extracts from the Regulations below, 'M' means you and 'relevant person' means you and your partner, as above)

Subject	Prescribed description
<i>Employment, office, trade, profession or vacation</i>	<i>Any employment, office, trade, profession or vocation carried on for profit or gain.</i>
<i>Sponsorship</i>	<i>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</i>
<i>Contracts</i>	<i>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant 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.</i>
<i>Land</i>	<i>Any beneficial interest in land which is within the area of the relevant authority.</i>
<i>Licences</i>	<i>Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.</i>
<i>Corporate tenancies</i>	<i>Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.</i>

Subject	Prescribed description
Securities	<p><i>Any beneficial interest in securities of a body where—</i></p> <p><i>(a) that body (to M’s knowledge) has a place of business or land in the area of the relevant authority; and</i></p> <p><i>(b) either—</i></p> <p><i>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</i></p> <p><i>(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 the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</i></p>

These descriptions on interests are subject to the following definitions;

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“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;

“M” means a member of a relevant authority;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

“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.

2 Register of interests

Any 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.

3 Sensitive interests

Where you consider that disclosure of the details of a disclosable pecuniary interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, 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).

4 Non participation in case of disclosable pecuniary interest

- A) If you are present at a meeting of the authority, or any committee, sub-committee, joint committee or joint sub-committee of the authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting,
1. You may not participate in any discussion of the matter at the meeting.
 2. You may 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 not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

You must leave the room where the meeting is held while any discussion or voting takes place.

- B) 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.

5 Dispensations

The authority 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. Such applications should be made to the Monitoring Officer.

6 Offences

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.
- 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

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.

Other types of Interest that must be disclosed and may be registered

Note: the provisions in respect of Disclosable Pecuniary Interests above take precedence over the provisions below about other interests.

7 Personal Interests

- (1) You have a personal interest in any business of your authority where you do not have a disclosable personal interest and
 - (a) it relates to or is likely to affect—
 - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
 - (ii) any body—

- (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) 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;
- (iii) any easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income.
- (2) You must, within 28 days of becoming a member or co-opted member, or becoming aware of any new personal interest or change to any personal interest registered under this paragraph notify the Monitoring Officer of the details of that new interest or change.

8 Disclosure of personal interests

- (1) Subject to sub-paragraphs (2) to (5), where you have a personal interest described in paragraph 7(1) above or as set out in paragraph (2A) 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.
- (2) (A) You have a personal interest in any business of your authority
- (i) 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 division or ward, as the case may be, affected by the decision, or
- (B) In sub-paragraph (2)(A), a *relevant person* is—
- (i) a member of your family or any person with whom you have a close association; or
 - (ii) 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;
 - (iii) 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
 - (iv) any body of a type described in paragraph 7(1)(a)(i) or (ii).

- (3) Where you have a personal interest but, by virtue of paragraph 3, 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.
- (4) Where you have a personal interest that is not a disclosable pecuniary 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.

9 Non participation in case of pecuniary interest

- (1) Where you have a personal interest in any business of your authority you also have a pecuniary 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 paragraphs 7(1) or 8(2) ;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.
- (2) Subject to paragraph (3) and (4), where you have a pecuniary interest in any business of your authority—
 - (a) You may not participate in any discussion of the matter at the meeting.
 - (b) You may not participate in any vote taken on the matter at the meeting.
 - (c) If the interest is not registered, 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.

You must leave the room where the meeting is held while any discussion or voting takes place.

- (3) Where you have a pecuniary interest in any business of your authority, and it is not a disclosable pecuniary interest, 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.

- (4) Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a pecuniary interest that is not a disclosable pecuniary interest that relates to the functions of your authority in respect of—
- (a) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
 - (b) 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;
 - (c) 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;
 - (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.
- (5) Where, as an executive member, you may discharge a function alone, and you become aware of a pecuniary interest that is not a disclosable pecuniary 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.

10 Interests arising in relation to the Overview and Scrutiny Board or Sub-Committees

In any business before the Overview and Scrutiny Board or relevant Sub-Committee of your authority (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 your 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 only attend a meeting of the Overview and Scrutiny Board or relevant Sub-Committee for the purpose of answering questions or giving evidence relating to the

business, and you must leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

This page is intentionally left blank

Arrangements for dealing with allegations that a Member or a Co-opted member of the London Borough of Havering has failed to comply with the Members' Code of Conduct

1. Introduction

- 1.1 These arrangements set out how an allegation may be made that an elected Member or Co-opted Member of the London Borough Havering has failed to comply with the Members' Code of Conduct and how the Council will deal with such allegations.
- 1.2 Under Section 28 of the Localism Act 2011 the Council must have arrangements in place whereby allegations can be investigated and decisions upon them can be made. In addition the arrangements must provide for the Council to appoint at least one Independent Person whose views must be sought and taken into account by the Council before it makes a decision and who may be consulted by the Council at other stages in the process or by the Member/Co-opted Member against whom an allegation has been made. The arrangements fulfil the Council's statutory obligations.
- 1.3 In these arrangements a number of terms are used which have the following meanings.

Member	An elected Councillor
Co-opted Member	A person who is not an elected Member of the Council but has been appointed to a committee or sub-committee of the Council
Monitoring Officer	An officer of the Council designated under Section 5 of the Local Government and Housing Act 1989 to undertake the statutory duties prescribed which include ensuring that the Council and its Members and Officers act lawfully at all times. Under Section 29 of the Localism Act 2011 the Monitoring Officer must establish and maintain a Register of Interests of Members and Co-opted Members.
Investigating Officer	An appropriate person appointed by the Monitoring Officer to conduct an investigation into an allegation.
Independent Person	A person appointed by the Council pursuant to Section 28 of the Localism Act 2011 whose views are sought and taken into account before decisions upon allegations against Members/Co-opted Members are taken and who may be consulted by a Member/Co-opted Member who is the subject of allegations or by the Council generally.

Member	An elected Councillor
Adjudication and Review Assessment Panel	An ad hoc Panel of three Members taken from the membership of the Adjudication and Review Committee established to decide whether allegations against Members/Co-opted Members are worthy of investigation.
Adjudication and Review Hearing Panel	An ad hoc Panel of three Members taken from the membership of the Adjudication and Review Committee established to conduct Hearings into allegations of breaches by Members/Co-opted Members of the Members' Code of Conduct

2. The Members' Code of Conduct

- 2.1 The Council has adopted a members' Code of Conduct which is available on the Council's website and on request from the Monitoring Officer.
<https://www.havering.gov.uk/Pages/Category/Councillors.aspx?11=90001>

3. Making an allegation

- 3.1 Allegations concerning possible breaches of the Code of conduct should be made in writing to:

Monitoring Officer
London Borough of Havering
Town Hall,
Main Road,
Romford RM1 3BD
Tel: 01708 432484

Or by email to monitoringofficer@havering.gov.uk marked for the attention of the Monitoring Officer.

- 3.2 It is preferable that allegations are made on the form available on the Council's website:
- 3.3 It is important that a person making an allegation provides his/her name and a contact address or email address so that the Monitoring Officer can acknowledge receipt of the allegation and keep the person informed of its progress.
- 3.4 The person must indicate if he/she wants to keep his/her name and address confidential and the Monitoring Officer will consider any such requests. The Monitoring Officer has to balance the rights of the Member/Co-opted Member to understand who is making an allegation against them, against the rights of the person making the allegation who

will have to provide reasons why their name and/or address ought to remain confidential

- 3.5 If the Monitoring Officer accepts the reasons for maintaining anonymity and the name and/or address of the person making the allegation will not be disclosed to the Member/Co-opted Member without prior consent.
- 3.6 If the Monitoring Office does not consider those reasons justify anonymity, the person making the allegation will be given the opportunity to withdraw the allegation if they do not wish to proceed without anonymity.
- 3.7 Even where anonymity is agreed at the outset it may not always be possible to maintain that anonymity throughout the entirety of the process. For example, the person making the allegation may be requested to give evidence at a Hearing. If anonymity cannot be maintained the Monitoring Officer will liaise with the person making the allegation to establish whether the person wishes to continue with the allegation or withdraw it.
- 3.8 The Council does not normally investigate anonymous allegations unless there is a clear public interest in so doing.
- 3.9 The Monitoring Officer will acknowledge receipt of an allegation within five clear working days of receiving it and will keep the person making the allegation informed of progress.
- 3.10 The Monitoring Officer will inform the Member/Co-opted Member against whom an allegation has been made and will give details of the allegation and the remedy sought by the person making the allegation. In exceptional circumstances the Monitoring Office has discretion not to inform the Member/Co-opted Member if in his/her opinion to do so would risk an investigation being frustrated or prejudiced in some way.

4. Assessment of allegation

- 4.1 The Monitoring Officer will review every allegation received and may consult the Independent Person before taking a decision as to whether or not the allegation merits reference to an Adjudication and Review Assessment Panel.
- 4.2 If the Monitoring Officer requires additional information in order to reach a decision, he/she may revert to the person making the allegation for such information and may request information from the Member/Co-opted Member against whom the allegation is directed. If the person making the allegation fails to provide the additional information requested, the allegation may be dismissed by the Monitoring Officer pursuant to Paragraph 4.4(a), below.

- 4.3 The Monitoring Officer will use a number of criteria for assessing allegations and may consult the Independent Person and if necessary the appropriate political Group Leaders. The decision whether to submit the allegation to an Adjudication and Review Assessment Panel will be a proportionate response to the issues raised and likely outcomes.
- 4.4 The Monitoring Officer may determine that an allegation does not merit any further action where:
- (a) There is insufficient information upon which to base a decision and/or the person making the allegation has failed to co-operate with the Monitoring Officer to specify the allegation sufficiently; or
 - (b) The allegation is about someone who is no longer a Member/Co-opted Member of the Council; or
 - (c) The allegation does not demonstrate a breach of the Members' Code of Conduct; for example the allegation relates to matters whilst the Member/Co-opted Member was not acting in his/her official capacity but rather relates to their private life to which the Code does not apply or it is about dissatisfaction with a Council decision or service; or
 - (d) The same or a similar allegation has been investigated and determined; or
 - (e) It is an anonymous allegation which does not include sufficient documentary evidence to indicate a significant breach of the Members' Code of Conduct; or
 - (f) The allegation is considered to be frivolous or vexatious; or
 - (g) The matters to which the allegation refers took place longer than three months before the date of receipt of the allegation and there are no exceptional circumstances which merit the investigation of matters outside that timescale, nor is it otherwise appropriate to investigate the allegation; or
 - (h) The Member/Co-opted Member about whom the allegation is made has admitted making an error and/or has apologised and the matter would not warrant a more serious sanction; or
 - (i) The Monitoring Office facilitates an informal resolution. This may involve the Member/Co-opted Member accepting that his/her conduct was inappropriate or otherwise unacceptable and offering an apology and/or taking other remedial action. If the Monitoring Officer considers an offer of informal resolution is reasonable but the person making the allegation is not willing to accept it, the allegation will be referred to the Adjudication and Review Panel for consideration.

- 4.5 If the allegation is dealt with under Paragraph 4.4 above, the Monitoring Officer shall notify the person making the allegation and the Member/Co-opted Member of the outcome giving reasons for the decision. Normally such notification shall be given within 20 clear working days of receipt of the allegation.
- 4.6 Except as provided for in Paragraph 4.4 above, the Monitoring Officer shall refer all allegations to an Adjudication and Review Assessment Panel for consideration which normally shall meet within 20 clear working days from receipt of the allegation.
- 4.7 Where the Monitoring Officer refers an allegation to an Adjudication and Review Assessment Panel for consideration, the Panel shall determine whether the allegation:
- (a) Merits no further investigation and is dismissed; or
 - (b) Merits further investigation
- 4.8 An Adjudication and Review Assessment Panel may determine that an allegation merits no further investigation for whatever reasons it thinks fit, but it may have regard to the criteria set out in Paragraph 4.4 above and to the following additional criteria:
- (a) The allegation is not considered sufficiently serious to warrant investigation; or
 - (b) The allegation appears to be motivated by malice or is “tit-for-tat”; or
 - (c) The allegation appears to be politically motivated
- 4.9 Where an Adjudication and Review Assessment Panel considers that an allegation merits further investigation, the Monitoring Officer shall undertake such investigation. The meeting of the Panel shall adjourn and reconvene when the Investigation Report is available.
- 4.10 The Monitoring Officer will inform the person making the allegation and the Member/Co-opted Member of an Adjudication and Review Assessment Panel’s decision and if the allegation is to be investigated will provide an indication of the timescale for the investigation. The Monitoring Officer will keep the person making the allegation and the Member/Co-opted Member informed if the initial timetable changes substantially.

5. The Investigation

- 5.1 The Monitoring Officer may conduct the investigation personally or may appoint an Investigating Officer who may be another senior officer of the Council, an officer of another Authority, or an external investigator.

- 5.2 The Monitoring Officer/Investigating Officer will decide if he/she needs to meet or speak to the person making the allegation to understand the nature of the allegation and so that the person can explain his/her understanding of events and identify what documents he/she considers the Monitoring Officer/Investigating Officer needs to see and who he/she considers the Monitoring Officer/Investigating Officer needs to interview.
- 5.3 The Monitoring Officer/Investigating Officer will normally write to the Member/Co-opted Member against whom the allegation is made and provide him/her with a copy of the allegation and ask the Member to provide his/her explanation of events and to identify what documents he/she considers the Monitoring Officer/Investigating Officer needs to see and who he/she considers the Monitoring Officer/Investigating Officer needs to interview.
- 5.4 Where it is appropriate to keep confidential the identity of the person making the allegation the Monitoring Officer/Investigating Officer will delete the person's name and address from the pages given to the Member/Co-opted Member. Where disclosure of details of the allegation to the Member/Co-opted Member might prejudice the investigation, the Monitoring Officer/Investigating Officer may delay notifying the Member/Co-opted Member until the investigation has progressed sufficiently.
- 5.5 The Monitoring Officer/Investigating Officer has absolute discretion about which are the appropriate witnesses to interview and documents to consider but will follow best practice in conducting investigations. Having considered all relevant documentation identified and having interviewed all relevant witnesses, at the end of the investigation the Monitoring Officer/Investigating Officer shall produce as appropriate a draft report and may where appropriate send copies of that draft report, in confidence, to the person making the allegation and to the Member/Co-opted Member concerned to give them an opportunity to identify any matter in that report with which there is disagreement or which is considered to require more consideration.
- 5.6 Where an Investigating Officer has been appointed, having received and taken account of any comments which the person making the allegation and/or Member/Co-opted member have made on the draft report, the Investigating Officer will send his/her final report (The Investigation Report) to the Monitoring Officer. If the Monitoring Officer is not satisfied that the investigation has been conducted properly he/she may ask the Investigating Officer to reconsider the report or may appoint a new Investigating Officer.
- 5.7 Where the Monitoring Officer is satisfied with the Investigation Report, and where the conclusion in the Investigation Report is that there is evidence of failure to comply with the Members' Code of Conduct by the Member/Co-opted Member, where appropriate he/she may seek to achieve an informal resolution. The Monitoring Officer will consult the Independent Person and the person making the allegation and seek to

agree what the person making the allegation considers to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Member/Co-opted Member accepting that his/her conduct was inappropriate or otherwise unacceptable and offering an apology and/or taking other remedial action. If the Member/Co-opted Member complies with the suggested resolution, the Monitoring Officer will report the matter to an Adjudication and Review Assessment Panel which will note the outcome and formally resolve that the allegation is determined by way of informal resolution, the details of which will be published.

- 5.8 Where the Monitoring Officer has undertaken the investigation personally, having received and taken account of any comments which the person making the allegation and/or the Member/Co-opted Member has made on the draft report and, where appropriate having sought to achieve an informal resolution pursuant to Paragraph 5.7 above, the Monitoring Officer shall produce the Investigation Report.

6. Consideration of the Investigation Report

- 6.1 When the Monitoring Officer is satisfied with the Investigation Report and an informal resolution is either inappropriate or incapable of achievement, the Monitoring Officer will refer the Investigation Report to an Adjudication and Review Assessment Panel and the Independent Person. Normally this will be within 30 clear working days of an Adjudication and Review Assessment Panel having determined that the allegation merits further investigation.
- 6.2 Where the conclusion of the Investigation Report is that there is no evidence of failure to comply with the Members' Code of Conduct by the Member/Co-opted Member, an Adjudication and Review Assessment Panel may:
- (a) Accept the conclusion, resolve that no further action is required and dismiss the allegation; or
 - (b) Remit the report to the Monitoring Officer for further consideration; or
 - (c) Remit the allegation to an Adjudication and Review Hearing Panel to conduct a Hearing for the consideration of the allegation and the Investigation Report and to determine the allegation.
- 6.3 Prior to making a determination under Paragraph 6.2(a) above an Adjudication and Review Assessment panel shall seek and take into account the views of the Independent Person.
- 6.4 Where the conclusion of the Investigation Report is that there is evidence of failure to comply with the Members' Code of Conduct by the Member/Co-opted Member and where an informal resolution pursuant to

Paragraph 5.7 above is either inappropriate or incapable of achievement, an Adjudication and Review Assessment Panel may:

- (a) Remit the report to the Monitoring Officer for further consideration; or
- (b) Remit the allegation to an Adjudication and Review Hearing Panel to conduct a Hearing for the consideration of the allegation and the Investigation Report and to determine the allegation.

6.5 Where the Adjudication and Review Assessment Panel remits the Investigation Report to the Monitoring Officer for further consideration under Paragraph 6.2(b) or 6.4(a) the meeting of the Panel shall adjourn and reconvene when the Monitoring Officer has reconsidered.

7. The pre-hearing process

7.1 The Monitoring Officer (and/or his/her nominees) shall:

- (a) Agree a date for the hearing with all relevant parties
- (b) Provide a timetable for the person making the allegation, the Member/Co-opted Member (hereinafter called 'the parties') to provide details about whether they wish to give evidence (and whether orally or in writing) at the Hearing and any witnesses they intend to call and additional papers they may wish to provide in time for inclusion in the Committee papers;
- (c) Establish whether the parties will be represented or accompanied at the Hearing;
- (d) Establish whether the parties wish any part of the Investigation Report to be kept confidential or the Hearing itself to be held in private and the reasons for this.
- (e) Provide information about the procedure to be used at the Hearing.
- (f) Establish whether the parties disagree with any of the findings of fact in the Investigation Report.
- (g) Establish whether the Investigating Officer intends to call any witnesses.

7.2 Normally Hearings conducted by an Adjudication and Review Hearing Panel shall take place within 20 clear working days of the referral by the Adjudication and Review Assessment Committee to the Adjudication and Review Hearing Panel.

8. The hearing

8.1 A hearing of the Adjudication and Review Hearing Panel shall take place in public unless a resolution is passed to exclude the public and the press due to exempt material which may be disclosed in the course of the proceedings.

8.2 Where a resolution to exclude the public and the press has been passed, the following persons only may remain in attendance:

- (a) Members of the Panel
- (b) Officers supporting/advising the Panel
- (c) The Independent Person
- (d) The Monitoring Officer and/or The Investigating Officer
- (e) The Member/Co-opted Member against whom the allegation is made together with a single representative, if any
- (f) The person making the allegation together with a single representative, if any.
- (g) Witnesses to be called by any party
- (h) Members of the Council who are not Members of the Panel

8.3 When the Panel reaches the point of deliberation upon the allegation or the sanction/penalty, the following persons only may remain in attendance:

- (a) Members of the Panel
- (b) Officers supporting/advising the Panel
- (c) The Independent Person
- (d) The Monitoring Officer but only where the Monitoring Officer is present to support/advise the Panel and not where the Monitoring Officer has presented the Investigation Report.

The Chairman shall invite all other persons present to withdraw to enable the Panel to deliberate upon the allegation, and any such persons shall withdraw.

8.4 Normally an Adjudication and Review Hearing Panel will conduct the Hearing in an inquisitorial manner.

- 8.5 The Monitoring Officer/Investigating Officer will make an opening statement with reference to the Investigation Report. The parties will then make opening statements in relation to the allegation and to the Investigation Report. Each party may have a single representative who may participate on behalf of the relevant party. Participation may be by the party or the party's representative but not by both.
- 8.6 Following the opening statements, the Adjudication and Review Hearing Panel may ask questions of the Monitoring Officer/Investigating Officer and/or the parties by way of inquiry into the matters the subject of the allegation and/or the Investigation Report.
- 8.7 The Monitoring Officer/Investigating Officer and the parties will be afforded the opportunity to make closing statements.
- 8.8 If the Member/Co-opted Member fails to attend the Hearing, an Adjudication and Review Hearing Panel may decide to proceed in the Member's/Co-opted Member's absence and make a determination, or to adjourn the Hearing to a later date.
- 8.9 Full details of the process to be undertaken at the Hearing are contained in the Hearings Procedure note comprising Appendix A to these arrangements.
- 8.10 An Adjudication and Review Hearings Panel having sought and taken into account the views of the Independent Person may conclude:
- (a) That the Member/Co-opted Member did not fail to comply with the Members' Code of Conduct and dismiss the allegation; or
 - (b) That the Member/Co-opted Member did fail to comply with the Members' Code of Conduct.
- 8.11 In the event of a finding under Paragraph 8.7(b) above, the Chairman will inform the Member/Co-opted Member of this finding and an Adjudication and Review Hearing Panel will then consider what action, if any, it should take as a result of the Member's/Co-opted Member's failure to comply with the Members' Code of Conduct.
- 8.12 An Adjudication and Review Hearing Panel will give the Member/Co-opted Member an opportunity to make representations to the Panel as to whether any action should be taken and what form any action should take.
- 8.13 An Adjudication and Review Hearing Panel will seek and take into account the views of the Independent Person, following which it will decide what action, if any, to take in respect of the matter.

9. Action which may be taken when a member/co-opted member has failed to comply with the Members' Code of Conduct

- 9.1 Having determined that the Member/Co-opted Member has failed to comply with the Members Code of Conduct, an Adjudication and Review Hearing Panel may:
- (a) Publish its findings in respect of the Member's/Co-opted Member's conduct.
 - (b) Reports its findings to Council for information;
 - (c) Issue the Member/Co-opted Member with a formal censure or reprimand, a report of which may be submitted to Council.
 - (d) Recommend to the Member's Group Leader (or in the case of ungrouped Members/Co-opted Members recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-committees of the Council;
 - (e) Recommend to the Council that the Member/Co-opted Member be replaced as Chairman or Vice-Chairman of any Committee.
 - (f) Recommend to the Leader of the Council that the Member be removed from the Cabinet or removed from particular portfolio responsibilities;
 - (g) Instruct the Monitoring Officer to arrange training for the Member/Co-opted Member.
 - (h) Recommend the Council or Cabinet, as appropriate, that the Member be removed from outside appointments to which he/she has been appointed or nominated by the Council/Cabinet.
 - (i) Withdraw facilities provided to the Member/Co-opted Member by the Council such as a computer, website and/or email and internet access;
 - (j) Exclude the Member/Co-opted Member from Council offices or other premises with the exception of meeting rooms as necessary for attending Council, Cabinet, Committee and Sub-committee meetings;
 - (k) Take no further action;
 - (l) Any other appropriate sanction which may be available to an Adjudication and Review Hearing Panel;

- 9.2 An Adjudication and Review Hearing Panel has no power to suspend or disqualify a Member or to withdraw Members' or special responsibility allowances;
- 9.3 At the end of the Hearing the Chairman shall state the decision of the Adjudication and Review Hearing Panel as to whether the Member/Co-opted Member failed to comply with the Members' Code of Conduct and as to any action which the Panel has resolved to take.
- 9.4 Within 10 working days following the Hearing, the Monitoring Officer shall prepare a formal decision notice, after consultation with the Chairman of the Adjudication and Review Hearing Panel and send a copy to the person making the allegation and to the Member/Co-opted Member concerned. The Monitoring Officer shall make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

10. Appeals

- 10.1 There is no right of appeal for either the person making the allegation or for the Member/Co-opted Member against whom the allegation is made against a decision of the Monitoring Officer, an Adjudication and Review Assessment Panel or an Adjudication and Review Hearing Panel.

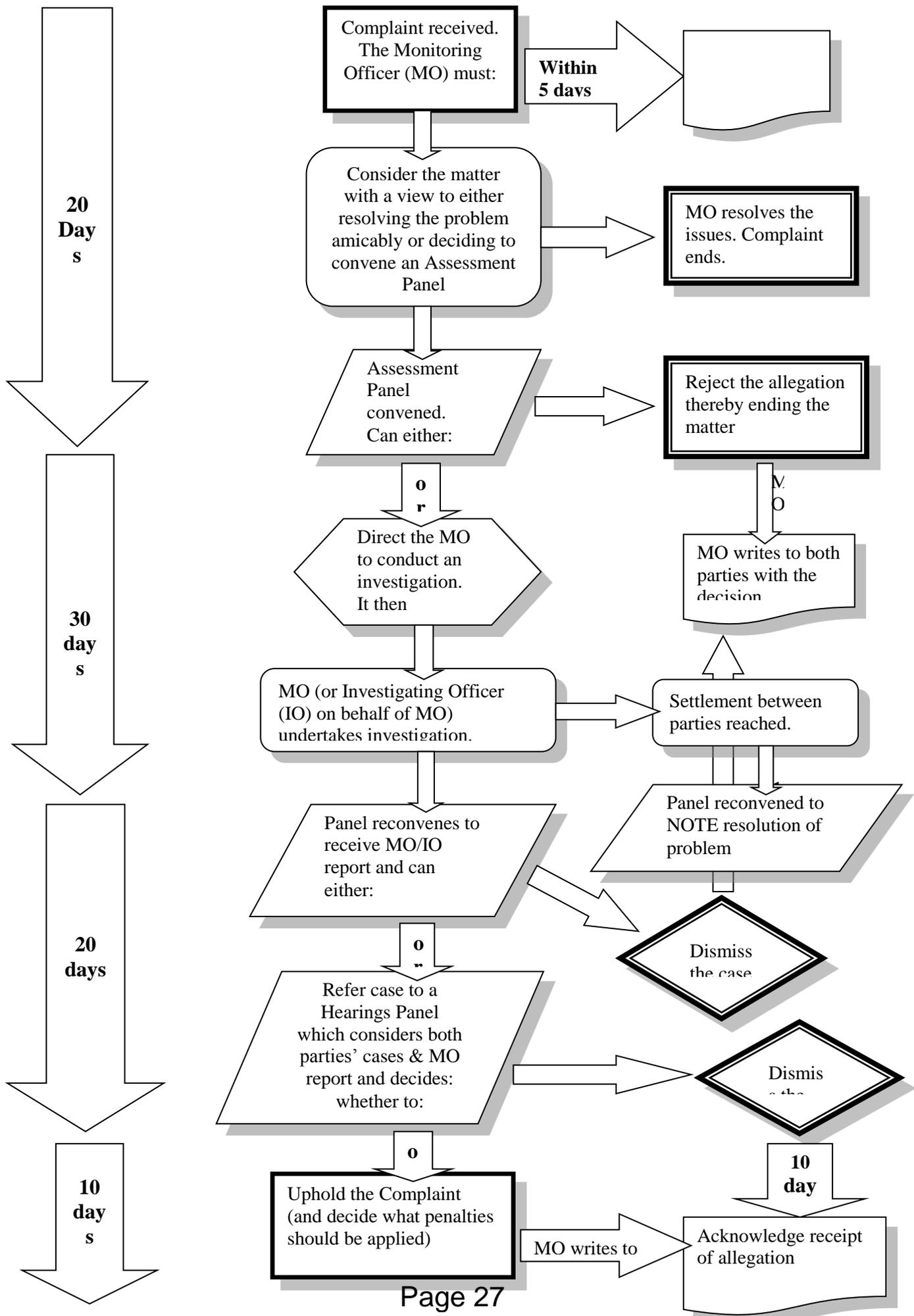
HEARING PROCEDURE

The model procedure which follows comprises good and equitable practice and should be followed closely wherever possible. There may be occasions when circumstances require variations and subject to the maintenance of the principles of natural justice these may be affected at the discretion of the Adjudication and Review Hearing Panel and advised to the Parties.

1. The Chairman shall facilitate introductions and explain the procedure for the Hearing.
2. The Monitoring Officer/Investigating Officer shall be invited to make an opening statement with reference to the Investigation Report.
3. The person making the allegation and the Member/Co-opted Member or their representatives (hereinafter called 'the Parties') shall be invited to make opening statements with reference to the allegation and/or the Investigation Report.
4. Members of the Adjudication and Review Hearing Panel may question the Monitoring Officer/Investigating Officer upon the content of the Investigation Report.
5. Members of the Adjudication and Review Hearing Panel may question the Parties upon the allegation and/or with reference to the Investigation Report.
6. The Monitoring Officer/Investigating Officer may make a closing statement.
7. The Parties or their representatives may make closing statement.
8. The Chairman shall invite the persons who may not be present during the Panel's deliberation upon the allegation to withdraw to enable the Panel to deliberate upon the allegation. Prior to reaching a determination the Panel shall seek and take into account the views of the Independent Person.
9. The Monitoring Officer/Investigating Officer and the Parties shall be invited to return and the Chairman shall announce the Panel's decision in the following terms:
 - (a) The Panel has determined that the Member/Co-opted member has failed to comply with the Members' Code of Conduct; or
 - (b) The Panel has determined that the Member/Co-opted Member has not failed to comply with the Members' Code of Conduct and the allegation is dismissed.

The Panel will give reasons for its decision. If the Panel has determined that the Member/Co-opted Member has failed to comply with the Members' Code of Conduct it shall consider any representations from the Member/Co-opted Member or his/her representative as to whether any action should be taken and what form any action should take.

10. The Chairman shall invite the persons who may not be present during the Panel's deliberation upon the allegation to withdraw to enable the Panel to deliberate upon what action, if any, should be taken. Prior to reaching a determination the Panel shall seek and take into account the views of the Independent Person.
11. In addition to any action upon the current matter, the Panel shall consider whether in consequence it should make recommendations to the Council with a view to promoting high standards of conduct amongst Members/Co-opted Members.
12. The Monitoring Officer/Investigating Officer and the Parties shall be invited to return and the Chairman shall announce the Panel's decision.
13. A full written decision shall be issued to the person making the allegation and the Member/Co-opted Member within 10 clear working days following the Hearing and shall be published.



Document is Restricted

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank