

Meeting	ASSESSMENT SUB COMMITTEE
Time/Day/Date	10.00 am on Monday, 9 December 2013
Location	Board Room, Council Offices, Coalville, Leicestershire, LE67 3FJ
Officer to contact	Democratic Services (01530 454512)

The Monitoring Officer would like to remind members that when they are considering whether the following items are exempt information under the relevant paragraph under part 1 of Schedule 12A of the Local Government Act 1972 they must have regard to the public interest test. This means that members must consider, for each item, whether the public interest in maintaining the exemption from disclosure outweighs the public interest in making the item available to the public.

AGENDA

Item		Pages
1	ELECTION OF CHAIRMAN	
2	APOLOGIES FOR ABSENCE	
3	DECLARATIONS OF INTEREST	
	Members are requested to declare any interests connected to this matter and to identify the nature of that interest as to whether it is pecuniary or non pecuniary under the Code of Conduct.	
4	EXCLUSION OF THE PRESS AND PUBLIC	
	Assessment Sub-Committee to decide whether the press and public should be excluded from the hearing and the grounds for the exclusion based on representations from all parties.	
5	ALLEGATIONS OF A FAILURE TO OBSERVE THE CODE OF CONDUCT	
	Report of the Head of Legal and Support Services	3 - 32

Circulation:

Councillors A Bridges
J Cotterill
C Large



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NOT FOR PUBLICATION
Likely to contain exempt information under paragraph 1 to Schedule 12A Local Government Act 1972

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

ASSESSMENT SUB-COMMITTEE – 9 DECEMBER 2013

Title of report	ALLEGATIONS OF A FAILURE TO OBSERVE THE CODE OF CONDUCT
Contacts	Head of Legal and Support Services 01530 454762 elizabeth.warhurst@nwleicestershire.gov.uk
Purpose of report	<ol style="list-style-type: none"> 1. To consider the report of the Head of Legal and Support Services and Monitoring Officer. 2. To request that the Assessment Sub-committee determine what action should be taken.
Implications:	
Financial/Staff	There will be resource implications if the matter proceeds to investigation. The costs of an investigation can be met from existing budgets.
Link to relevant CAT	N/A
Risk Management	N/A
Equalities Impact Assessment	N/A
Human Rights	The Act and Regulations thereunder have taken account of human rights.
Transformational Government	The complainant may request a review of the decision of the Assessment Sub-committee to be heard by the Review Sub-committee.
Consultees	N/A
Background papers	Local Government Act 2000 (www.opsi.gov.uk). Local Government and Public Involvement in Health Act 2007 (www.opsi.gov.uk). Localism Act 2011 (www.legislation.gov.uk) Arrangements adopted by Council on 26 June 2012. NWLDC Local Assessment of Complaints Guidance.

Recommendations	THAT THE ASSESSMENT SUB-COMMITTEE MAKES A FINDING ON THE COMPLAINT AS SET OUT AT PARAGRAPH 5 OF THE REPORT.
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1. COMPLAINT

- 1.1 On 13 August 2013 the Monitoring Officer received a complaint from Councillor Adams regarding Councillor Saffell, both members of North West Leicestershire District Council. A copy of the complaint is attached at Appendix 1.
- 1.2 The complaint relates to comments made by Councillor Saffell about officers at the Council meeting on 12 August 2013. An extract of the Council minutes is attached at Appendix 2.
- 1.3 In summary the complaint is that Councillor Saffell's comments amounted to a public attack on the credibility of officers.
- 1.4 Under the arrangements for dealing with complaints adopted by Council on 26 June 2012, there is an opportunity, at the beginning of the complaints process, for the Monitoring Officer to work with parties to ascertain whether an informal resolution of the complaint is possible. A copy of NWLDC Arrangements for dealing with complaints is attached at Appendix 3.

2. OUTCOME OF INFORMAL RESOLUTION

- 2.1 In accordance with the adopted arrangements the Monitoring Officer has attempted an informal resolution of the complaint. Unfortunately, this has not been successful.
- 2.2 The Monitoring Officer met with Councillor Adams on 11 September 2011. A summary note of that meeting is attached at Appendix 4.
- 2.3 The Monitoring Officer invited Councillor Saffell to meet and discuss the complaint but Councillor Saffell declined to attend such a meeting.
- 2.4 Councillor Saffell provided his response to the allegation in a series of e-mails between him and the Monitoring Officer. A copy of the e-mails are attached at Appendix 5.
- 2.5 The Monitoring Officer kept Councillor Adams informed during the process. Copies of e-mails are attached at Appendix 6.
- 2.6 Following the meeting with Councillor Adams and the e-mail correspondence with Councillor Saffell, the outcome which Councillor Adams expressed he was seeking from the complaint and the views expressed by Councillor Saffell, the Monitoring Officer concluded that informal resolution would not be possible.
- 2.7 The Monitoring Officer is therefore requesting that the Assessment Sub-committee consider the matter and determine what steps to take.

3. INITIAL TESTS

- 3.1 Councillor Saffell is a current serving member of North West Leicestershire District Council. He was in office at the time of the conduct complained of. The complaint of bringing the office into disrepute, if proven, would be a breach of the Code of Conduct.

4. INFORMATION FROM THE COMPLAINANT AND SUBJECT MEMBER

- 4.1 In accordance with the Council's adopted arrangements the complainant and subject members are not party to the Assessment Sub-committee. The Monitoring Officer has sought their views on the matter and any further information provided by either Councillor Adams or Councillor Saffell will be reported to the Sub-committee.

5. ASSESSMENT OUTCOMES

- 5.1 The following outcomes are available to the Sub-committee under the Arrangements adopted by Council:
- 5.1.1 Refer the complaint to the Monitoring officer to take other action.
 - 5.1.2 Request further information from the parties.
 - 5.1.3 Refer the complaint to the Monitoring Officer for investigation.
 - 5.1.4 No action to be taken in respect of the complaint.

6. CONSIDERATION AS TO WHETHER THE HEARING SHOULD BE HELD IN PRIVATE

- 6.1 Under the Council's Arrangements there is a presumption in favour of the hearing being held in public unless it is considered appropriate for it to be held in private.
- 6.2 In considering this aspect of the hearing the Committee need to consider what information is being presented before them.
- 6.3 The complaint centres on an accusation that Councillor Saffell made an outspoken public attack on officers at the Council meeting on 12 August 2013.
- 6.4 The minutes of that meeting are in the public domain having been published in accordance with the Council's statutory duty. A copy of the minutes are attached at Appendix 2. As such, it is arguable that the main evidence of the complaint is already within the public domain.
- 6.5 The papers do not contain any further unsubstantiated complaints that may impact upon the reputation of the members concerned, both as the complainant and the subject member.
- 6.6 The Sub-committee may feel that, in light of the public interest in maintaining the public's confidence in the Standards regime, the hearing should be held in public.

7. REVIEW OF THE DECISION OF THE ASSESSMENT SUB COMMITTEE

- 7.1 The Assessment Sub-committee has the authority to allow or not a right of review of their decision to take no further action.

- 7.2 However, the complainant should be advised that no review will be granted unless further / additional evidence is submitted to the Monitoring Officer. It will be the decision of the Monitoring Officer as to whether such additional evidence warrants another assessment.
- 7.3 This is to ensure a fair process and to avoid frivolous / vexatious appeals.
- 7.4 A request for review can be made at the time the Sub-committee makes its determination or within 30 days of the decision.

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Likely to contain exempt information under paragraph(s) 2 of
Part 1 of Schedule 12A of the Local Government Act 1972.

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MINUTES of an EXTRAORDINARY meeting of the COUNCIL held in the Council Chamber, Council Offices, Coalville on MONDAY, 12 AUGUST 2013

Present: Councillor G Jones (Chairman) (In the Chair).

Councillors R Adams, G Allman, R Blunt, A Bridges, J Bridges, N Clarke, P Clayfield, J Cotterill, J G Coxon, D Everitt, J Geary, R Holland, J Hoult, P Hyde, R Johnson, C Large, J Legrys, L Massey, C Meynell, T Neilson, T J Pendleton, V Richichi, J Ruff, A C Saffell, S Sheahan, M Specht, L Spence, D J Stevenson and R Woodward.

Officers: Mr S Bambrick, Mr R Bowmer, Ms C E Fisher, Mrs M Meredith, Mrs M Phillips and Miss E Warhurst.

32. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors R D Bayliss, D De Lacy, T Gillard, N J Rushton, A V Smith and N Smith.

33. DECLARATION OF INTERESTS

Councillor S D Sheahan asked the Monitoring Officer to repeat the advice she had given in respect of his land interests.

The Monitoring Officer explained that she had advised Councillor S Sheahan that whilst he had a land interest which was previously affected by the discussion on the Core Strategy, so long as the debate was general and no substantive decision was made, he could remain in the meeting and participate.

Councillor S Sheahan stated that he was not sure that he should take part as the question had been put to the Council whether the Core Strategy should be withdrawn. He added that he felt tonight's discussion would be seen as influential.

Councillor S Sheahan therefore declared a disclosable pecuniary interest in item 3 - North West Leicestershire Local Plan: Core Strategy, having a financial interest in a piece of land in Measham which was proposed to be allocated as housing land under the Core Strategy.

34. NORTH WEST LEICESTERSHIRE LOCAL PLAN: CORE STRATEGY

Having declared a disclosable pecuniary interest in this item, Councillor S Sheahan left the meeting at this point and took no further part in the discussion or voting thereon.

Councillor T J Pendleton presented the report to Members. He stated that he was somewhat surprised that this stage had been reached as there would be a full discussion on the Core Strategy at the next meeting of the Council on 17 September 2013. He added that the reason for this was that certain items were still not totally clear and the Council had sought the opinion of Counsel, which was yet to be received. He stated that the Opposition had been informed of the situation but had proceeded with their five Member motion.

Councillor T J Pendleton stated that following years of consultation and development, the Core Strategy had been submitted to the Planning Inspectorate in June 2013. He explained that a public examination must be held by a planning Inspector before the strategy was officially adopted. He added that the Inspector had requested extra

information to explain our decision making, which had been provided, and the Inspector had raised some concerns, particularly in respect of the number of new homes to be built.

Councillor T J Pendleton explained that the Inspector had asked the Council to consider withdrawing the Core Strategy. He explained that it was not unusual for Inspectors to raise concerns about core strategies and suggest withdrawal, and indeed it had already happened elsewhere in Leicestershire, as councillors and planning officers did their best to navigate their way through the Government's rule changes.

Councillor T J Pendleton advised that a further report would be brought to Council in September to consider withdrawing the Core Strategy, however if the Council were forced to do so, it would take years to develop another. Councillor T J Pendleton added that Members had a responsibility to the residents of North West Leicestershire to adopt a plan that had local support, and he believed that had been achieved. He requested an explanation for the five Member motion which had led to the calling of this meeting. He moved that the report be noted.

Councillor R Blunt seconded the motion.

The Chairman invited comments from the floor.

Councillor J Legrys thanked the Chairman for arranging the meeting and officers for providing a professional and detailed report. He stated that professional Officers advise and provide options, however the decisions were made by the Political majority, and the blame for the current mess laid squarely with the Cabinet and the political administration. Councillor J Legrys added that the Cabinet were rightly paid extra in the form of a Special Responsibility Allowance (SRA) to take formal responsibility. He added that the SRA should allow the Cabinet time to seek advice from others outside of the Council.

Councillor J Legrys referred to the unhappiness with the current situation. He stated that Members were blindly whipped by the leadership into agreeing a Strategy.

Councillor J Legrys stated that after 6 years incumbency, inheritance from the previous Labour Administration could not be blamed. He added that a poorly drawn up County wide strategy had been inherited under the old RSS, however this had been drawn up by the Conservative administration at Leicestershire County Council.

Councillor J Legrys stated that the meeting had been requisitioned due to the need for Cabinet to publicly account and answer questions from Members in relation to correspondence from Inspector Hetherington about his concerns about the soundness of the submitted emerging core strategy. He added that the Inspector continued to have concerns and Members and the public need to know now what action was intended before the time and expense of an exploratory meeting. He stated that the political Administration wanted to discuss the matter face to face with Inspector Hetherington as they felt he would back down from his earlier comments. He added that this was the position taken by Waverley Borough Council, however this did not prevent Inspector Hetherington rejecting their Core Strategy.

Councillor J Legrys stated that the opposition were not calling for the Core Strategy to be withdrawn. He asked the Administration what action they would take to mitigate the mess that had been created.

Councillor J Legrys stated that recent decisions on the five year land supply had made the situation worse and £11 million funding for improvements along the A511 had been

deleted recently despite officers' advice and recommendation that the A511 was a priority.

Councillor J Legrys stated that he believed the laid back developer led approach taken by the Administration had led to an open house for unwarranted development in the District.

The Chairman indicated to Councillor J Legrys that he had spoken for 5 minutes in total.

Councillor J Legrys attempted to continue his speech.

Councillor D J Stevenson stated vehemently that Councillor J Legrys' vitriolic comments were completely untrue.

At this point in the meeting, the Chairman called for order. Councillor J Legrys concluded his speech.

Councillor T Neilson referred to a letter sent to the Chief Executive from Councillor J Coxon and Ashby Town Council and quoted from it as follows: "The inability of North West Leicestershire District Council to effectively manage the planning and delivery of housing development in the District has left Ashby vulnerable to speculative applications by developers. This will have a long term impact on the town and the ability of its infrastructure to cope with the rapidly increasing population".

Councillor T Neilson stated that officers give professional advice and decisions are made by the political leadership, however there was a clear inability of the leadership to lead on these issues.

Councillor T Neilson referred to a large potential development at Appleby Magna, in respect of which the residents had deep concerns. He stated that they had been left vulnerable to this development and they knew who was to blame.

Councillor T Neilson asked why the 2012 version of the Core Strategy had been submitted to the Planning Inspectorate and whether the discussion at the Council meeting in March had been a waste of time.

Councillor T Neilson referred to the policy of reducing affordable housing in Coalville. He added that other villages may now have to do without the contributions also as developers had been given a free hand.

Councillor T Neilson stated that the Administration had pushed Planning into crisis and should be ashamed of themselves. He asked the Administration to explain what action they were going to take.

Councillor J Geary referred to the number of developers, press and public present and stated that this demonstrated there was clear interest in this matter. He stated that in recent months, residents had been blighted by planning applications which the Council were unable to defend as an effective Core Strategy was not in place, and nor was a five year housing land supply. He added that at present a developer could choose any green patch and stand a good chance of being granted planning permission.

Councillor J Geary stated that half of the affordable housing target had been thrown away due to infrastructure needs. He added that this should be a problem for developers.

Councillor J Geary stated that elected Members represented the people who voted for them and had a duty to do the best they could. He added that in terms of planning applications our hands were now being tied by central government as the Council had failed to deliver a Core Strategy and a housing land supply.

Councillor J Geary referred to an answer he had received to a supplementary question he had put to Councillor T Pendleton in respect of travellers at a previous meeting, which had pointed out that the previous Labour administration had failed to act and that was why they were elected out of office. He asked Councillor T Pendleton if he believed the district was moving positively forward.

Councillor J Geary referred to the Tesco and Asda planning applications and stated that this had done no favours in the eyes of the public.

Councillor N Clarke referred to the Council meeting on 26 March 2013 where Councillor T J Pendleton was asked about the consequences of rejecting the Core Strategy. He asked how the current position affected this.

Councillor R Woodward stated that as a Whitwick member, he had supported the Core Strategy, only for the reason that he firmly believed the area of separation would be saved. He sought assurances that this was still the case.

Councillor J Ruff asked the Cabinet to outline the reason that the Council had been unable to produce a plan that was fit for purpose. She referred to the revoking of the regional strategies in 2010, and the government stated it should be easier to understand. She added that this seemed to have been altered over the years in favour of developers. She referred to recent applications which had been approved with no amenities. She stated that what was wanted was a viable plan that worked, and that local residents believed in.

Councillor D Everitt expressed concern for the people who put such a lot of work and effort into planning matters. He added that he felt these people needed an apology as the green wedge was no longer safe. He felt that the Administration should admit they had made a mistake.

Councillor A C Saffell expressed concern as to why the meeting has been called as a full report would be received in a few weeks. He added that he was disappointed that the Labour Group had used this meeting as an opportunity to criticise the leading party.

Councillor A C Saffell stated that there had been reference to blame, however the officers give advice, and the blame laid right at their door.

Councillor J Legrys sought to raise a point of order. At this point in the meeting, the Chairman called for order in the Chamber. Once order was restored, the Chairman allowed Councillor A C Saffell to continue.

Councillor A C Saffell stated that he was a member of a group which was asked to investigate the planning department and the group asked for measures to be put in place. He stated that the recommendations had been forgotten and he expressed his disappointment that officers did not take the opportunity to take on board the recommendations. He stated that the same problems still existed today because nothing had been done.

Councillor A C Saffell stated that the planning department was more of a reacting department. He added that they should be planning what was best for our district,

however they are constantly fire fighting rather than planning.

Councillor A C Saffell referred to recent development in Castle Donington which he felt had been pushed through without infrastructure. He stated that officers had failed and had not offered the right advice to Members.

Councillor M Specht stated that he was new to politics but he was aware that the housing targets were somewhat reduced under this Administration to what they were under the previous Labour Administration. He added that additional housing was needed due to Labour's open door policy and the resulting exploding population. He added that, contrary to some opinions, he felt that the Council's officers were doing a good job under the circumstances. He added that the issues could be properly debated when the full facts were known, and stated that this was scurrilous scaremongering.

Councillor M Specht made reference to the allegations in respect of the employment of foreign workers by Next and Tesco.

The Chairman called for order at this point in the meeting.

Councillor R Johnson sought to raise a point of order.

When order was restored the Chairman allowed Councillor M Specht to continue, reminding him to direct his comments to the business at hand.

Councillor M Specht stated that the point of the Core Strategy was to fight Labour's open door policy and put infrastructure in place. He added that the Administration would look for solutions in the best way possible.

Councillor R Adams stated vehemently that he was disgusted with Councillor A C Saffell's comments in respect of his allegations against officers. He added that this was a scapegoat as the blame laid with the Cabinet and the Conservative Administration, and not with the officers that the Council employed.

Councillor R Johnson asked Councillor T J Pendleton if he had consulted with other councils in respect of our Core Strategy. He made reference to the objections made by Hinckley and Bosworth and Oadby and Wigston Borough Councils to the Core Strategy in 2012.

Councillor R Blunt offered apologies to those who had been summoned to this meeting because the Opposition wanted to showboat. He stated that the green wedge was more at risk tonight due to the action which had been taken by the Opposition.

Councillor R Blunt stated that the Opposition had provided no indication of what action they would take if they ran the Council. He stated that nothing had been heard but vitriol and negativity.

At this point in the meeting, the Chairman called for order. When order was restored, he invited Councillor R Blunt to continue.

Councillor R Blunt stated that no one wanted housing developments near to where they live. He added that this was the biggest threat to quality of life and property value. He referred to the reduction in the housing target achieved by the Conservative Administration.

Councillor R Blunt asked the Opposition to explain what action they would take if they were in control of the Council.

Councillor T J Pendleton stated that Members of the Labour Group had also signed off the Core Strategy. He gave a chronology of how the Core Strategy has had to be developed against a changing national, regional and local planning policy context.

The motion to note the report having been moved and seconded, the Chairman put it to the vote. The motion was declared CARRIED.

RESOLVED THAT:

The report be noted.

The Chairman opened the meeting at 6.30pm.

Having declared a disclosable pecuniary interest, Councillor S Sheahan left the meeting at the commencement of the debate on item 3 - North West Leicestershire Local Plan: Core Strategy, and took no further part in the meeting.

The Chairman closed the meeting at 7.16pm.

Chairman's signature

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL CONSTITUTION

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL ARRANGEMENTS FOR DEALING WITH STANDARDS ALLEGATIONS UNDER THE LOCALISM ACT 2011

1. Context

These “Arrangements” set out how a person may make a complaint that an elected or co-opted member of this authority or of a Town or Parish Council has failed to comply with the Member’s Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with that Code.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “Arrangements” under which allegations that a member or co-opted member of the authority or Town or Parish Council, or of a Committee or Sub-Committee of the authority, has failed to comply with the Code of Conduct can be investigated and decisions made on such allegations.

These arrangements also provide for the authority to appoint at least one Independent Person, whose views must be sought before a decision on an allegation is made and which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a member against whom an allegation has been made.

2. The Code of Conduct

The Council has adopted a Code of Conduct for members, which is available for inspection on the authority’s website and on request from Reception at the Civic Offices.

[This Code applies to all Councils within the District, including Town and Parish Councils.]

3. Making a complaint

If you wish to make a complaint, please write or email to:

“The Monitoring Officer
North West Leicestershire District Council
Council Offices
Coalville
Leicestershire
LE67 3FJ”

Or:

Elizabeth.warhurst@nwleicestershire.gov.uk

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of members’ interests and who is

responsible for administering the system in respect of complaints of member misconduct.

In order to ensure that all the information required is available with the complaint, the complainant will be asked to provide their name and a contact address or email address together with any relevant documents in support of their complaint.

The Monitoring Officer will acknowledge receipt of the complaint within 5 working days of receiving it.

Where an anonymous complaint is received or the complainant wishes to remain anonymous it will be at the Monitoring Officer's discretion as to whether the complaint proceeds. Consideration will be given to the public interest and whether the complaint can be justified or determined without the complainant's participation.

4. What happens to my complaint?

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits further examination. This decision will normally be taken within 14 days of receiving the complaint.

Once the Monitoring Officer and the Independent Person have taken a decision, they will inform the complainant of that decision and the reasons for that decision.

Where a complaint is determined to be merit further examination, the subject member will be notified of the complaint at the earliest opportunity and requested to attend a meeting with the Monitoring Officer and the Independent Person to review the complaint and present their side of the case.

Where they require additional information in order to come to a decision, the Monitoring Officer may refer back to the complainant for such information, and may request information from the member against whom the complaint is directed. *[Where the complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of the complaint and seek the views of the Parish Council before deciding whether the complaint merits further examination.]*

In appropriate cases, the Monitoring Officer and the Independent Person may seek to resolve the complaint informally, without the need for further review. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the member or the authority make a reasonable offer of local resolution, but the complainant or subject member are not willing to

accept that offer, the Monitoring Officer may take account of this in deciding whether the complaint merits further examination.

5. What if Informal Resolution is not appropriate/successful?

In cases where Informal Resolution is not appropriate or successful the Monitoring Officer and the Independent Person may conduct a fact-finding exercise to establish the groundwork for the complaint. The fact-finding exercise is to satisfy the initial tests of:

- (a) it is a complaint against one or more named members of the Council;
- (b) the named member was in office at the time of the alleged conduct and the Code of Conduct was in force at the time;
- (c) the complaint, if proven would be a breach of the Code under which the Member was operating at the time of the alleged misconduct.

If on conducting the fact-finding exercise, there are no facts determined or the complaint is deemed to be frivolous/vexatious, the Monitoring Officer will notify the complainant and the subject member that there is "no case to answer" and the matter will cease. There is no right of review of this decision unless new evidence is presented in support of the complaint. It will be at the discretion of the Monitoring Officer and the Independent Person to determine whether such new evidence substantiates further examination.

Where facts are established the Monitoring Officer in conjunction with the Independent Person will prepare a report for the Assessment Sub-Committee who will determine the further steps to be taken in relation to the complaint. The report will detail all steps taken by the Monitoring Officer and the Independent Person prior to the Sub Committee.

The Assessment Sub-Committee is subject to the normal Committee rules in relation to public meetings and it will take a decision at the start of the meeting to determine whether it is appropriate to hold the meeting in closed session.

The complainant and the Subject Member will not be present at the meeting but their views will have been sought prior to the meeting to enable their opinions to be presented.

If, on assessment of the facts, the Sub-Committee determines that no further action is required or there is no case to answer, this will be reported back to the complainant and the subject member who may be given leave by the Committee to appeal the decision. Such appeal will only be granted where there is new evidence in relation to the complaint.

There may be instances where the Sub-Committee consider the action of the subject member to be so serious as to warrant criminal investigation. In such

circumstances, the Sub-Committee will instruct the Monitoring Officer to refer the matter to the appropriate body for investigation.

Should the Committee determine that the matter warrants a detailed investigation, the Monitoring Officer will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to the complainant to understand the nature of the complaint and will provide an opportunity for the complainant to explain their understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

In exceptional cases, where it is appropriate to keep identities confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete names and addresses from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to the complainant and to the member concerned, to give them both an opportunity to identify any matter in that draft report with which they disagree or consider requires more consideration.

Having received and taken account of any comments, the Investigating Officer will send his/her final report to the Monitoring Officer.

6. What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

On completing their investigation the Investigating Officer will present their report to the Determinations Sub-Committee who will take into account the facts and evidence produced.

The Determinations Sub-Committee is subject to the normal Committee rules in relation to public meetings and it will take a decision at the start of the meeting to determine whether it is appropriate to hold the meeting in closed session.

If satisfied that the Investigating Officer's report is sufficient, the Determinations Sub Committee will accept the findings of the report and request the Monitoring Officer to write to the complainant and to the member concerned notifying them that they are satisfied that no further action is required, and provide a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, they may ask the Investigating Officer to reconsider his/her report.

There may be instances where the Determinations Sub Committee wishes to ask questions of the complainant and the subject member in order to fully understand the circumstances of the complaint. Where this is requested by the Sub Committee, the meeting will be adjourned to enable the attendance of all parties. In such a situation, the Sub Committee will be conducted in a manner similar to court proceedings where each party may present their arguments.

At the end of the Committee the Chair will ask the subject member whether they are happy for the outcome of the matter to be published through public notice/press statement. It will be at the discretion of the subject member whether such action is taken.

7. What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

Where the investigating officer has determined that there is a breach of the code of conduct they will present their report to the Determinations Sub Committee.

The Monitoring Officer will conduct a “pre-hearing process”, requiring the member to give his/her response to the Investigating Officer’s report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted.

At the Sub Committee, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask the complainant to attend and give evidence to the Sub Committee. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Sub Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Sub Committee, with the benefit of any advice from the Monitoring Officer and an Independent Person, may conclude, in disagreement with the investigation officer that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Sub Committee concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the meeting of this finding and the Sub Committee will then consider what action, if any, should be taken as a result of the member’s failure to comply with the Code of Conduct. In doing this, the Sub Committee will give the member an opportunity to make representations to the Panel and will consult the Independent Person (and if appropriate the Parish Council), but will then decide what action, if any, to take in respect of the matter.

8. What action can the Hearings Panel take where a member has failed to comply with the Code of Conduct?

The Council has delegated to the Audit and Governance Committee such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Committee may:

- Issue a formal letter to the member found to have breached the Code.
- Impose Formal censure.
- Make recommendations to Full Council to remove the member from committee(s) and other appointments subject to political balance requirements (where there are political groups, the decision could only be to recommend them to change their nominated appointees).
- A press release and other appropriate publicity.
- Recommend Training.
- Recommendation to Group Leader to remove the member from committee(s) and other appointments.

The Committee has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

[In relation to Parish Members, the Monitoring Officer can only make recommendations for sanctions against those Members. The responsibility for enforcing those sanctions will fall to the Parish Council as a whole with the assistance and guidance from the Monitoring Officer.]

9. What happens at the end of the hearing?

At the end of the hearing, the Chair will state the decision of the Committee as to whether the member failed to comply with the Code of Conduct and as to any actions which the Committee resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Committee, and send a copy to the complainant, to the member *[and to the Parish Council]*.

10. Who are the Committees?

The Assessment and Determinations Sub Committees are Sub-Committee of the Council's Audit and Governance Committee. The Audit and Governance Committee has decided that it will comprise of ten members of the Council, plus one co-opted Parish Member and the Independent Person. Subject to those requirements, it is appointed on the nomination of party group leaders in proportion to the strengths of each party group on the Council.

The Independent Person is invited to attend all meetings of the Committee and the Sub Committees and their views are sought and taken into consideration before any decision is taken on whether the member's conduct constitutes a failure to comply with the Code of conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct. There may be more than one Independent Person involved throughout the complaint depending on whether they have been conflicted out of sitting on the Committee/Sub Committee due to being approached by the Complainant or Subject Member for assistance throughout the process.

11. Who is the Independent Person?

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.

A person cannot be "independent" if he/she:

- 11.1 is, or has been within the past 5 years, a member, co-opted member or officer of the authority;
- 11.2 *[is or has been within the past 5 years, a member, co-opted member or officer of a parish council within the authority's area], or*
- 11.3 is a relative, or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, "relative" means:
 - 11.3.1 spouse or civil partner;
 - 11.3.2 living with the other person as husband and wife or as if they were civil partners;
 - 11.3.3 grandparent of the other person;
 - 11.3.4 a lineal descendent of a grandparent of the other person;
 - 11.3.5 a parent, sibling or child of a person within paragraphs 11.3.1 or 11.3.2;
 - 11.3.6 a spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5; or
 - 11.3.7 living with a person within paragraphs 11.3.3, 11.3.4 or 11.3.5 as husband and wife or as if they were civil partners.

12. Revision of these arrangements

The Council may by resolution agree to amend these arrangements, and has delegated to the Monitoring Officer in consultation with the Independent Person the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

13. Appeals

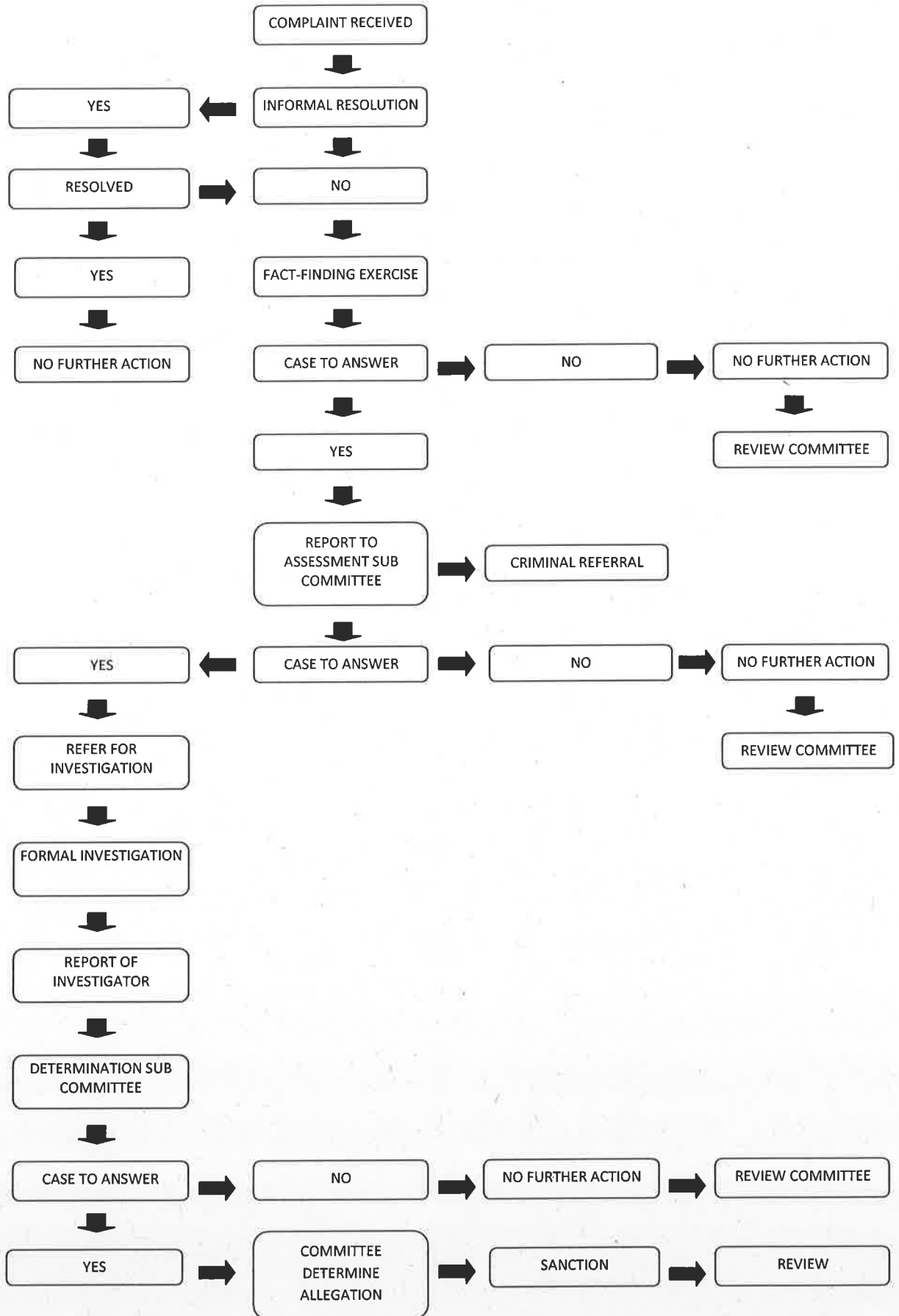
The Sub Committees have authority to allow, or not, a right of review following the Assessment Sub Committee's determination of the complaint, and following the determination of the complaint by the Determination Sub Committee. The process follows one similar to the court process, where Members be given leave to appeal a decision taken on their matter. That in order to avoid frivolous appeals, a stance of "unless new evidence is submitted/provided there will be no review".

A right of review would be given against a decision of No Further Action by the Assessment Sub Committee and any decision and against any sanction determined or imposed by the Determinations Sub Committee.

Such request for a review to be received within 28 days of the decision by the relevant Sub Committee.

Appendix One	The authority's Code of Conduct
Appendix Two	Flowchart of procedure
Appendix Three	Informal Resolution Procedure

AUDIT AND GOVERNANCE COMMITTEE MEMBER COMPLAINT PROCEDURE



NOTES OF MEETING WITH COUNCILLOR ADAMS**11 SEPTEMBER 2013****COMPLAINT RE COUNCILLOR SAFFELL**

Councillor Adams outlined his concerns which formed the substance of his complaint. He stated that he was expressing the feelings of a number of members of the Labour Group and he said that:

- (i) they were disgusted about Councillor Saffell having "a go" at officers;
- (ii) it was uncalled for and was bringing the Council into disrepute;
- (iii) officers were visibly upset.

Councillor Adams went on to say further that he was having a conversation with another councillor at the time that Councillor Saffell started to make his comments and as he realised the nature of the comments they caused him to stop his conversation mid-flow.

He went on to say that:

- (a) He was shocked when the comments were made;
- (b) He was disappointed that another member said this and found the comments abusive;
- (c) He saw the Director of Services face "wilt" at the comments;
- (d) There was a sharp intake of breath from members sitting adjacent to him and from 8-10 members of the public present; and
- (e) He saw a reaction from the opposite side of the Chamber

Councillor Adams also said that he had heard some comments from members of the public who had described the comments as "unbelievable" and this seemed to be the general feeling as signified by the sighs / gasps made across the Chamber.

Following the meeting he discussed what had happened with a number of colleagues who were both bemused and/or concerned by the comments.

Councillor Adams said that he felt that it was best for everyone if Councillor Saffell apologised to the officers.

The Monitoring Officer explained the complaints process, the informal resolution stages and that she would invite Councillor Saffell to meet with her to discuss the complaint.

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