

## **STANDARDS COMMITTEE**

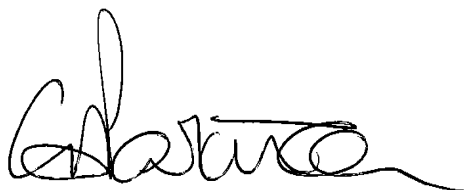
**Venue:** Town Hall, Moorgate  
Street, Rotherham. S60  
2TH

**Date:** Friday, 4 December 2015

**Time:** 2.00 p.m.

### **A G E N D A**

1. Apologies for Absence.
2. To consider whether the press and public should be excluded from the meeting during consideration of any part of the agenda.
3. To determine any item which the Chairman is of the opinion should be considered as a matter of urgency.
4. Final Report and Recommendations of the Standards Working Group (herewith) (Pages 1 - 65)
5. Code for Rotherham MBC: Senior Staff Working to Councillors (herewith) (Pages 66 - 73)
6. Date and Time of Next Meeting - Thursday, 10th December, 2015 at 2.00 p.m.



**CATHERINE A. PARKINSON,**  
Interim Director of Legal and Democratic Services.

## **Summary Sheet**

## **Council Report**

Standards Committee 4<sup>th</sup> December 2015

### **Title**

Final report and recommendations of the Standards Committee Working Group

### **Is this a Key Decision and has it been included on the Forward Plan?**

No

### **Strategic Director Approving Submission of the Report**

### **Report Author(s)**

Stuart Fletcher, Legal & Democratic Services, Riverside House, Main Street,  
Rotherham .S60 1AE  
Tel : 01709 823523

Catherine A. Parkinson, Interim Assistant Director Legal & Democratic Services and  
Monitoring Officer Tel: 01709 255768

### **Ward(s) Affected**

All

### **Executive Summary**

This report outlines the work undertaken by the Standards Working Group between 16<sup>th</sup> July and 19<sup>th</sup> November 2015.

It also makes several recommendations to update and introduce new procedures as well as increasing the profile of the Standards Committee. It is hoped that these innovations will contribute to the development of healthier ethical standards within the Council as well as contributing to the corporate governance and improvement plan of the Council.

## Recommendations

1. That the Standards Working Group be thanked for their work and that their recommendations be considered for implementation:
2. That :
  - i. The Terms of Reference for the Standards Committee, attached at Appendix 1, be adopted.
  - ii. A work plan be introduced by the Standards Committee.
  - iii. The supplement to the Code of Conduct attached at Appendix 3 be adopted by the Council.
  - iv. the following mission statement/strapline be adopted by the Standards Committee :  
  
***“Responsible for promoting ethical behaviour and building confidence in local democracy.”***
  - v. the Standards Committee be called the Standards and Ethics Committee.
  - vi. The website be refreshed
  - vii. That the membership of the Committee remains as it was currently but that the Hearing Panels established to consider complaints be comprised of :
    - a) One Borough Council elected member from the majority party and one from an opposition party; one parish councillor and two independent members
  - viii. The revised procedure, at Appendix 4, for dealing with code of conduct complaints be adopted.
  - ix. That the revised procedure for the whistleblowing policy, at Appendix 5, be adopted.
  - x. That an annual report be produced

**List of Appendices Included**

- A) Report of the Standards Working Group
  - 1) Standards Committee Terms of reference
  - 2) Standards Committee workplan
  - 3) Code of conduct and Healthy system of democratic leadership and accountability supplement
  - 4) Code of conduct complaints procedure
  - 5) Whistleblowing policy and procedure

**Background Papers**

Model code of conduct

**Consideration by any other Council Committee, Scrutiny or Advisory Panel**

None

**Council Approval Required**

Yes as the recommendations will require a change to the council Constitution.

**Exempt from the Press and Public**

No

**Title** Final report and recommendations of Standards Committee Working Group

**1. Recommendations**

1. That the Standards Working Group be thanked for their work and that their recommendations be considered for implementation
2. That the Standards Committee agrees that:
  - i. The Terms of Reference for the Standards Committee, attached at Appendix 1, be adopted.
  - ii. A work plan be introduced by the Standards Committee.
  - iii. The supplement to the Code of Conduct attached at Appendix 3 be adopted by the Council as a voluntary addition to the formal code of conduct.
  - iv. The following mission statement/strapline be adopted by the Standards Committee :  
  
***“Responsible for promoting ethical behaviour and building confidence in local democracy.”***
  - v. The Standards Committee be called the Standards and Ethics Committee.
  - xi. The website be refreshed
  - xii. That the membership of the Committee remains as it was currently but that the Hearing Panels established to consider complaints be comprised of :
    - b) One Borough Council elected member from the majority party and one from an opposition party; one parish councillor and two independent members
  - xiii. The revised procedure, at Appendix 4, for dealing with code of conduct complaints be adopted.
  - xiv. That the revised procedure for the whistleblowing policy, at Appendix 5, be adopted.
  - xv. That an annual report be produced

## **2. Background**

- 2.1 The recent reports of Alexis Jay the Corporate Governance Inspection and report and the arrival of the Commissioners means that that the Standards regime in the Council needed to be reviewed in order to contribute to the improvement of the Council
- 2.2 It is clear that improvement within the Council is necessary to ensure healthy democratic leadership and accountability. A fresher, more prominent Standards Committee will contribute to the development of a healthier culture within the Council. To achieve this, the Standards Committee established a working group to consider the role of the Standards Committee and suggest any improvements that may be required.
- 2.3 The working group comprised Rotherham Councillors (Beck, Finnie and Hughes), an independent person (Mr P Beavers), an independent member (Mr P Elder) and a Parish Councillor ( Mr D. Rowley) .

## **3. Key Issues**

- 3.1 The working group met between 15<sup>th</sup> July and 19<sup>th</sup> November 2015 and discussed the issues outlined in the report.
- 3.2 The main relevant areas of the Council's Improvement Plan are:  
  
‘a well run and high-performing Council’, ‘an effective cultural change programme’ and “trust and confidence in the Council and how it takes decisions.”

## **4. Options considered and recommended proposal**

- 4.1 There were many options considered for each of the topics examined by the working group and these are outlined in the report of the working group at Appendix A to this report.
- 4.2 That the working group consider the report and agree the proposals outlined in the recommendations section to the report

## **5. Consultation**

- 5.1 Internal consultation has been undertaken with colleagues in other teams e.g. website design. The working group itself was a forum for consultation between Councillors, the Independent Person, Independent member Parish Councillor and relevant officers.

## **6. Timetable and Accountability for Implementing this Decision**

- 6.1 The decisions taken by this Committee will be referred to Council on 9<sup>th</sup> December 2015 for information. Implementation of the decisions agreed will be with effect from the beginning of the new Municipal year in May 2016, apart from recommendations viii and ix, which will come into effect immediately.

The Accountable Officer is the Monitoring officer.

## **7. Financial and Procurement Implications**

- 7.1 None

## **8. Legal Implications**

- 8.1 Since the Introduction of the Localism Act 2011, there is no legal obligation for the Authority to have a Standards Committee. However Rotherham Metropolitan Borough Council has decided to retain the Committee in order to demonstrate the Council's commitment to high ethical standards. The Council is, however, under a legal duty to:

- Promote and maintain high standards of conduct by members and co-opted members of the authority
- Ensure that a code of conduct is adopted by the authority.

In addition the Council

- Must have in place arrangements under which allegations can be investigated and
- Must have in place arrangements under which decisions on allegations can be made.

## **9.0 Human Resources Implications**

- 9.1 The majority of this report relates to members and not officers. However the revision of the whistleblowing procedure should enable officers to report concerns without fear of recriminations.

## **10.0 Implications for Children and Young People and Vulnerable Adults**

- 10.1 None

## **11.0 Equalities and Human Rights Implications**

- 11.1 The code of conduct applies equally to all members and co-opted members.

## **12. Implications for Partners and Other Directorates**

- 12.1 Some recommendations will require input from other Directorates for example, the website design and communications

## **13.0 Risks and Mitigation**

- 13.1 There is a risk that without this report the Council could not demonstrate it was fulfilling its statutory duties.

## **14. Accountable Officer(s)**

Catherine A. Parkinson, Interim Assistant Director Legal & Democratic Services and Monitoring Officer; Tel 01709 255768

Stuart Fletcher, Legal & Democratic Services, Riverside House, Main Street, Rotherham, S60 1AE Tel : 01709 823523

Approvals Obtained from:-

Interim Assistant Director Legal & Democratic Services and Monitoring officer  
Catherine A. Parkinson

Head of Procurement (if appropriate):-N/A



## **Report of the Standards Committee Working Group**

**July – Nov 2015**

### **A Welcome from the Chair of the Standards Committee.**

The report of Alexis Jay, the Corporate Governance Inspection and Report, and the Government intervention in the Council have clearly had a profound effect on the Council.

A key part of the Commissioners' Improvement journey for the Council been a focus on Standards and ethical conduct within the Council and as such a revitalisation of the Standards Committee.

The Commissioners have made it clear that improvements are necessary to ensure healthy democratic leadership and accountability. A fresher, more prominent standards committee will contribute to the development of a healthier culture within the Council.

### **Executive Summary**

The overarching purpose of the Standards Committee is to promote and maintain high standards of conduct by the members and co-opted members of the Council.

As such the standards committee is responsible for dealing with many more matters than solely complaints about members and co-opted members of the Council and Parish Councils, although this is an important part of its functions.

The remit of Standards Committee is broad and includes, amongst other matters, the promotion of high standards of conduct, the operation of and training on the Code of Conduct and reviewing arrangements for authorising dispensations and registering interests. The Committee therefore contributes significantly to the corporate health of the Council.

In order to help meet the challenges the Council faces, the Standards Committee established a standards committee working group of councillors, an independent person and an independent member on 16th July 2015.

This working group has met several times and reviewed all aspects of the Standards committee's terms of reference including the terms of reference themselves.

The group was assisted by officers from Legal and Democratic services, including the Monitoring Officer and also received professional advice from other officers of the Council, when appropriate.

The working group considered the following issues between 16<sup>th</sup> July and the 19<sup>th</sup> November 2015.

- Standards Committee –Terms of reference
- Production of a work-plan for the committee
- The Code of Conduct & supplemental Rotherham version
- Mission Statement
- Name of committee
- Membership of committee
- Procedure for investigation and decisions on complaints
- The production of an annual report by the committee
- Review of the Council whistleblowing procedure
- Publishing the work of the committee
- Refresh the committee website

This report outlines the reason for the work undertaken and reports on progress and its recommendations.

### **Introduction**

On the 16<sup>th</sup> July 2015, the Standards Committee resolved to establish a standards working group. The reason for establishing such a group was to ensure the Standards Committee contributes effectively to the corporate health of the authority and to ensure healthy democratic leadership and accountability.

The membership of the working group was:

Councillor Beck

Councillor Finnie

Councillor Hughes

Mr P Beavers

Mr P Edler

Mr D Rowley.

The working group met on five occasions between 13<sup>th</sup> August and 19<sup>th</sup> November 2015.

The group recommended that the actions outlined in this report be noted and implemented.

## **1. Standards Committee – Terms of Reference.**

The terms of reference were reviewed and minor alterations recommended. It was generally felt the Terms of Reference included all of the correct elements that formed part of the ethical agenda. It was felt that the production of an annual work plan and annual report would help to ensure that all of the relevant issues were fully considered by the Committee.

Further it was felt that it was important for work to be undertaken to actively promote the work of the Standards Committee and as such promote and maintain high standards of conduct by members. This is reflected in the Terms of Reference by the inclusion of the “strapline”/Statement of Purpose, as referred to later in this report, and a reference to the Committee being proactive in its work of promoting high standards of conduct. Further the Terms of Reference were amended to include the Committee working to foster a culture a culture of high standards of conduct, and a commitment to ethical behaviour throughout the Council.

The terms of reference for Doncaster, Sheffield and Barnsley were also considered. It was noted that Barnsley and Doncaster did not have a separate Standards Committee as the requirement for this had been removed by the Localism Act 2011.

The working group considered that in Rotherham the Standards Committee should remain separate in order to demonstrate the Councils commitment to high standards of ethical conduct.

### **Recommendation 1: that the Terms of Reference for the Standards Committee, at Appendix 1, be adopted.**

It should be noted that the requirement to establish a sub-committee to decide whether allegations should be investigated and carry out initial assessments has also been removed following the recommendation of a new procedure for dealing with complaints. This is addressed later in this report.

## **2. Standards Committee Work-plan**

The work plan was considered by the working party on 10<sup>th</sup> September 2015. As stated above at the moment there is no formal work-plan for the Standards Committee and it was suggested that one be produced in order to enable the Committee to focus on an appropriate range of issues throughout the year. Further this will allow the Standards Committee to be more proactive in its activity throughout the year and ensure that all elements of the Standards Committee Terms of Reference are fully considered by the Committee.

The introduction of a work-plan would provide transparency in the work of the Committee and demonstrate its contribution to the development and corporate governance of the Council.

An example of a suggested work-plan is at Appendix 2.

**Recommendation 2: That a work plan be introduced by the Standards Committee**

**3. Model Code of Conduct**

This was considered by the working group on 1<sup>st</sup> October 2015.

A proposed supplement to the code of conduct entitled:

*'A healthy system of democratic leadership and accountability'*

was considered by members.

The supplement was suggested by Lead Commissioner Sir Derek Myers and was aimed specifically at members and co-opted members of Rotherham Council.

The suggested supplement provided more transparency for the public to judge the performance of elected members with a tangible statement of purpose for all members.

The working group, whilst welcoming the inclusion of the supplement to the code of conduct, suggested minor amendments and that it be reviewed annually.

**Recommendation 3: That the supplement to the Code of Conduct attached at Appendix 3 be adopted by the Council.**

**4. Mission Statement/Statement of Purpose**

The adoption of a mission statement/Statement of Purpose/Strapline was considered on 22<sup>nd</sup> October 2015.

The reasons for considering a mission statement for the Standards Committee were to:

- Keep uppermost in members' minds, the reason for the Standards Committee.
- Demonstrate the Council's commitment to high ethical standards
- Ensure the purpose and importance of the Standards Committee was made clear to members of the public, especially via the revamped website area.
- Ensure that the Committee acts within its remit.

**Recommendation 4: That the following mission statement /strapline be adopted by the Standards Committee:**

***“Responsible for promoting ethical behaviour and building confidence in local democracy.”***

## **5. Name of the Committee**

The name of the Standards Committee was considered by the Working Group at its meeting on 22<sup>nd</sup> October 2015.

Following the Introduction of the Localism Act 2011, there is no legal requirement for a Standards Committee. However every Council must have arrangements in place for investigating and making decisions on allegations that a member has failed to comply with the Members’ code of conduct. Given the freedoms introduced by the Localism Act, the opportunity was taken to review the name of the Committee.

The current name of the Committee does not wholly reflect the duties and responsibilities of the Standards Committee which as stated above involves more than investigating and deciding allegations of breaches of the Code of Conduct.

At Rotherham, the Standards Committee is responsible for a significant number of other issues. These include oversight of the whistleblowing procedure, granting dispensations and providing training on all aspects of the ethical agenda.

**Recommendation 5: That the Standards Committee, in future, be called the Standards and Ethics Committee.**

## **6. Standards Committee Website**

This was considered by the working group on 22<sup>nd</sup> October 2015.

At present, the Standards Committee has its own space on the Council website. However, figures provided at the meeting suggested that it was not used to full effect. It was suggested therefore, that the Standards Committee website area be refreshed and given more prominence and publicity.


The new draft pages of the website give greater explanation and information as to the role, purpose and importance of the Standards Committee, and provide access to all documents relevant to the Standards Committee.

Colleagues from website design attended the working group meeting and suggested various ways of updating the site.

The site is currently under construction and ‘still’ examples are shown below.

## Recommendation 6: that the website be refreshed, as indicated. Proposed Front


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# Standards Committee




## What is the Standards Committee?

We all expect councillors and other elected representatives to follow the highest standards of conduct.

Our Standards Committee is responsible for promoting and maintaining high standards of conduct by councillors, independent members and co-opted members.

The committee may get involved in investigating any complaint that a member has broken the code of conduct.


[Find out more](#)



### Complain about a councillor

You can complain about the conduct of any member of the borough council or any local parish or town council.


[Make a complaint](#)



### Code of conduct

The code of conduct sets out the standards we expect of elected and co-opted borough, parish and town councillors.


[Find out more](#)



### See committee meeting documents

Find agendas, reports and minutes for meetings of the Standards Committee.


[Find out more](#)



### Contact the Standards Committee

Get in touch if you have a comment or suggestion about the role and work of the Standards Committee.


[Contact us](#)



### Annual report and work plan

Our annual report details what we did last year. Our work plan sets out what we'll be working on this year.

[Download the report and plan](#)



### Documents and resources

Find and download further information about the work of the Standards Committee.


[See available documents](#)


### A word from the Chairman

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Clir Dominic Beck

Chairman, Standards Committee





### An independent view

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Forename Surname

Independent Person, Rotherham Standards Committee

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### Committee details

See who sits on the Standards Committee. You can also find agendas, reports and minutes for committee meetings.

[See committee details](#)

### Councillors' interests

We maintain a register of certain financial and other interests for each borough, parish and town councillor.

[See interests for borough councillors](#)

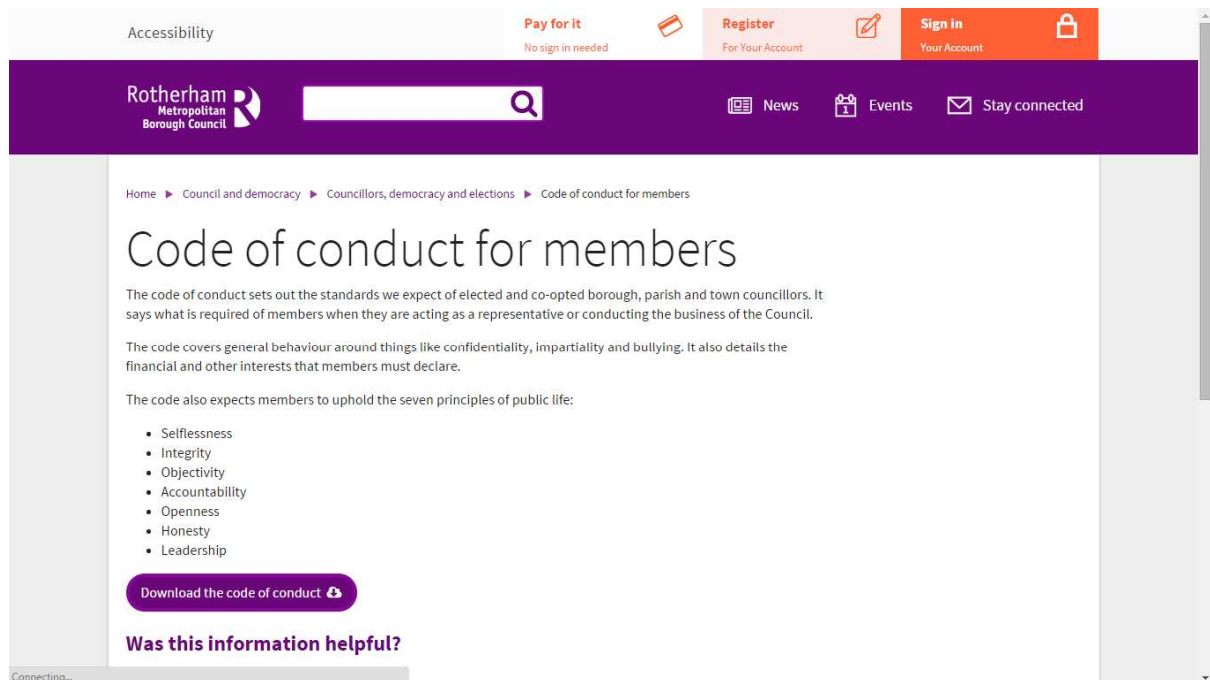
[See interests for parish and town councillors](#)

### Unfamiliar terms

Not sure who is a 'member'? Want to know what makes someone an 'independent person'?

Our guide to some of the terms commonly used in committee documents can help you.

[Find out more \(dummy link\)](#)



## 7. Membership of the Standards Committee

This issue was considered by the working group on 22<sup>nd</sup> October 2015.

The current membership of the Committee is

8 Rotherham MBC Councillors

3 Parish Councillors

4 non-voting independent members and

1 vacancy

The Chair and Vice Chair of the committee are elected members from Rotherham Council. There are also independent members who do not have voting rights. The reason for this is following the Localism Act 2011, the Standards Committee is deemed to be a committee of the Council and therefore proportionality rules apply.

It was suggested that an element of independence could be introduced by having independent members on the hearing panel which decides if breaches of the code have occurred.



**Recommendation 7: That the composition of the Committee and Hearing Panels be as follows:**

a) the existing composition of the membership of the Standards Committee shall remain unchanged, with the Committee retaining the current proportions of Borough Councillors, Parish Councillors and non-voting Independent Members;

(b) the Chair and the Vice-Chair of the Standards Committee shall continue to be Elected Members of the Borough Council;

(c) the review and hearing panels, established from time to time to consider complaints about the conduct of a councillor shall comprise five persons, namely:

One majority party elected member of the Borough Council;  
One minority party elected member of the Borough Council;  
One Parish Councillor;  
Two independent Persons;

(d) the Chair of the review and hearing panel meetings shall be an Independent Member;

(e) the Monitoring Officer shall advise the Review and Hearing Panel but not be a member, as such membership may be perceived as compromising that Officer's impartiality.

**8. Revised Procedure for dealing with standards complaints**

This issue was considered on 1<sup>st</sup> October 2015.

The present procedure for dealing with complaints has not been fully updated since the introduction of the Localism Act 2011. It was suggested that a new, comprehensive procedure be introduced to ensure that the Council fulfils its statutory obligations.

The introduction of a new procedure will ensure greater transparency to the public and members about the way complaints about Members' behaviour are dealt with. Further the revised procedure will ensure fairness and consistency as to how investigations are conducted, as well as providing members and complainants with further information as to process, procedure and sanctions in relation to possible breaches of the Code of Conduct.

**Recommendation 8: That the revised procedure, at Appendix 4, for dealing with code of conduct complaints be adopted.**

## **9. Whistleblowing Procedure**

A revised whistleblowing procedure was discussed on a number of occasions with the final recommendations being agreed on 1<sup>st</sup> October 2015.

The suggested procedure strengthens the current whistleblowing procedure in line with the Council's legislative requirements and it actively encourages reporting of information about serious misconduct.

The working group welcomed the revised policy and procedure and especially the introduction of a dedicated e-mail address and pro-forma for anyone wishing to report an actual or suspected wrongdoing

**Recommendation 9: that the revised policy and procedure, at Appendix 5, be adopted.**

## **10. Annual Report**

It is suggested that an annual report of the Standards Committee is produced and reported to Council.

This will help to keep Standards and the ethical agenda in the minds of members and demonstrate the work the Committee has undertaken in the past year. This will also be of significance to re-iterate the importance of the role in the Standards Committee in maintaining high standards of conduct within the Council.

Such a report will provide transparency in what the committee does and demonstrate the committee's contribution to the improvement and corporate governance of the Council.

An example of what the Report could contain is below.

### **Format of Annual Report to Council and Standards Committee**

#### **Introduction**

By Chair - Standards Committee

#### **Independent Persons**

Explanation of statutory basis of appointment and duties and the names of the independent persons

#### **Membership of Standards Committee**

Names of all members, explanation of roles of Parish Councillors and independent members.

#### **Overview of complaints**

How complaints are dealt with and outcomes, breakdown between parish and borough complaints and a comparison with previous year.

**Work Overview**

- a) Details of training delivered
- b) Dispensations applied for/granted.
- C) Local assessment of complaints
- d) Operation of Council Complaints Procedure
- e) Operation of 'Whistleblowing' Procedure.
- f) Any areas of good practice/issues considered.

**Recommendation 10: That an annual report be produced**

**Summary and Conclusion**

This report demonstrates that a significant amount of effort has been put in by the members of the working group.

The report demonstrates the importance of the Standards Committee in contributing to the improvement of the Council. It is essential in demonstrating effective corporate governance and encouraging high ethical standards in members and co-opted members.

It is hoped that the production of an Annual report as referred to above will raise the profile of the Standards Committee and contribute to the further development of the Council as a whole.

**APPENDIX 1**

**STANDARDS COMMITTEE**

**The Committee is responsible for promoting ethical behaviour and building confidence in local democracy.**

**TERMS OF REFERENCE**

1. To promote and maintain high standards of conduct by the members and co-opted members of the Council.
2. To proactively foster a culture of high standards of conduct and a commitment to ethical behaviour throughout the Council.
3. To assist members and co-opted members of the Council to observe the Council's Code of Conduct.
4. To advise the Council on the adoption and revision of its Code of Conduct, taking into account, guidance and existing good practice within the Council.
5. To monitor the operation of the Code of Conduct and recommend revisions as appropriate, and to ensure that the Code is fully understood and applied throughout the Council.
6. To advise, train or arrange to train members and co-opted members of the Council on matters relating to the Code of Conduct.
7. To authorise dispensations to Members and Co-opted Members of the Council and other related authorities in accordance with the Localism Act 2011.
8. To carry out similar functions to those above in relation to those parish councils that have delegated their functions under the Localism Act 2011 to the Council, or where the Localism Act provides that the Council is the responsible Authority for such matters for which the Council is the responsible authority and the members of those parish councils.
9. To review arrangements as to the declarations of interest of members, co-opted members and officers, to monitor the operation of such arrangements and to offer advice on their application.
10. To review and recommend such other protocols, local codes and guidance as may be considered desirable to build upon the rules contained within the Code of Conduct whilst not forming part of it.
11. To produce an Annual work plan and subsequently Annual Report to Council confirming all relevant issues within these Terms of Reference have been considered by the Committee.
12. To establish a Consideration and Hearing Panel, when required, to consider and determine allegations of breaches of the Code of Conduct that have not been locally resolved.

13. To consider any other recommendations, guidance or direction referred to the Committee or the Monitoring Officer.
14. To consider any application for exemption from political restriction made to the Committee by the holder of any post under the Council and to give directions to the Council requiring it to include a post in the list of political restricted posts maintained by the Council.
15. To establish and monitor the operation of the Complaints Procedures and Whistleblowing Procedures.
16. To review the application of the Council's Standing Orders, Financial Regulations, contract arrangements and other such provisions.
17. To review and comment upon the Council's procedures and codes of practice relating to public access to information, confidentiality and arrangements for data protection.
18. To review the procedures for appointment of Council representatives to outside bodies and to make recommendations to the Council or the Cabinet as necessary.
19. To consider reports arising from , Ombudsman investigations, legal challenges and other sources which cast doubt on the honesty or integrity of the Council, its members or officers, and to recommend action to the full Council or Cabinet as appropriate.
20. To consider and offer advice and guidance as appropriate on other matters which in the view of the Committee or the Council's monitoring officer could have a bearing on public perceptions of the honesty and integrity of the Council, its members, co-opted members and officers.
21. To consider and make recommendations on such other matters as the Committee itself thinks appropriate or which are referred for attention by the Council or the Cabinet which further the aim of promoting and maintaining the highest standards of conduct within the authority.

In these terms of reference "co-opted member of the Council" means a person who is not a member of the Council, but who:-

- (a) is a member of any committee or sub-committee of the Council, or
- (b) is a member of and represents the Council on any joint committee or joint sub-committee of the Council

and who is entitled to vote on any question which falls to be decided at any meeting of that committee or sub-committee.

**APPENDIX 2**  
**STANDARDS COMMITTEE WORK PLAN: 2015/2016**

<b>Date</b>	<b>Update</b>	<b>Comments</b>
10 <sup>th</sup> December 2015	Overarching Report of the Working Group Update from Monitoring Officer	
10 <sup>th</sup> March 2016	Training Plan Review of arrangements for declarations of interests for members Update from Monitoring Officer Annual Report	
9 <sup>th</sup> June 2016	Review operation of Whistleblowing Policy Update from Monitoring Officer	
September 2016	Review Application of Council's Standing Orders Review reports arising from external inspections, audit investigations, Ombudsman investigations, legal challenges  Update from Monitoring Officer	
December 2016	Update from Monitoring Officer	

**ROTHERHAM BOROUGH COUNCIL**  
**CODE OF CONDUCT FOR MEMBERS AND CO-OPTED MEMBERS**

**PART 1**

**General Provisions**

**Introduction and interpretation**

1. (1) This Code applies to **you** as a member of Rotherham Borough Council ("the Council").
- (2) It is your responsibility to comply with the provisions of this Code and uphold the seven principles of public life set out in Annex 1 to this Code.
- (3) In this Code –  
  
A "meeting of the Council" means any meeting of –  
  
(a) the Council;  
  
(b) the Cabinet, a committee of the Cabinet or a member of the Cabinet acting under delegated powers;  
  
(c) the Council's committees, sub-committees, joint committees, joint sub-committees, or area committees.

A "member" includes a co-opted member who is entitled to vote on any question that falls to be decided at any meeting that falls within paragraphs (a) – (c) above.

**Scope**

2. (1) Except when you are acting as a representative of the Council when sub-paragraph (2) applies, you must comply with this Code whenever you –  
  
(a) conduct the business of the Council (which, in this Code, includes the business of the office to which you are elected or appointed); or  
  
(b) act, claim to act or give the impression you are acting as a representative of the Council.
- (2) Where you act as a representative of the Council –

- (a) on any of the authorities which are under a duty to have a similar code of conduct to this Code, you must comply with that authority's code of conduct when acting for that authority;
- (b) on any organisation or body that is not obliged to have a code of conduct, you must comply with this Code except to the extent that this Code conflicts with any other lawful obligations to which that other organisation or body may be subject.

### **General obligations**

- 3. (1) You must treat others with respect.
- (2) You must not –
  - (a) do anything which may cause the Council to breach any of the equality duties;
  - (b) bully any person;
  - (c) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.
- 4. You must not –
  - (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where –
    - (i) you have the consent of a person authorised to give it;
    - (ii) you are required by law to do so;
    - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
    - (iv) the disclosure is –
      - (aa) reasonable and in the public interest; and
      - (bb) made in good faith and in compliance with the reasonable requirements of the Council; or
  - (b) prevent another person from gaining access to information to which that person is entitled by law.



5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.
6. You –
  - (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself, or any other person, an advantage or disadvantage; and
  - (b) must, when using or authorising the use by others of the resources of the Council –
    - (i) act in accordance with the Council's reasonable requirements;
    - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
  - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
7. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by the Council's –
  - (a) chief finance officer (the Strategic Director of Resources); or
  - (b) monitoring officer (the Director of Legal and Democratic Services),where that officer is acting pursuant to his or her statutory duties.
- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council.
8. Guidance as to the operation and interpretation of this Code of Conduct is provided by the principles set out in the supplemental document, attached hereto entitled "A healthy system of democratic leadership and accountability"

**PART 2****Interests****Personal interests**

8. You have a personal interest in any business of the Council where either 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 the Council;
  - (ii) any body –
    - (aa) exercising functions of a public nature;
    - (bb) directed to charitable purposes;
    - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union); or
    - (dd) which is a private club or society, such as the Freemasons, a recreational club, working men's club or private investment club,of which you are a member or in a position of general control or management;
  - (iii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25; or
  - (iv) a decision in relation to that business might reasonably be regarded as affecting the well-being or financial position of you or a member of your family or a close friend or someone with whom you have a close association to a greater extent than it would affect the majority of other council tax payers, ratepayers or inhabitants of your ward or electoral area.

**Disclosable pecuniary interests**

- 9 (1) You have a “disclosable pecuniary interest” in any business of the Council where it is a pecuniary interest of yours or a pecuniary interest of –
- (a) your spouse or civil partner,

(b) a person with whom you are living as if husband and wife, or

(c) a person with whom you are living as if you are civil partners

and you are aware that that other person has the interest and the interest falls within the categories of pecuniary interests classed as disclosable pecuniary interests in regulations made by the Secretary of State from time to time under section 30 (3) of the Localism Act 2011.

(2) The current disclosable pecuniary interests are listed in Annex 2 to this Code.

### Notification of interests

10. You must notify the Council's monitoring officer of any interest that is classed as a personal interest or a disclosable pecuniary interest –

(a) within 28 days of becoming a member or co-opted member of the Council;

(b) within 28 days of acquiring any interest or becoming aware of any such interest;

(c) within 28 days of any change to an interest that you have previously registered; or

(d) within 28 days of disclosing an interest at a meeting of the Council

### Disclosure of interests

11. (1) Where you have a **personal interest** in any business of the Council and you attend a meeting of the Council at which the business is considered unless the interest is a sensitive interest (see subparagraph (3)), you must disclose the existence and nature of that interest and then consider whether the interest is of such significance that it warrants withdrawal from and no further participation in the discussion or vote on that item, with any such withdrawal from the meeting being recorded in the minutes.

(2) Where you have a **disclosable pecuniary interest** in any business of the Council and you attend a meeting of the Council at which the business is considered, unless the interest is a sensitive interest (see sub-paragraph (3)), you must disclose the existence and nature of that interest and, unless you have been granted a dispensation (see sub-paragraph (4)), you must not take part in the discussion or vote on that

item and must withdraw from the meeting room, including the public gallery, before the item is considered by the meeting.

- (3) You need not disclose the nature of any **personal interest** or **disclosable pecuniary interest** in an item of business where the Council's monitoring officer considers that disclosure of the details of the interest ("a sensitive interest") could lead to you or a person connected with you being subject to violence or intimidation.
- (4) Sub-paragraph (2) and (3), do not apply where the monitoring officer or the Standards Committee, as the case may be, has granted a dispensation to enable you to take part in the discussion of, or vote on that item, or both.

## Offences

12 You commit an offence if without reasonable excuse –

- (a) you fail to notify the monitoring officer within 28 days of becoming a member of the Council of any disclosable personal interests that you have;
- (b) you fail to disclose at a meeting of the Council the nature and extent of a disclosable pecuniary interest that you have, and are aware of having, in an item of business that is being considered at the meeting, unless –
  - (i) the interest is a sensitive interest and paragraph 11 (3) applies;
  - (ii) the interest is entered in the Register of Members' Interests maintained by the monitoring officer; or
  - (iii) the monitoring officer has been notified that you have such an interest but the register has not yet been updated ("a pending notification");
- (c) you fail to notify the monitoring officer of a disclosable pecuniary interest that you have disclosed at a meeting of the Council, or where you are a member of the Cabinet at your delegated powers meeting, as the case may be, within 28 days of the date on which you made the disclosure;
- (d) you participate in any discussion of, or vote on, any item of business at a meeting of the Council in which you have a disclosable pecuniary interest of which you are aware, unless you have been granted a dispensation in accordance with paragraph 11 (4), or

- (e) you have a disclosable pecuniary interest of which you are aware in any item of business to be dealt with, or being dealt with, by you as a member of the Cabinet acting under delegated powers and despite having that interest continue to deal with that item of business, except where such dealing is for the purpose of arranging for the item to be dealt with otherwise than by you.

Terms within this Code of Conduct are given their normal English meaning, for example, to bully is defined in the Oxford English Dictionary as “to use superior strength or influence to intimidate (someone) typically to force them to do something”

## **ANNEX 1**

### **The Seven Principles of Public Life**

#### **Selflessness**

1. 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 benefits for themselves, their family or their friends.

#### **Integrity**

2. 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**

3. 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**

4. 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**

5. 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**

6. 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**

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

**ANNEX 2****DISCLOSABLE PECUNIARY INTERESTS**

In accordance with Section 30(3) of the Localism Act 2011 a pecuniary interest is a “disclosable pecuniary interest” in relation to a member, if it is of a description specified below and either

- is an interest of the member, or
- is an interest of:-

the member’s spouse or civil partner

a person with whom the member is living as husband and wife, or

a person with whom the member is living as if they were civil partners,

and the member is aware that the other person has the interest.

However it should be noted that the disclosure of sponsorship is only in relation to the sponsorship of the member and not in relation to a spouse or civil partner.

In the Table below –

“body in which you have 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;

“relevant period” means the period of 12 months ending with the day on which M gives notification of a disclosable pecuniary interest;

“relevant person” means you (as a member) or your spouse or civil partner; a person with whom you are living as husband and wife; or a person with whom you are living as if you were civil partners;

“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.

**DISCLOSABLE PECUNIARY INTERESTS**

Subject	Prescribed description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain
Sponsorship	Any payment or provision of any other financial benefit (other than from the Council) made or provided within the relevant period in respect of any expenses incurred by the member in carrying out duties as a member, or towards the election expenses of the member. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant Council –  (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant Council.
Licenses	Any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer
Corporate tenancies	Any tenancy where (to the member's knowledge) –  (a) the landlord is the Council; and (b) the tenant is a body in which the relevant person has a beneficial interest
Securities	Any beneficial interest in securities of a body where— (a) that body (to the member's knowledge) has a place of business or land in the area of the Council; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or



	(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.
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## **A healthy system of democratic leadership and accountability**

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As councillors for the Borough in 2015 we understand the special responsibilities we bear. The Council must improve and we are confident that improvement has begun. The Council needs to increase public confidence. As councillors we need to demonstrate we are learning from the past and mindful of the high standards we set for ourselves and that others demand.

Councillors have a number of roles. We need to be accessible and approachable to our ward constituents, whether they voted for us or not, and willing to ensure the Council hears and responds to their needs appropriately. We need to help increase local communities' ability and willingness to pull together and find local solutions to common problems. We need to lead and scrutinise the service delivery of the paid staff. And we want to plan for the future of the Borough and make decisions about the best ways to increase prosperity, ensure wellbeing and provide opportunities.

We believe politics is about debate and sometimes argument. Such debate helps the Council decide what to do and how to do it. We are currently debating how to organise ourselves within the council but however this is determined all councillors have both individual, Group and collective responsibilities. We know that political arithmetic matters. A Party with a majority can expect to win votes if it agrees on a course of action. Minority parties accept this. In return all parties accept they should seek to find common cause where they can whilst disagreeing where they think they must.

We want a reputation as councillors who are credible, responsible and self-critical. As part of this we have come together on a cross-party basis to discuss a new local code, in which we commit to high standards, more specific and detailed than the national code of conduct which binds all councillors. This local code should therefore be read as supplementing that document which already outlaws bullying, requires close attention to conflicts of interest, holds us to keep private matters confidential and commits us to the seven principles of public life.

In many ways this code breaks no new ground. Our councillors live these standards every day. But we recognise that by writing these standards down we show how serious we are about our personal and Group self-discipline.

This is what we want to do:

### **Be respectful**

1. Always remember the importance of those individuals and communities who need the council's services.
2. Ensure our words and actions are free from prejudice and improper discrimination.
3. Get the basics right and be courteous and reliable in all our dealings with the public.
4. Understand the legal requirements on the Council.

5. Always be mindful that we are responsible for other people's money.
6. Be clear with the staff of the council about our ambitions and expectations whilst treating them with respect.
7. Act, dress and carry ourselves in a way that invites others to respect our efforts.

### **Be imaginative**

8. Be energetic and be ambitious; looking ahead to what needs to change.
9. Encourage others to take an interest in the Council.
10. Use evidence of what works elsewhere to improve our decision-making.
11. Advocate for those individuals and communities who need our help.
12. Widen the circle of those contributing to local life.
13. Never be complacent and try to learn from others and be open to new ideas.

### **Be open-minded**

14. Accept if we have got things wrong and try to put things right
15. Commit to personal development to improve our understanding, skills and confidence.
16. Challenge those who fall below the high standards we believe in.
17. Avoid giving personal criticism, whilst being willing to vigorously debate ideas and principles
18. Resist taking offence too easily, recognising that politics requires resilience.
19. Understand our personal accountability and engage with the press and others to explain our work
20. Escalate any individual concerns responsibly, using agreed systems of the Council.

**PROCEDURE FOR HEARINGS****Pre-Hearing Process**

The purpose of the pre-hearing process is to allow matters at the hearing to be dealt with fairly and economically. This is because it quickly alerts parties to possible areas of difficulty and, if possible, allows them to be resolved before the hearing itself.

Other than in very straightforward cases, the City Council will use a pre-hearing process to:

- Identify whether the subject member disagrees with any of the findings of fact in the investigation report.
- Identify whether those disagreements are likely to be relevant to any matter the hearing needs to decide.
- Identify whether evidence about those disagreements will need to be heard during the hearing.
- Decide whether there are any parts of the hearing that are likely to be held in private.
- Decide whether any parts of the investigation report or other documents should be withheld from the public prior to the hearing, on the grounds that they contain 'exempt' material.

The pre-hearing process will normally be dealt with by the Monitoring Officer, although he/she may refer particular matters to the Hearings Panel for decision. The process will usually be carried out in writing, although it may sometimes be appropriate for the relevant parties and their representatives to meet in advance of the hearing.

**Key Points**

Prior to the hearing, the subject member will be provided with an outline of the hearing procedure and also be asked for his/her written response to the following points. The intention is to find out whether the subject member:

- Wants to be represented at the hearing by a solicitor, barrister or any other person.
- Disagrees with any of the findings of fact in the investigation report, including reasons for any of these disagreements.
- Wants to give evidence to the Hearings Panel, either verbally or in writing.
- Wants to call relevant witnesses to give evidence to the Hearings Panel.
- Wants any part of the hearing to be held in private.
- Wants any part of the investigation, report or other relevant documents to be withheld from the public.
- Can attend the hearing.

A critical part of the pre-hearing process should be an attempt to focus the relevant parties' attention on isolating all relevant disputes of fact between them. This is because attention to the factual issues will save valuable time later on in the determination process.

Having received the subject member's response, the investigating officer will then be requested to comment. This is to ensure that all parties are clear about the remaining factual disputes and can prepare to deal with those issues on the appointed day.

The relevant parties will not be allowed to raise new disagreements over factual matters in the investigation report at the hearing except in exceptional circumstances, such as new evidence becoming available that the parties could not have produced before. It will be made clear to the subject member that unless he/she complies with the above procedure, the Panel may rule that it will not allow the new evidence to be presented at the hearing.

A number of standard forms will be sent to the subject member well in advance of the hearing, which will direct his/her attention to the relevant matters (as outlined above).

## **Pre-Hearing Process Summary**

A pre-hearing process summary will be sent to everyone involved in the complaint at least 5 clear working days before the hearing. This will be done after responses have been received from the subject member and the investigating officer. The Pre-Hearing process summary will:

- Set the date, time and place for the hearing.
- Summarise the allegation/s.
- Outline the main facts of the case that are agreed.
- Outline the main facts that are not agreed.
- Note whether the subject member or investigating officer will go to the hearing or be represented at the hearing.
- List those witnesses, if any, who will be asked to give evidence, subject to the power of the Panel to make a ruling on this at the hearing.
- Outline the proposed procedure for the hearing.

## **The Hearing**

A hearing by the Panel is a formal meeting of the authority and is not a court of law. It does not hear evidence under oath, but it does decide factual evidence on the balance of probabilities.

The Panel will work at all times in a demonstrably fair, independent and politically impartial way so that members of the public, and members of the authority, have confidence in its procedure and findings. The Panel will bear in mind the need to maintain public confidence in the Council's ethical standards. This requires that the Panel's decisions should be seen as open, unprejudiced and unbiased. All concerned should treat the hearing process with respect.

The subject member may choose to be represented by a solicitor, a barrister or by any other person. If that other person is a non-legal representative the subject member must obtain the consent of the Panel.

The Panel may choose to withdraw its permission to allow a representative if that representative disrupts the hearing.

The Panel controls the procedure and evidence presented at a hearing, including the number of witnesses and the way witnesses are questioned. In many cases, the Panel may not need to consider any evidence other than the investigation report and any other supporting documents. However, the Panel may need to hear from witnesses if more evidence is needed, or if people do not agree with certain findings of fact in the report. The Panel can allow witnesses to be questioned and cross-examined by the subject member, the Monitoring Officer or their representatives. The Panel can also question witnesses directly.

Generally, the subject member is entitled to present his/her case as he/she sees fit, which includes calling the witnesses required and relevant to the matters to be heard. The Panel has the right to govern its own procedures as long as it acts fairly. For this reason, the Panel may limit the number of witnesses if the number is unreasonable.

Witnesses as to facts that are disputed will normally attend the hearing and should be prepared to be cross-examined. Witnesses as to the character of the subject member, if required, may present their evidence in writing and may or may not actually attend the hearing.

Witnesses, especially members of the public, often play an important part in the process and should be treated with courtesy and respect.

A document setting out the procedure for the hearing will be distributed to the parties and the members of the Panel in advance.

## **The Decision**

The Panel will announce its decision at the end of the hearing. The Panel will give its full written decision to the relevant parties as soon as possible after the hearing. In most cases this will be within two weeks of the hearing.

For consistency and thoroughness, the Panel will use the following format for their full written decisions.

The front cover of the Panel's full written decision will include the name of the:

- Authority.
- Subject member.
- Complainant.
- Standards committee member who chaired the hearing.
- Standards committee members who took part in the hearing
- Monitoring officer.
- Local investigator.
- Clerk of the hearing.
- Case reference number.
- Date of the hearing.
- Date of the report.

The Panel's full written decision will include:

- A summary of the complaint.
- The relevant paragraph or paragraphs of the Code of Conduct.
- A summary of the evidence considered and representations made.
- The findings of fact, including the reasons for them.
- The finding as to whether the member failed to follow the Code, including the reasons for that finding.
- The recommendations, if any, as to further action to be taken in respect of the subject member.

*(Note: whilst this procedure will normally apply, the Panel will be free to depart from it in response to the circumstances of any particular case, provided that this does not result in any unfairness to the parties, or anyone else involved).*

# Arrangements for dealing with standards allegations under the Localism Act 2011

## Context

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

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 of a Committee or Sub-Committee of the authority, has failed to comply with that authority’s Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the authority to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation 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 as been made.

## The Code of Conduct

The Council has adopted a Code of Conduct for members, which is attached as an appendix to these arrangements and available for inspection on the authority’s website.

## Making a complaint

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

Catherine Parkinson  
Assistant Director Legal and Democratic Services / Monitoring Officer  
Rotherham Metropolitan Borough Council  
Riverside House  
Main Street  
Rotherham  
S60 1AE

Or –

[catherine.parkinson@rotherham.gov.uk](mailto:catherine.parkinson@rotherham.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 we have all the information which we need to be able to process your complaint, please complete and send us the model complaint form enclosed.

Please do provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you

want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the member against whom you make the complaint, without your prior consent and provided that you have legitimate reasons for keeping your details confidential. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.

### **Will your complaint be investigated?**

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person (see below), take a decision as to whether it merits formal investigation. This decision will normally be taken within 14 days of receipt of your complaint. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision.

Where he/she requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the member against whom your complaint is directed.

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. 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 you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

If your complaint identifies criminal conduct or breach of other regulations by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

### **How is the investigation conducted?**

The Council has adopted a procedure for the investigation of misconduct complaints, which is attached to these arrangements.

If the Monitoring Officer decides that a complaint merits formal investigation, he/she 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 you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address 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 you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

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

The Monitoring Officer will review the Investigating Officer's report and, if he is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned notifying you that he is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Interim Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider his/her report.

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

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person, seek local resolution.

**Local Resolution**

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee for information, but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate, the Monitoring Officer will refer the matter for a local hearing.

**Local Hearing**

If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The Council has agreed a procedure for local hearings, which is attached to these arrangements.

Essentially, 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 hearing, 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 you as the complainant to attend and give evidence to the Hearings Panel. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Hearings Panel, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Hearings Panel concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the member of this finding and the Hearings Panel will then consider what action, if any, the Hearings Panel should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the member an opportunity to make representations to the Panel and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

**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 Hearings Panel 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 Hearings Panel may –

Censure or reprimand the member;

Publish its findings in respect of the member's conduct;

Report its findings to Council for information;

Recommend to the member's Group Leader (or in the case of a member who is not in a political group, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;

Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;

Recommend to Council that the member be replaced as Executive Leader;

Instruct the Monitoring Officer to arrange training for the member;

Remove the member from all outside appointments to which he/she has been appointed or nominated by the authority;

Withdraw facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or

Exclude the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

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

### **What happens at the end of the hearing?**

At the end of the hearing, the Chair will state the decision of the Hearings Panel as to whether the member failed to comply with the Code of Conduct and as to any actions which the Hearings Panel 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 Hearings Panel, and send a copy to you, to the member, make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

### **Who are the Hearings Panel?**

The Hearings Panel is a Sub-Committee of the Council's Standards Committee and it will comprise a maximum of five members of the Council. The Panel's membership will be in proportion to the strengths of each political group on the Council, insofar as possible.

The Independent Person is invited to attend all meetings of the Hearings Panel and his/her views are sought and taken into consideration before the Hearings Panel takes any decision 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.

### **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 then appointed by a positive vote from a majority of all the members of Council.

With certain exceptions, a person cannot be "independent" if he/she –

Is, or has been within the past 5 years, a member, co-opted member or officer of the authority;

Is a relative, or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, "relative" means –

Spouse or civil partner;

Living with the other person as husband and wife or as if they were civil partners;

Grandparent of the other person;

A lineal descendent of a grandparent of the other person;

A parent, sibling or child of a person within paragraphs 11.2.1 or 11.2.2;

A spouse or civil partner of a person within paragraphs 11.2.3, 11.2.4 or 11.2.5; or

Living with a person within paragraphs 11.2.3, 11.2.4 or 11.2.5 as husband and wife or as if they were civil partners.

### **Revision of these arrangements**

The Council may by resolution agree to amend these arrangements, and has delegated to the Chair of the Hearings Panel 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.

### **Appeals**

There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Hearings Panel

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

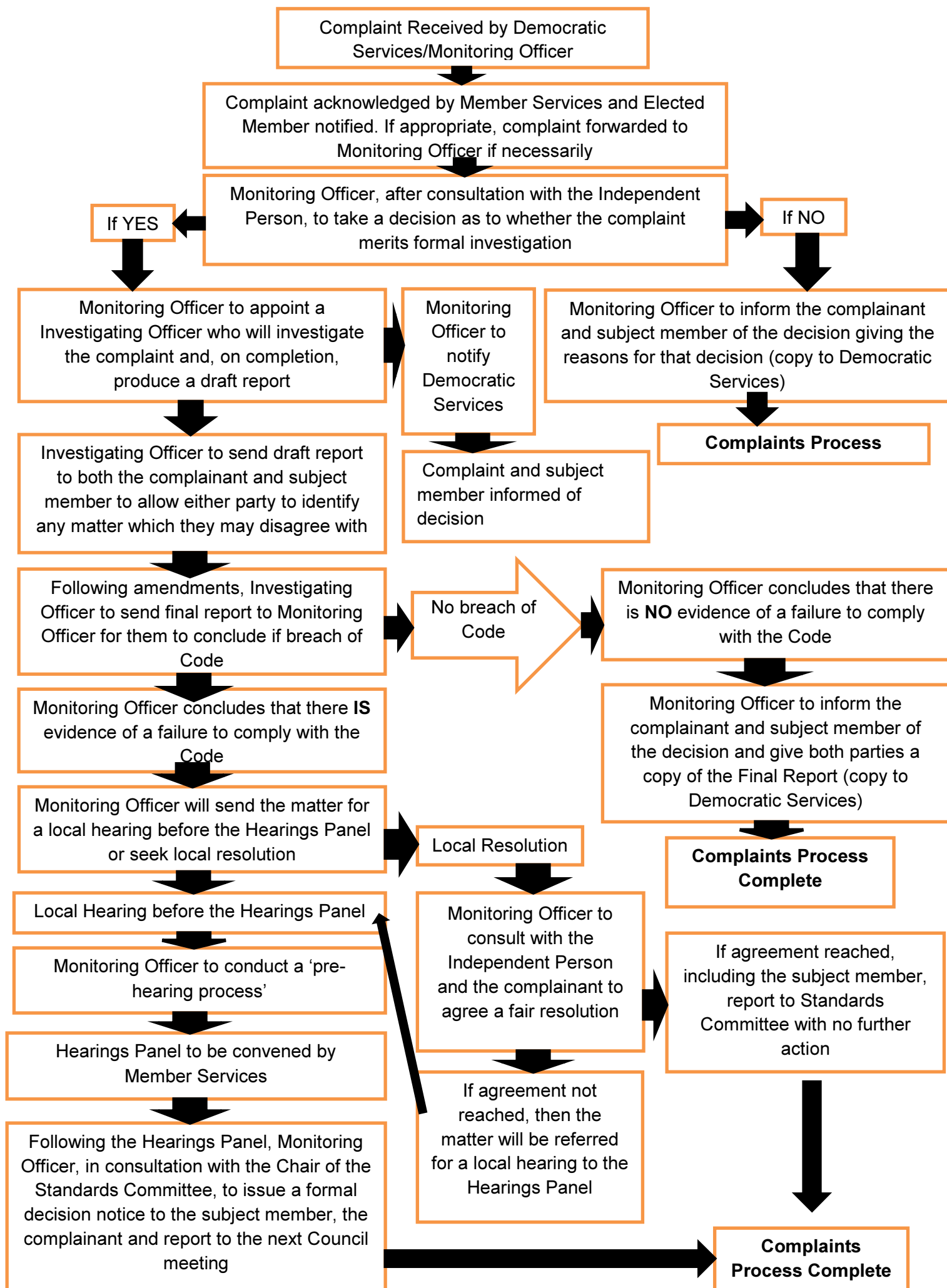
### Appendices:

The authority's Code of Conduct

Procedure for Investigations

Procedure for Hearings

## STANDARDS COMPLAINTS PROCESS



## **Standards Committee – Hearings Panel**

### **ORDER OF PROCEEDINGS**

#### **INTRODUCTION**

The Chair will introduce herself, the members of the Panel, the Independent Person, the Monitoring Officer and the Democratic Services Officer.

The Chair will then explain that the Panel will hear the evidence (if any) from both parties i.e. the representative of the Monitoring Officer (“the Investigating Officer”) and then the member who is the subject of the complaint (“the Subject Member”).

The Investigating Officer will introduce the officers present and any witnesses.

The Subject Member will introduce himself and any person with him either to support the Subject Member or give evidence on his behalf.

#### **PRESENTATION OF THE CASE BY THE INVESTIGATING OFFICER**

The Investigating Officer will explain the nature of the complaint and the investigation and then call each witness individually.

Each witness will answer questions from the Investigating Officer.

The Subject Member can ask any relevant questions of the Investigating Officer or witness.

The members of the Panel can ask any relevant questions of the Investigating Officer or witness.

The Investigating Officer can ask any questions of the witness to clarify any confusion or uncertainty which may have arisen as a result of the earlier questions.

#### **PRESENTATION OF THE CASE BY THE SUBJECT MEMBER**

The Subject Member will explain the nature of his case i.e. which findings of fact in the investigation he disagrees with, and why. He will then present each witness he intends to call on his behalf.

Each witness will answer questions from the Subject Member.

The Investigating Officer can ask any relevant questions of the Subject Member’s witness.

The Subject Member or any witnesses will answer questions from the Panel members.

Each witness can be asked further questions by the Subject Member to clarify any confusion or uncertainty that has arisen from the earlier questioning.

#### **CLOSING SUBMISSIONS**

The Investigating Officer will summarise the most important points of her case and request that the Panel make a determination.

The Subject Member will summarise the most important points of his case and request the Panel to consider these.

The Chair will ask all parties to leave the room whilst the Panel, advised by the Independent Person and the Monitoring Officer, considers the matter.

The parties will be invited to return in order to hear the Panel's decision.

### FURTHER ACTION

If the Panel determines that the Subject Member has breached the Code of Conduct, it will invite the Investigating Officer and the Subject Member to address it on any action that it might take. The parties will again be asked to leave the room. They will be invited to return in order to hear the Panel's decision on the action to be taken.

*(Note: the procedure set out above will be adapted to suit the circumstances of the case, e.g. if there are no witnesses to be called to give evidence, certain parts of the procedure will not apply).*

## PROCEDURE FOR INVESTIGATIONS

### Referral of Allegations

Following consideration of a complaint that a member or co-opted member (the “subject member”) has breached the Council’s Code of Conduct and, after consultation with the Independent Person, the Monitoring Officer may decide that the complaint merits formal investigation. He/she will then appoint an Investigating Officer (usually a senior member of his/her staff) and will send to that Investigating Officer the details of the complaint along with any other information considered to be appropriate.

### Planning the Investigation

The Investigating Officer will keep a written record to demonstrate what was considered at the start of each investigation. This document is most likely to take the form of an investigation plan. The following areas will be covered in the plan:

- The complaint made against the subject member (together with any clarification sought from the complainant).
- The paragraph or paragraphs of the Code of Conduct that may have been breached.
- The facts which need to be determined to establish if the member breached the Code and to decide what the appropriate finding might be.
- The evidence needed by the Investigating Officer to determine the issues outlined in the plan. This will include who the Investigating Officer will need to interview, and why.
- The evidence that has been supplied by the complainant or, in the case of an investigation plan review, the evidence that the Investigating Officer has gathered.
- How the Investigating Officer plans to gather the evidence that he/she needs.
- How long the Investigating Officer thinks the investigation is likely to take him/her.

If, at any stage, in the investigative process there are significant changes to any of the above areas, an investigation plan review may need to be completed.

At the start of the investigation, the Investigating Officer will contact the complainant and the subject member to advise them of his/her contact details and provide them with a preliminary timescale for the investigation.

At the end of the investigation, the Investigating Officer will have documents which chart the approach that he/she took to the investigation, the reasons for this approach, and when the approach was changed (if appropriate). These documents will not be shared with the parties involved in the investigation.

### Documentary Evidence

Documentary evidence will be sought before any interviews are conducted and at the earliest opportunity. The subject member will normally be invited to provide an initial response to the allegation in writing when written contact is first made with him/her. This will give an opportunity for the member to admit to the breach at this stage if he/she would like to do so.

Requests for information will be made in writing, even if the initial contact was made by phone. An explanation of the broad purpose for which the document is needed will be given. The detail of the complaint against the member will not necessarily be provided at this stage. Confidentiality of the process will be outlined and a deadline set for response.

### Interviews



The Investigating Officer's goal in interviewing is to obtain the most informed, reliable evidence possible. It is not intended to ambush or catch out interviewees.

The subject member will normally be interviewed at the end of the investigation when all other evidence has been gathered. This will give the Investigating Officer the opportunity to put that evidence to the subject member and obtain his/her responses to it. It may also be necessary to re-interview the subject member and the complainant near the end of the investigation as this may allow the Investigating Officer to get him/her to agree facts. It will also give the interviewees an opportunity to comment on issues that have been raised during the course of the investigation, and will provide an opportunity to present potential inconsistencies to the relevant parties for comment.

Although telephone interviews may be appropriate, it is more likely that face-to-face interviews will be carried out particularly if:

- The matters involved are sensitive.
- The interviewee is vulnerable.
- Multiple documents need to be referred to during the interview.
- The interviewee wishes to have a representative present.
- The interview is with the subject member.

Joint interviews will not be conducted. An interviewee may have a friend or adviser present. That person should not be someone who is a witness and they should be asked to keep the matters confidential. If an interviewee is a vulnerable person or a minor, consideration will be given to their being accompanied by another person.

In terms of venue for face-to-face interviews, this will be somewhere that is mutually convenient, on neutral territory and where privacy can be guaranteed. Any health and safety issues will be considered in advance.

The interviewee will be provided by the Investigating Officer with information about the format and conduct of the interview.

After the interview, the Investigating Officer will draw up a draft witness statement for the interviewee and send this to him/her for amendment and/or approval. Once all the interviews have been completed, and statements obtained, the Investigating Officer will evaluate the information. He/she will review all the evidence and decide if the alleged conduct occurred. If he/she decides that the subject member did act as alleged, he/she will then consider whether their conduct involved a failure to comply with the Code of Conduct. If the Investigating Officer decides that the member has breached the Code, he/she will then consider whether there is any evidence of mitigating or aggravating circumstances.

## Reports

When the investigation has been concluded, the Investigating Officer will write up his/her findings in a report to the Standards Committee. This will be in the following format:

- Title page.
- Executive summary.
- Subject member's official details.
- Relevant legislation and protocols.
- Evidence gathered and the Investigator's consideration of it.
- Summary of the material facts.
- The subject member's additional submissions.

- Reasoning as to whether there has been a failure to comply with the Code of Conduct.
- Findings.
- Schedule of evidence taken into account.
- Chronology.

A copy of the draft report will be sent to the subject member and the complainant inviting their comments by a specified date. Responses to the draft may reveal the need for further investigation or they may add nothing of relevance. If further investigation is required, this may result in changes being made to the report. If the changes are significant enough, the Investigating Officer will consider issuing a second draft and sending a copy to the subject member and the complainant for further comments. The Investigating Officer will then be able to make his/her final conclusions and recommendations.

## **The Final Report**

Once finalised, the report will be submitted formally to the Monitoring Officer who will deal with it according to the agreed arrangements for dealing with standards allegations under the Localism Act 2011.

***(Note: This procedure is intended as guidance only. When conducting an investigation, it will be for the Investigating Officer to determine how to proceed. However, any significant departure from this guidance will need to be justified).***

# STANDARDS COMMITTEE

## Members' Code of Conduct

### COMPLAINT FORM

Your details

1. Please provide us with your name and contact details

Title:	
First name:	
Last name:	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile telephone:	
Email address:	

Your address and contact details will not **normally** be released unless necessary or to deal with your complaint.

However, we will tell the following people that you have made this complaint:

- the member(s) about whom you are complaining
- the monitoring officer of the authority

We will tell them your name and give them a summary of your complaint. We will give them full details of the complaint where necessary or appropriate to be able to deal with it. If you have serious concerns about your name and a summary, or details of your complaint being released, please complete section 6 of this form.

2. Please tell us which complainant type best describes you:

- ☐ Member of the public
- ☐ An elected or co-opted member of an authority
- ☐ Local authority monitoring officer
- ☐ Other council officer or authority employee
- ☐ Other ( )

3. Equality monitoring questions.

Please tell us:-

Your age \_\_\_\_\_ Your gender \_\_\_\_\_ Your ethnicity \_\_\_\_\_

### Making your complaint

4. Please provide us with the name of the member(s) you believe have breached the Code of Conduct and the name of their authority:

Title	First name	Last name	Council or authority name

5. Please explain in this section (or on separate sheets) what the member has done that you believe breaches the Code of Conduct. If you are complaining about more than one member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account by the Monitoring Officer or Deputy Monitoring Officer when he/she decides whether to take any action on your complaint. For example:

- You should be specific, wherever possible, about exactly what you are alleging the member said or did. For instance, instead of writing that the member insulted you, you should state what it was they said.
- You should provide dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important you give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible. Although witness statements can also be submitted at this time, any such witnesses will not be contacted by the Council unless/until the Monitoring Officer or Deputy Monitoring Officer has decided that your complaint should be investigated.

- You should provide any further relevant background information.

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form

**Only complete this next section if you are requesting that your identity is kept confidential**

6. In the interests of fairness and natural justice, we believe members who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint unless you have good reason to believe that disclosure of such information would be likely to prejudice the proper conduct of the matter.

Please note that requests for confidentiality or requests for withholding of complaint details will not automatically be granted. The Monitoring Officer or Deputy Monitoring Officer will consider the request alongside the substance of your complaint. We will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

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Signed	Dated
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### **Additional Help**

7. Complaints must be submitted in writing which includes fax and electronic submissions. In line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing. We can also help if English is not your first language.

A copy of the Council's arrangements for dealing with complaints, including a copy of the Code of Conduct, accompany this form. If you require any further information or need any assistance in completing the form, please let us know as soon as possible.

**Please tell us if you need this form in a different format, for example, Large Print or Braille**

***When completed please return this form to:-***

***Catherine A. Parkinson,  
Interim Assistant Director Legal & Democratic Services  
Resources Directorate  
Rotherham Metropolitan Borough Council  
Riverside, Rotherham, S60 1AE***

**Telephone No: 01709 255768;  
E-mail: [Catherine.parkinson@rotherham.gov.uk](mailto:Catherine.parkinson@rotherham.gov.uk)**

**Appendix 5**

**WHISTLEBLOWING AND SERIOUS MISCONDUCT POLICY 2015**

**Contents**

- 1. Introduction**
- 2. Public Interest Disclosure Act**
- 3. Advice to employees wishing to raise a concern or make a disclosure**
- 4. How to report an actual or suspected serious wrongdoing**
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- 6. Confidentiality and anonymity**
- 7. Protecting an employee whistleblower**
- 8. Recording and monitoring complaints**



## **ROTHERHAM METROPOLITAN BOROUGH COUNCIL**

### **WHISTLEBLOWING POLICY 2015**

#### **1. Introduction**

- 1.1 Rotherham Metropolitan Borough Council is committed to ensuring that it, and the people working for it, complies with the highest standards of openness, honesty and accountability.
- 1.2 The term whistleblowing has a specific legal definition, i.e. a disclosure or allegation of serious wrongdoing made by an employee, and a wider public definition, i.e. any disclosure or allegation of serious wrongdoing.
- 1.3 This policy document seeks to cover disclosures and allegations of serious wrongdoing made by employees, and to this end, where this policy makes reference to a whistleblower; it refers to an employee who is making a disclosure or allegation of serious wrongdoing.
- 1.4 Where a Rotherham Metropolitan Borough Council employee, a worker for a Council contractor (including seconded council employees) is aware of any serious wrongdoing, such as:
  - breach of a legal obligation;
  - any criminal activity, including incitement to commit a criminal act;
  - corruption or fraud;
  - a miscarriage of justice;
  - a danger to the health or safety of any individual or damage to the environment;
  - abuse of power or authority;
  - failure to comply with professional standards, Council policies or codes of practice/conduct;

committed by or related to the actions of:

- Rotherham Metropolitan Borough Council employees;
- Borough Councillors; and/or
- contractors, agency staff, suppliers or consultants of Rotherham Metropolitan Borough Council in the course of their work for the Council;

and reports it, the Council will investigate any such allegations and, where appropriate, take action. The Council is also committed to preventing any harassment, victimisation or unfair treatment of any person arising from their whistleblowing, and where appropriate, take disciplinary action against any member of staff responsible for such harassment, victimisation or unfair treatment against a whistleblower.

1.5 This policy seeks to set out how the Council will handle and respond to any such allegations, made either by Council staff or members of the public.

1.6 This policy seeks to:

- a) encourage employees or their representatives to feel confident in raising concerns or allegations in the public interest about suspected serious wrongdoing in the Council and its services without fear of reprisals or victimisation even where the concern or allegations are not subsequently confirmed by the investigation;
- b) give a clear message that allegations of serious wrongdoing or impropriety are taken seriously;
- c) ensure that where the disclosure proves to be well founded, the individuals responsible for such serious wrongdoing will be held accountable for their actions;
- d) set out what employees can expect by way of confidentiality and protection when making a whistleblowing disclosure; and
- e) identify independent support for employees who wish to make a whistleblowing disclosure (see section 6).

1.7 This policy is not designed to be used:

- a) for raising or reconsideration of matters that come under existing internal Rotherham Metropolitan Borough Council procedures e.g. Grievance, Disciplinary, Capability, Dignity at Work or Rotherham Metropolitan Borough Council's general complaints procedure; or
- b) for allegations that fall within the scope of specific procedures (for example child or vulnerable adult protection) which will normally be referred for consideration under the relevant procedure, unless the employee has good reason to believe that the procedure is not being followed or will not be followed effectively; or
- c) as an appeal process from any complaint or grievance handled under any of the above procedures.

1.8 Where a complaint made under this policy falls outside the scope of the policy, e.g. where the complaint falls outside the scope of “serious wrongdoing”, Rotherham Metropolitan Borough Council will advise the whistleblower of this and consult with the whistleblower in respect of taking the complaint further. Wherever possible, the Council will comply with the views of the whistleblower, but there are situations where the Council is legally required to pass on details of allegations, without the consent of the whistleblower, such as in safeguarding matters, or where the allegations relate to serious criminal activity undertaken by individuals outside the Council.

1.9 Likewise, if an allegation made under either of the other above complaints processes falls under the remit of a “serious wrongdoing”, the Council will notify the whistleblower of this and investigate the allegation under this process.

## **2. The Public Interest Disclosure Act 1998 (“PIDA”)**

2.1 PIDA is designed to encourage and enable employees (which includes Agency Staff and any other individual working for the Council) to raise any concerns about any suspected serious wrongdoing, an illegal act or a dangerous situation within the organisation.

2.2 This is called making a “Protected Disclosure” under the Act, and when it is made in the public interest and in accordance with this policy, an employee is legally protected from harassment or victimisation as a result of the disclosure.

2.3 The person making the disclosure does not have to be directly or personally affected by the serious wrongdoing, but the disclosure must be made in the public interest.

2.4 To be protected, the disclosure must be in the public interest and raise a concern that:

- a) a criminal offence (e.g. fraud, corruption or theft) has been/is likely to be committed;
- b) a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject;
- c) a miscarriage of justice has been/is likely to occur;
- d) the health or safety of any individual has been/is likely to be endangered;
- e) the environment has been/is likely to be damaged;
- f) public funds are being used in an unauthorised manner;
- g) Rotherham Metropolitan Borough Council’s Constitution (including Standing Orders, Financial Regulations etc.) has not been observed or is being breached by a Borough Councillor(s) and/or a Council Officer(s);

- h) sexual or physical abuse by any member of staff on service user is taking place;
- i) unlawful discrimination is occurring to any member of staff or service recipient in relation to the legally protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation (see guidance on Equality Act at <http://www.equalityhumanrights.com/advice-and-guidance/new-equality-act-guidance/equality-act-guidance-downloads/>);
- j) any other form of improper action or conduct is taking place.
- k) information relating to any of the above is being deliberately concealed or attempts are being made to conceal the same.

2.5 PIDA will protect any employee or worker making a Protected Disclosure, irrespective of whether or not the disclosure relates to information gained in the course of their employment (e.g. a protected disclosure made by an employee acting as a service user would still fall under the PIDA protection).

2.6 If an Employee does not feel comfortable making a disclosure to the Council, he/she may be entitled to make a disclosure to other prescribed persons, as referred to at Paragraph 4.3 below.

### **3. Advice to employees wishing to raise a concern or make a disclosure**

3.1 Employees who have major concerns arising from their employment may wish to seek advice from their union or the charity Public Concern at Work (0207 404 6609 – <http://www.pcaw.org.uk>), to see whether the information which they wish to report would meet the definition of a ‘qualifying disclosure’ and whether they should be using this procedure, or some other procedure.

3.2 Alternatively, confidential support is also available for employees via the Human Resources Department.

### **4. How to report an actual or suspected serious wrongdoing**

4.1 A person who wishes to report any suspected serious wrongdoing (“a disclosure”) to the Borough Council should contact the Borough Council either by

e-mail to [whistleblowing@rotherham.gov.uk](mailto:whistleblowing@rotherham.gov.uk);

post to:- Whistleblowing

c/o the Director of Legal Services  
Rotherham Metropolitan Borough Council

Riverside House  
Main Street  
Rotherham  
S60 1AE

or

telephone:- 01709 255768, setting out the following

information:

Name (unless they wish to be anonymous)

Contact details (unless they wish to be anonymous)

Who has committed the alleged serious wrongdoing?

What is the nature of the alleged serious wrongdoing?

Alternatively a person wishing to report any suspected

wrongdoing may contact the following, providing the same

information:

Chief Executive on .....

Head of Internal Audit .....

4.2 Council employees are also entitled to make a Protected Disclosure through their manager, if they feel confident in approaching their manager to report a concern or allegation of serious wrongdoing that falls under this policy. The manager must follow the obligation of confidentiality, but must, as soon as possible, and no later than 2 working days after receiving the Protected Disclosure, log the disclosure in accordance with 8.1 above, and then confirm to the employee concerned, in writing or email, that this matter has been recorded.

4.3 In the event that an employee does not feel comfortable in making a disclosure internally to Council officers, they are entitled to also make a Protected Disclosure in a number of other different ways:

☐ Local Councillors – details of how to contact and surgery hours are on the Council's website [www.rotherham.gov.uk](http://www.rotherham.gov.uk).

☐ ..... - the Council's external auditors. They are completely independent from the Council and can be contacted on ..... or by writing to them at .....

☐ Relevant professional bodies.

☐ Solicitors.

☐ South Yorkshire Police – Tel No. 101.

☐ Public Concern At Work - An independent authority which seeks to ensure that concerns about malpractice are properly raised and addressed in the workplace.

Contact details are on their website at [www.pcaw.org.uk](http://www.pcaw.org.uk).

4.4 Concerns about a child safeguarding issue e.g. that a child may have suffered harm, neglect or abuse, can be reported to the Children's Social Care Service on 01709 .... ; or in an emergency contact South Yorkshire Police direct.

4.5 Adult safeguarding concerns can be reported to the Adult Care Service on 01709 ....., or in an emergency contact South Yorkshire Police direct.

## **5. How the Council will respond to a disclosure**

5.1 The Council will acknowledge receipt of a disclosure, whether it has been made by a member of the public and/or an employee, within 2 working days.

5.2 The Council will then consider and decide whether the disclosure falls under the whistleblowing criteria and, if not, will, wherever possible, seek the whistleblower's consent as to how the disclosure will be investigated.

5.3 Where appropriate, the matters raised may:-

- be investigated by management, Internal Audit or through the disciplinary process
- be referred to the Police
- be referred to the External Auditor
- the establishment of an external independent inquiry

5.4 The Council's decision will be given to the person making the disclosure, wherever possible, as soon as possible after receipt of disclosure, and no later than 5 working days after acknowledging receipt of the disclosure.

5.5 The decision letter should state who will be handling the disclosure, how that person can be contacted, what action is likely to be taken and when the employee or worker might expect to hear the outcome of the disclosure. A further letter, summarising progress to date, should be sent within another ten working days, and if the matter has not been resolved at that time the letter should include an estimate of how long it is likely to be before a full response can be provided.

- 5.6 However, there are situations where the Council is legally required to investigate, under separate procedures, without the consent of the whistleblower, such as investigating allegations of ill-treatment or abuse of children or vulnerable adults (safeguarding). In these circumstances, the Council will, wherever possible, advise the whistleblower that the disclosure will be investigated under another process, but there may be situations where it is not appropriate to disclose the existence of these investigations.
- 5.7 When the disclosure is considered to come under the whistleblowing policy, and the Council has assigned an investigator, he/she will contact the whistleblower, within a further 10 working days, to advise them of the following:
- a) the arrangements for confidentiality;
  - b) how the person making the disclosure will be expected to contribute to the investigation;
  - c) the outcome of any discussions which may have taken place over anonymity;
  - d) an estimate of how long the investigation is likely to take;
  - e) the name of the investigator appointed to undertake the investigation;
  - f) the right of an employee to representation by a recognised trade union or work colleague at any meeting; and
  - g) the right of any non-employee to seek support and representation at any meeting.
- 5.8 Rotherham Metropolitan Borough Council, wherever possible, will seek to advise the whistleblower of the outcome of the investigation. However, the Council is bound by the Data Protection Act and the Human Rights Act in respect of allegations relating to individuals, and may not be able to disclose information where legal proceedings are pending.
- 5.9 The use of this whistleblowing process does not automatically amount to acceptance by the Borough Council that the information provided is necessarily a qualifying disclosure.
- 5.10 For monitoring purposes the Borough Council keeps a list of communications received from people using this whistleblowing process. This information is used for monitoring purposes and to detect if there are areas where there is a high incidence of alleged serious wrongdoing.

## **6. Confidentiality and anonymity**

- 6.1 Although the PIDA does not refer to the confidentiality of concerns raised in a qualifying disclosure, there is a widespread assumption that such a disclosure will be treated in confidence as a means of preventing victimisation. Rotherham Metropolitan Borough Council will seek to avoid disclosing information identifying any whistleblower, even if the Council considers that the disclosure, by the

Whistleblower, falls outside the scope of a qualifying disclosure. However, there are situations where, due to the circumstances of the alleged serious wrongdoing, it is impossible to avoid disclosing information identifying any whistleblower. In these circumstances, Rotherham Metropolitan Borough Council will consult with the whistleblower prior to the disclosure taking place and offer support.

- 6.2 There may also be situations where the Council may be obliged to disclose information, such as where there are legal proceedings following on from the investigation of the whistleblowing investigation. This may require the disclosure of witness statements or correspondence, and there is even the possibility that the whistleblower may be expected to give evidence at any hearing. In these circumstances, the Council should discuss the implications for the whistleblower if he or she proceeds with the disclosure, and where appropriate, discuss appropriate support arrangements.
- 6.3 Rotherham Metropolitan Borough Council may also be required to disclose the identity of the whistleblower to third parties, where necessary for the purposes of undertaking investigations e.g. where the allegations relate to serious criminal offences where the Council considers that the Police should investigate.
- 6.4 Anonymous complaints will be considered but, depending on the information given and the credibility of the evidence, there may not be enough information for a proper investigation without the investigator being able to contact the whistleblower for further information and, in these circumstances, there may not be sufficient evidence to pursue an investigation. Therefore the Council would always encourage a whistleblower to provide their name in order to make an investigation easier and more effective, and enable feedback about the investigation to be provided. However anonymous allegations are preferred to silence about serious wrongdoing.
- 6.5 Rotherham Metropolitan Borough Council, as a public authority, is subject to the Freedom of Information Act. This means that there is a presumption that Rotherham Metropolitan Borough Council discloses any information it holds, unless that information falls under one or more exemptions and, in most cases, that the application of that exemption is in the public interest.
- 6.6 The Freedom of Information Act contains exemptions that may be applicable to permit the withholding of information identifying the whistleblower, including:
- s.40 Personal Data.
  - s.41 Information which, if disclosed, would give rise to an actionable breach of confidence.



- 6.7 If Rotherham Metropolitan Borough Council receives a request for information identifying a whistleblower, it will contact the whistleblower to seek their views in respect of the disclosure or withholding of the information requested and, wherever possible, it will seek to comply with those views.
- 6.8 The Council is mindful, in reconciling the legal obligation to disclose information it holds under the Freedom of Information Act 2000, of its legal obligations under:
- d) The Public Interest Disclosure Act 1998 to avoid the discrimination or victimisation of employees; and
  - e) The Health and Safety at Work etc. Act 1974, to protect the health and safety (including mental health) of employees.

## **7. Protecting an employee whistleblower**

- 7.1 Employees are protected if:
- they honestly think what they report is true;
  - they think they are telling the right person; and
  - they believe that their disclosure is in the public interest.
- 7.2 Any employee who makes a 'qualifying disclosure' which meets the definition in the Public Interest Disclosure Act is legally protected against victimisation for whistleblowing. The Borough Council has adopted this procedure in order to encourage early internal whistleblowing and demonstrate its commitment to preventing victimisation. If an employee claims that, despite that commitment, he or she has been victimised because of blowing the whistle, he or she should make a further complaint under this whistleblowing procedure directly to the Director of Legal Services.
- 7.3 An employee has the right to complain of victimisation as a result of any whistleblowing to an employment tribunal.
- 7.4 Any employee who victimises a whistleblower could:
- be subject to an internal council investigation and potential disciplinary action, including potential dismissal;
  - face a civil claim personally, as the affected whistleblower could be entitled to directly issue a legal claim against the culprit.

**8. Recording and monitoring complaints**

- 8.1 Rotherham Metropolitan Borough Council maintains a list of concerns raised by employees made under the Public Interest Disclosure Act. Inclusion in this list does not amount to acceptance that the communication amounts to a Protected Disclosure and any subsequent decision that the matter falls outside the Act will be added to the record on the list.
- 8.2 For the purposes of investigating whether or not there are any systemic issues that need to be addressed, and to monitor the performance of any investigation, an anonymised summary of all disclosures of serious wrongdoing, made by employees will be sent on a quarterly basis to:
- a) the Director for the area to which the complaint relates; and
  - b) the Standards Committee of Rotherham Metropolitan Borough Council.
- 8.3 The Council will record details of all complaints made under this policy, anonymising the identity of the whistleblower and use this information for the purposes of identifying areas of concern, which may indicate further action is required, and where appropriate, share this information with other appropriate regulatory bodies.
- 8.4 Both lists are maintained in accordance with the Data Protection Act 1998.
- 8.5 A report on the number of concerns will be published annually. This report will not include any information identifying any whistleblower.

## **Summary Sheet**

## **Council Report**

Standards Committee 4<sup>th</sup> December 2015

### **Title**

Code for Rotherham MBC: Senior Staff Working to Councillors

### **Is this a Key Decision and has it been included on the Forward Plan?**

No

### **Strategic Director Approving Submission of the Report**

S Booth

### **Report Author(s)**

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Catherine A. Parkinson, Interim Assistant Director Legal & Democratic Services and  
Monitoring Officer Tel: 01709 255768

### **Ward(s) Affected**

All

### **Executive Summary**

This report brings to the consideration of the Standards Committee the Code for Rotherham MBC: Senior Staff Working to Councillors, which has been prepared by Commissioner Sir Derek Myers in liaison with other Commissioners, Leaders of political groups, Trade Unions and Senior Officers.

**Recommendations**

1. That the Committee agree the Code for Rotherham MBC: Senior Staff working to Councillors.

**List of Appendices Included**

Appendix 1 - Code for Rotherham MBC: Senior Staff Working to Councillors

**Background Papers**

Model Code of Conduct

**Consideration by any other Council Committee, Scrutiny or Advisory Panel**

None

**Council Approval Required**

Yes as the recommendations will require a change to the council Constitution.

**Exempt from the Press and Public**

No

**Title:** Code for Rotherham MBC: Senior Staff Working to Councillors

**1. Recommendations**

1. That the Committee agree the Code for Rotherham MBC: Senior Staff working to Councillors.

**2. Background**

- 2.1 The recent reports of Alexis Jay the Corporate Governance Inspection and report and the arrival of the Commissioners have meant that that the Standards regime in the Council needed to be reviewed in order to contribute to the improvement of the Council.
- 2.2 As part of this it was recognised by the Lead Commissioner, Sir Derek Myers that as part of its recovery, Rotherham MBC will gain many new senior staff and many councillors, either new to local government or inexperienced in positions of leadership. These circumstances indicated that a written code covering expectations of councillors and Senior Staff when working together would be advantageous.
- 2.3 As such, Commissioner Sir Derek Myers in liaison with other Commissioners, Leaders of political groups, Trade Unions, and Senior Officers has produced the document attached at Appendix 1, entitled Code for Rotherham MBC: Senior Staff Working to Councillors.

**3. Key Issues**

- 3.1 It is essential that the roles and expectations of both members and Senior Officers working with them are fully understood by both parties. The document at Appendix 1 sets out the principles by which these relationships will be managed, and provides guidance as to the way in which members and officers should behave and conduct themselves, when working together.

**4. Options considered and recommended proposal**

- 4.1 Although there currently is a Member/Officer Protocol as part of the Constitution, the Code herewith provides more specificity as to the dynamics of the relationship expected between Senior officers and Members. As such this document, in the way in which it applies to members, will form part of the Code of Conduct for Members

**5. Consultation**

- 5.1 Consultation has been carried out as above.

## **6. Timetable and Accountability for Implementing this Decision**

- 6.1 The decision taken by this Committee will be referred to Council on 9<sup>th</sup> December 2015. Implementation of the decisions agreed will be with effect from the beginning of the new Municipal year in May 2016.

The Accountable Officer is the Monitoring officer.

## **7. Financial and Procurement Implications**

- 7.1 None

## **8. Legal Implications**

- 8.1 The Code at Appendix 1 will form part of the Councils Constitution.

## **9.0 Human Resources Implications**

- 9.1 The Code and Appendix 1 provides guidance as to roles and expectations in relation to behaviour and conduct for officers and members.

## **10.0 Implications for Children and Young People and Vulnerable Adults**

- 10.1 None

## **11.0 Equalities and Human Rights Implications**

- 11.1 The code applies equally to all officers and members and co-opted members.

## **12. Implications for Partners and Other Directorates**

- 12.1 None

## **13.0 Risks and Mitigation**

- 13.1 There is a risk that without this Code, understanding as to the respective roles of expectations of officers and members will be unclear.

## **14. Accountable Officer(s)**

Catherine A. Parkinson, Interim Assistant Director Legal & Democratic Services and Monitoring Officer; Tel 01709 255768

Stuart Fletcher, Legal & Democratic Services, Riverside House, Main Street, Rotherham, S60 1AE Tel : 01709 823523

Approvals Obtained from:-

Interim Assistant Director Legal & Democratic Services and Monitoring officer  
Catherine A. Parkinson

Head of Procurement (if appropriate):-N/A

**CODE FOR ROTHERHAM MBC: SENIOR STAFF WORKING TO COUNCILLORS****1. Purpose of this paper**

- 1.1 As part of its recovery, Rotherham will gain many new senior staff and many Councillors either new to local government or inexperienced in positions of leadership. It is also agreed that Scrutiny needs to be stronger and more productive. These circumstances indicate that a written Code covering expectations of Councillors and senior staff when working together would be advantageous.

**2. The Law's requirements**

- 2.1 All staff advising Councillors work to the Council as a whole, not just the party in power. How much advice or assistance (say in working up policy alternatives) is given to minority parties is something that can be agreed if necessary. It is not covered here.
- 2.2 Under the National Code of Conduct, Councillors when making decisions agree to take account of any advice from the Council's Monitoring Officer and Statutory Finance Officer.
- 2.3 Councils are subject to judicial review challenge if they make "*unreasonable*" decisions.
- 2.4 Councillors will take political principles and Party considerations into account but not to the exclusion of other relevant considerations.
- 2.5 Councillors need to consider any conflicts of interests. Such judgements are personal; they cannot be delegated to officers, though officers can provide a sounding board and offer advice.
- 2.6 Officers must be mindful of the law and senior staff in particular must give formal advice on statutory requirements as necessary.

**3. Some basic expectations**

- 3.1 Councillors and staff must treat each other with respect. Challenge and debate is healthy; however, no-one should shout or insult. Criticism can be a form of challenge and holding each other to account. However, those being criticised must have the right to reply.
- 3.2 Care should be taken to identify and make reasonable adjustments where individuals have particular needs by virtue of religion, disability or other characteristics covered by law.
- 3.3 Senior staff will need to brief Councillors in a timely, open and honest fashion. Briefings, in consultation with Councillors, may be via telephone or email. Suitable records of significant discussions should be kept.
- 3.4 In situations where significant choices have to be made or new requirements requiring significant action arise, senior staff are entitled to put formal advice in writing and Councillors should expect to reply in writing. Officer advice does not have to be taken but a decision against officer advice ought to be documented as to reasons.
- 3.5 Councillors who are operating as part of a Majority Administration ought to hold themselves as responsible for clear policy direction. Officers need to work to



understand such direction, though they may seek to influence it. Regular dialogue and review will ensure such policy direction can be operated and will withstand challenge. The best policy is often made by close working between Councillor political and conceptual direction and officer professional and management advice.

- 3.6 Councillors and senior staff need to operate within expectations of professional behaviour. This will normally preclude extensive or intensive social contact between individuals. A certain professional distance will avoid role confusion, bullying or over familiarity.
- 3.7 Officers are paid to be experts and should be treated as such but in return should not over-state their expertise. In some situations expertise is a minor component and other considerations including political principle and public credibility may be relevant. Senior staff should recognise these considerations lie outside their areas of expertise.
- 3.8 When asked questions or asked to give an account, senior staff must strive not to appear defensive or closed. A full, straightforward account should lead to better understanding and reflection. In return Councillors should not rush to judgement or blame precipitately.
- 3.9 Councillors should use officers to generate options, clarify implications and expand understanding of option appraisal.
- 3.10 Both Executive and Scrutiny Councillors will have reason to hold senior staff to account. It will be important that this is only senior staff. Chief Officers are responsible for the performance of all other staff, not Councillors.
- 3.11 When these demanding conversations are taking place there will be an additional expectation that all parties will commit to firm, precise and professional language, to avoid any sense of personal conflict.

## **4. Particular expectations within Rotherham**

- 4.1 Cabinet Members will agree an individual statement with their lead senior staff, setting out expectations covering what they expect to be told; how often they want to meet; how they want to work; what ambitions they have; their availability and any other matters designed to clarify expectations and build a professional partnership.
- 4.2 Written reports including reports to Executive Councillors, Scrutiny and Committees will be well written and signed off by both the report author and Chief Officer or other delegated senior officer.
- 4.3 Appraisal procedures for Chief Executive and Chief Officers will ensure both relevant Executive Councillors and the relevant Scrutiny Chair are part of the process and in the case of the Chief Executive the Leaders of the minority parties.
- 4.4 Outside of yearly appraisal processes, complaints against or concerns about senior staff should be made to the Head of Paid Service (usually the Chief Executive). A complaint against the Chief Executive should be addressed to the Monitoring Officer.

## **5. Scrutiny Processes in Rotherham**

- 5.1 All staff of the Council owes the same duty to the scrutiny systems as they do to the executive systems. It is not the job of staff to 'protect' the executive side of the Council (i.e. the Cabinet) from challenge, analysis or adverse observation by Councillors charged with scrutiny, although it can be appropriate to keep Executive Councillors abreast of work scrutiny are doing.
- 5.2 Scrutiny in Rotherham will include both scrutiny of decisions taken (where decision-makers might be asked to give an account of why the decision has been made);

scrutiny of delivery (where senior staff and accountable executive Councillors might be asked to give account for what has or has not happened or is promised) and “overview” where Scrutiny of its own volition or at the request of an Executive Councillor, will look into policy options, service improvements, value for money or other issues important to the people of Rotherham.

- 5.3 Good systems operate best within clear, well-planned expectations. In particular Scrutiny Programmes will be planned in advance, so that the appropriate staff and Executive Members can attend.
- 5.4 As scrutiny operates, Executive Councillors will need to own and explain the decisions that they have made and senior staff will need to explain any decisions they have made or advice they have given, but the distinction between the two must be clear.
- 5.5 Attendance by officers at scrutiny meetings will be decided by Chief Officers. They may ask specialist, more junior staff to attend to provide specialist information. Attendance of scrutiny should never be just junior staff. As a courtesy, Chief Officers should periodically review attendance of scrutiny committees with Chairs of Committees to discuss what is practical, reasonable and appears to be working or otherwise.
- 5.6 Scrutiny Councillors have no authority to act alone, save that the Chair and any agreed sub-groups (and therefore chairs of sub-groups) can be expected to act as a representative of the main Committee.
- 5.7 Individual Councillors with individual concerns or who wish to challenge policy or performance matters can ask for an item to go on a scrutiny agenda, and even if not a member of that scrutiny committee, can attend and speak to that item with the permission of the Chair.
- 5.8 The Head of Paid Service (usually the Chief Executive) is responsible for ensuring the scrutiny and executive systems are both adequately supported, and should as a matter of courtesy attend some scrutiny activity each year.
- 5.9 Both the Leader of the Council and Chief Executive have the right to join any scrutiny meeting and can contribute at the invitation of the Chair of that meeting. The appropriate Advisory Cabinet Member will usually be invited to attend scrutiny meetings under his or her portfolio.
- 5.10 Scrutiny committees may wish to hear from representatives of agencies other than the Council and Democratic Services staff will seek to make these arrangements. The same courtesies as outlined above will be extended to any such guests attending scrutiny committees.
- 5.11 Democratic Services staff are responsible for drafting scrutiny output reports. They are likely to want to check with colleagues in service departments to ensure accuracy in matters of fact and the feasibility and the legality of any recommendations.