

## **APPENDIX 3**

### **DRAFT PROTOCOL RELATING TO THE INDEPENDENT PERSON**

#### **Introduction**

The Localism Act 2011 introduced a new system of members' standards in local government. This included the duty under section 27 of the Act to appoint an Independent Person. The council has already decided upon the Role Description for the post holder. This new role requires the person appointed to relate to the Council's Standards Committee and also to the Monitoring Officer. The purpose of this protocol is to set out the principal ways in which the Council, the Monitoring Officer and the Independent Person will interact within the new Member Standards system. The protocol is not seeking to be prescriptive but rather to set out the general principles which all parties will use their best endeavours to comply with.

The Council has appointed three Independent Persons. If appropriate, more than one Independent Person may be involved to assist the different parties and the Monitoring Officer.

#### **1. Contact with the Independent Person**

- (i) A Member of the District Council or of a Town or Parish Council who is the subject of a complaint should only contact the Independent Person if a formal complaint has been made in writing to the Council. The Monitoring Officer will notify the Independent Person of all formal complaints. If a Member contacts the Independent Person prior to a formal complaint being lodged, the Independent Person will refer them to the Monitoring Officer.
- (ii) The Independent Person should not discuss a potential or actual complaint directly with the potential complainant or complainant and shall refer the complainant to the Monitoring Officer to speak directly to any complainant.

#### **2. Considering written allegations**

- (i) Where the Monitoring Officer is acting under delegated powers in considering written allegations, the Monitoring Officer will seek the views of the Independent Person before reaching a decision on whether any further action should be taken on a written complaint.
- (ii) When issuing the decision letter, the Monitoring Officer will record that the Independent Person has been consulted and that their views have been taken into account. Where the view of the Monitoring Officer and Independent Person differ, the Monitoring Officer will record the reasons for following a

particular course. The letter will make it clear that it is the Monitoring Officer and not the Independent Person who is the decision maker.

- (iii) Where the Monitoring Officer refers a written allegation to the Standards Committee rather than determining whether any further action should be taken acting under delegated powers, the Committee shall have discretion as to whether or not to consult the Independent Person on the matter before reaching their decision.
- (iv) The Monitoring Officer may ask the Independent Person to support her/him in efforts to try to resolve complaints informally where the basis of the complaint appears unsubstantial or otherwise does not appear to warrant a formal investigation or where an alternative route to formal investigation would appear to offer a better means of resolving the matter e.g. where it appears that complaints have been made on a tit for tat basis or where a Town or Parish Council appears to have become dysfunctional.

### 3. Relationship with the Standards Committee

- (i) The Monitoring Officer may consult the Independent Person where appropriate on recommendations to the Standards Committee particularly where these relate to the procedures for handling complaints.
- (ii) The Independent Persons shall receive agendas and minutes of all meetings of the Standards Committee and shall be entitled to attend the Committee as advisors.
- (iii) Where a matter has been referred to the Standards Committee for determination, the Committee must seek the views of the Independent Person before reaching its conclusions. The Independent Person may attend the Committee to convey their views or may alternatively submit their views in writing to the Committee. The Independent Person's view will be recorded in any decision notice and, where those views do not reflect the final outcome, reasons will be given. The Independent Person would not attend any pre-hearing meeting of the Committee.

### 4. Right of Access to Documentation

The Independent Person shall have a right of access to such relevant files and other documents as are necessary to fulfil their duties and obligations as set out in this protocol, their role description and the arrangements adopted from time to time by the Council for dealing with standards complaints. Normally access to files and other documents will be through the Monitoring Officer, Deputy Monitoring Officer or other officer appointed on their behalf.

## 5. Confidentiality

- (i) The Independent Person shall respect the confidentiality of any documents provided to them and shall be responsible for their safe custody.
  
- (ii) The Independent Person should respect the general confidentiality of the Council's Standards process and should not proactively make any comments to the media on any matter relating to any matters relating to the Council's Standards business. Any requests for comments from the media should be referred in the first instance to the Monitoring Officer who may refer these to the Chair of the Standards Committee, as appropriate.

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