



STRATFORD-ON-AVON DISTRICT COUNCIL

PROTOCOL RELATING TO INDEPENDENT PERSON

This Protocol sets out the relationships between the Independent Persons (IP's) and the various parts of the Council involved in the process of handling Code of Conduct complaints and the wider promotion of Standards. Its aim is to ensure that responsibility is clear at each stage of the process and to set out the expectations and rights of the IP's.

It is written with the following assumptions:

1. Each of the IP's has an equal right to give his/her views when requested by the Monitoring Officer (MO), the Audit and Standards Committee or a subject Councillor with respect to any particular complaint or hearing except where, for any reason, they are deemed by the MO to have a conflict of interest. In such a situation the IP will withdraw from involvement.
2. The MO is solely responsible for taking decisions on whether or not any further action should be taken with regard to a complaint or an investigation.
3. The MO will consult each IP on allegations which appear to show a potential breach of the Code of Conduct before reaching a decision. The relevant details will be sent by email and also by post. However, should one of the IP's be unavailable or fail to respond to the MO within 15 working days of the date of the email request the MO will be entitled to proceed once the views of the available IP have been given.
4. As required by the Localism Act 2011 the local arrangements permit the subject Councillor to have access to each of the IP's. Any such access is restricted to postal or email contact only and there is no right for the subject councillor to meet either of the IP's. If an IP is contacted by a subject councillor a written record of the discussion will be kept and this will be forwarded to the MO.

Considering written allegations

1. Save as otherwise referred to above the MO will seek the views of each IP before reaching a decision on the action to take on a written complaint that meets the criteria for consideration as a Code of Conduct complaint.
2. When issuing the decision letter the MO will record that he has consulted each of the IP's and that their views have been taken into account.
3. Where the views of the MO and the IP differ the MO will record the reasons for the difference of opinion and explain them in writing to the relevant IP. The

letter to the complainant and subject Councillor will make clear that it is the MO, and not the IP, who is the decision maker.

4. As indicated above, a Councillor who is the subject of a complaint is entitled to seek the views of each of the IP's. For this purpose, the only contact details of the IP's that will be offered to the subject Councillor are their postal and email addresses. When the IP's views are sought in this way they will not advise the subject councillor on the merits of either the complaint or the alleged conduct and they will refer the subject councillor to the MO should any procedural queries be made. The IP's will inform the subject councillor that their role is a statutory one and that they are part of the overall process in order to ensure that it is fairly applied on both sides.
5. When an IP is approached by a subject Councillor for his/her views the IP will make clear that it is not his/her role to advise the subject councillor on either matters of procedure (which should be referred to the MO) or the likelihood of the Code of Conduct having been breached (which is a matter upon which the subject Councillor must seek their own advice). The IP should make a written record of any views which he/she gives to a subject Councillor and forward them to the MO to be kept on file.
6. Save in exceptional circumstances, which will be agreed between the MO and the IP's, meetings between the subject Councillor and either or both of the IP's shall not take place.

Matters under Investigation

1. The MO may consult each of the IP's at any stage during the process including on matters which relate to the procedures for handling complaints.
2. When an investigation has been concluded and a final report submitted to the MO by the Investigating Officer its contents will be shared with each of the IP's and their views sought on the appropriate course of action for the MO to take. Where the view of the MO and either of the IP's differ the MO will make a record of the reasons for the difference of opinion and notify them to the relevant IP. The letter to the subject Councillor and the complainant will make clear that the MO has taken the relevant decision but that the views of the IP's have been taken into account.
3. Where the MO has referred a matter to the Audit and Standards Committee for hearing and determination the Committee must seek the views of each of the IP's before reaching its conclusions. The IP's will be invited to the Committee as observers and invited to give their views prior to determination. Should either of the IP's be unavailable to attend the Committee meeting his/her views will be requested in writing and made available to members of the Committee at the appropriate time. The Clerk to the Committee will record each of the IP's views in the committee minutes and where the Committee's decision does not reflect the IP's viewpoint the decision notice will make this clear and give reasons for not doing so. It will also make clear that it is the Committee and not the IP who is the decision maker.
4. The IP's should not make any comments to the media. Any requests made to an IP for comments from the media shall be referred in the first instance to the MO who may refer these to the Chairman of the Audit and Standards Committee and/or the Council's Communications officer as appropriate.

5. The IP may be requested by the MO or Audit and Standards Committee to assist in any training on code of conduct issues as appropriate.

Relationship with the Audit and Standards Committee

1. Each of the IP's shall receive agendas and minutes of all meetings of the Audit and Standards Committee and shall be entitled to request items to be included on the agenda with the agreement of the Chairman. The IP's can attend meetings as observers and, with the permission of the Chairman the IP may speak to the Committee.
2. The IP's are not members of the Audit and Standards Committee and therefore are not part of the formal business of the meeting and cannot vote on any matters put to the meeting. They may be invited to observe confidential matters with the agreement of the Chairman.

Other Matters

1. An IP has the right to raise any concerns about Standards issues or implementation of the complaints process with the Council's Executive Directors or the MO. He/she also has the right to address a meeting of the Full Council about any concerns.
2. The Council, through the Audit and Standards Committee and MO, is responsible for ensuring that the Council meets its duty to promote and maintain high standards of conduct by Councillors. However, an IP has the right to be consulted on any proposed changes to the Code of Conduct or to the Arrangements for dealing with complaints of Councillor Misconduct.
3. An IP has the right of access to any confidential information which he/she requires to carry out his/her role effectively. The MO will agree with the IP how they can access such information and how it should be stored.
4. The MO will meet with the IP's to review relevant matters once a quarter and more frequently should the need arise. Each of the IP's will declare to the MO any relevant interests in relation to particular matters and the MO will decide whether the interest conflicts the IP out of involvement with that particular matter.
5. The IP is considered to be an office holder of the Authority in accordance with the duty under Section 28(7) of the Localism Act 2011 and is therefore entitled to be covered by the Council's Indemnity Insurance provided he/she acts reasonably and within the terms of this Protocol.