

## **STANDARDS COMMITTEE**

Wednesday 28 November 2012

### **Present:**

Councillor David Henson (Chair)  
Councillors Branston, Brock, Laws and Winterbottom

### **Apologies:**

Councillor Payne

### **Also present:**

Corporate Manager - Legal, Corporate Manager Democratic and Civic Support and Member Services Officer (SLS)

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### **APPOINTMENT OF CHAIR**

Members were reminded of the changes in the governance arrangements and standards regime resulting from the Localism Act 2011, which came into force on 1 July 2012. The status of the former Independent Members on the City Council's Standards Committee, one of whom was the Chair, had changed, and, as 'Independent Persons', they had more of an advisory role and were no longer a member of the Committee. Therefore a nomination for the position of Chair was sought for the meeting, and also for the position of Chair and Deputy Chair for the remainder of the Municipal Year until the Annual Meeting of Council in May 2013.

**RESOLVED** that Councillor David Henson be appointed Chair for the meeting.

**RECOMMENDED** to Council that: -

- (1) Councillor David Henson be appointed Chair for the remainder of the Municipal Year, until the Annual Meeting of Council in May 2013; and
- (2) Councillor Mrs Stella Brock be appointed Deputy Chair for the remainder of the Municipal Year, until the Annual Meeting of Council in May 2013.

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### **MINUTES OF PREVIOUS MEETING**

The minutes of the meeting held on 21 June 2012 were taken as read, and signed by the Chair as correct.

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### **DECLARATIONS OF INTEREST**

There were no declarations of interest.

## **REVIEW OF THE MEMBERS' CODE OF CONDUCT**

The Corporate Manager Legal/Monitoring Officer presented a report which sought Members' approval of a further revision of the Members' Code of Conduct for adoption by Council.

Following a new requirement for Members to register Disclosable Pecuniary Interests, which came into force on 1 July 2012, Members had retrospectively adopted a new Code of Conduct at Council on 17 July 2012. However, after a period of reflection and practice, a number of amendments were sought to provide greater clarity of the process for Members, and also the general public. The report included as an appendix, a copy of the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, which set out the duty of Members to register and declare such interests that they or their spouse, civil partner or person with whom they are living might have. Members were also reminded that the Monitoring Officer was able to offer further clarification of individual circumstances to any Member should it be required, prior to any Council meeting. The revised Code of Conduct was circulated with the agenda as an appendix. Members welcomed the opportunity to revise the Code of Conduct and raised a number of issues.

The Monitoring Officer responded to a number of comments in relation to the advisory role of the Independent Persons. The Act prohibited the re-appointment of Mr Andrew Mimmack and Professor Kirby, and a recruitment exercise would take place in the first few months of 2013. The role of Independent Members had completely changed, and although no longer a member of the Committee, would be called upon to assist with any complaints relating to Members. The Monitoring Officer also referred to the forthcoming Member Briefing in December, which would provide a useful opportunity to reiterate the main elements of the Code.

**RECOMMENDED** to Council, that :-

- (1) the amended Code of Conduct, as set out in Appendix 2 to the circulated report, and as recommended by the Monitoring Officer, be approved and adopted with immediate effect;
- (2) the revised Code of Conduct replace the existing code in the Council's Constitution; and
- (3) the Monitoring Officer be authorised to commence the recruitment process for the appointment of two new Independent Persons early in 2013, for approval at the Annual Council meeting in 2013.

(Report circulated)

## **DEALING WITH COMPLAINTS AGAINST MEMBERS**

The Corporate Manager Democratic and Civic Support /Deputy Monitoring Officer circulated a revised procedure for dealing with complaints in terms of the behaviour of a local authority councillor in Exeter. Although Exeter City Council did not experience many such complaints, he reminded Members of the process. The procedure provided information and guidance for potential complainants, outlined the new complaints regime and set out the complaints process through to its conclusion. It also included the expected behaviour by Members, as set out in the Code of Conduct.

The Monitoring Officer responded to a number of comments about the complaints procedure. A Member suggested that the Chair of the Standards Committee should also be consulted, along with the Council's Independent Persons. It was suggested that a report detailing the number and nature of complaints be made annually to the Standards Committee.

**RECOMMENDED** to Council, that the amended procedure for dealing with complaints relating to Members, be adopted, with immediate effect.

(Document circulated)

(The meeting commenced at 4.30 pm and closed at 5.50 pm)

Chair

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**Exeter City Council**

**Code of Conduct**  
**For Members and Co-opted Members**

**Together with**

**The Rules on Registration and Declaration of**  
**Pecuniary and other Interests**

# **Exeter City Council**

## **Member's Code of Conduct**

### **Introduction**

Pursuant to section 27 of the Localism Act 2011, Exeter City Council ('the Council') has adopted this Code of Conduct to promote and maintain high standards of behaviour by its members and co-opted members whenever they conduct the business of the Council including the business of the office to which they were elected or appointed or when they claim to act or give the impression of acting as a representative of the Council.

This Code of Conduct aims to facilitate openness and accountability necessary to reinforce public confidence in the way members perform their public duties.

### **Definitions**

For the purposes of this Code, a 'co-opted member' is a person who is not a member of the Council but who is either a member of any committee or sub-committee of the Council, or 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 that falls to be decided at any meeting of that committee or sub-committee.

For the purposes of this Code, a 'meeting' is a meeting of the Council, any of its committees, sub-committees, joint committees or joint sub-committees.

For the purposes of this Code, and unless otherwise expressed, a reference to a member of the Council includes a co-opted member of the Council.

## PART 1

### 1. GENERAL PRINCIPLES OF CONDUCT

In carrying out their duties and in exercising the functions of the Council or otherwise acting as a councillor, members are expected to observe the following general principles of conduct. The following principles will be taken into consideration when any allegation is received of breaches of the provisions of the Code.

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

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

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

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

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

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

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

## **2. EXPECTATIONS OF CONDUCT**

1. Members shall at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the Council.
2. Members shall base their conduct on consideration of the public interest and avoid conflict between personal interest and the public interest and resolve any conflict between the two in favour of the public interest.

## **3. RULES OF CONDUCT**

When a member of the Council acts, claims to act or gives the impression of acting as a representative of the Council, he/she shall comply with the following rules.

1. Behave in such a way that a reasonable person would regard as respectful.
2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.
3. He/she shall not seek to improperly confer an advantage or disadvantage on any person.



4. He/she shall use the resources of the Council in accordance with its requirements.
5. He/she shall not disclose information which is confidential or where disclosure is prohibited by law.
6. He/she shall have regard to any relevant advice provided by the Council's Chief Financial Officer and the Monitoring Officer.
7. He/she shall co-operate at all times with any investigation into their conduct.

## PART 2

### REGISTRATION, DISCLOSURE AND DUTIES IN RESPECT OF MEMBERS' INTERESTS

#### 1. REGISTRATION OF INTERESTS

Members shall fulfil conscientiously the requirement in respect of the registration of interests in the Register of Members' Interests and where it is appropriate to do so, shall always draw attention to any relevant interest in any proceedings of the Council, the Executive (or any committee or sub committee), or in any communication with the Council, its members or officers.

#### APPENDIX 1

#### DISCLOSABLE PECUNIARY INTEREST (DPIs)

These declarations include the relevant members' interest including any interest of which the member is aware relating to his/her:

- spouse or
- civil partner or
- of any person with whom he/she is living as a husband or wife or civil partner.
- Disclosable pecuniary interest or prescribed by Regulations and fall within the following headings;

#### **1. Employment, Office, Trade, Profession or Vocation**

Please give details of any employment, office, trade, profession or vocation carried on for profit or gain.

## **2. Sponsorship**

Please give details of any payment or provision of any financial benefit (other than from Exeter City Council) made or provided 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.

## **3. Contracts: for Goods, Works or Services with the Council**

Please give details of any contracts for goods, works or services you (or firm or company by which you are employed or which you own or in which you have a beneficial interest) have with Exeter City Council

## **4. Landholdings in the Area**

Please give the address or other description (sufficient to identify the location) of any land or property in Exeter City Council's area in which you have a beneficial interest, indicating whether you are the owner, lessee or tenant.

You must include the house you live in and for example an allotment you own or use.

## **5. Licences**

Please give details of any licence (alone or jointly with others) to occupy land within Exeter City Council's area where such licence is for a period longer than one month.

## **6. Corporate tenancies**

Please give details of any tenancy where land is leased or licensed from Exeter City Council by you or any body, firm or company by which you are employed or which you own or in which you have a beneficial interest.

## **7. Securities: Interests in Companies**

Please give details of body which has a place of business or owns land in Exeter City Council's area and in which you have a beneficial interest (a shareholding) of more than:

- £25,000 (nominal value) or more than 1/100th of the total share issue of that body (whichever is the lower) or
- if there is more than one class of share, the total nominal value of shares in

any class of that body of more than 1/100th of the total shares of that class.

Note: It is not necessary to declare the nature or size of the holding, simply the name of the company or other body.

## **APPENDIX 2 - OTHER INTERESTS**

A member must declare any other interest in any business of the Council where it relates to the well being or financial position of the member, his/her friend, relative or close associate where a member of the public, knowing the relevant facts, would reasonably think the existence of the interest in question is likely to affect the member's judgment of the public interest.

## **REGISTRATION OF INTERESTS**

1. Within 28 days of this Code being adopted by the Council, or the member's election or the co-opted member's appointment (where that is later), he/she shall register all disclosable pecuniary interests which fall within the categories set out in Appendix 1.
2. Upon the re-election of a member or the re-appointment of a co-opted member, he/she shall within 28 days re-register any disclosable pecuniary interests described in Appendix 1.
3. A member shall register any change to his/her registerable pecuniary interests or new interests falling within the definition set out Appendix 1 within 28 days of becoming aware of it.
4. A member need only declare on the public Register of Interests the existence but not the details of any interest which the Monitoring Officer agrees is a 'sensitive interest'. A sensitive interest is one which, if disclosed on a public register, could lead the member or a person connected with the member to be subject to violence or intimidation.

## DECLARATION OF INTERESTS

1. Where a matter arises at a meeting which relates to a Pecuniary Interest which is declarable in Appendix 1, the member shall not participate in a discussion or vote on the matter. The member shall withdraw from the room at the commencement of the consideration of that business. He/she only has to declare what his/her interest is if it is not already entered in the Member's Register of Interests or if he/she has not notified the Monitoring Officer of it.
2. Where a matter arises at a meeting which relates to a Pecuniary Interest in Appendix 1 which is a sensitive interest, the member shall not participate in a discussion or vote on the matter. The member shall withdraw from the room at the commencement of the consideration of that business. If it is a sensitive interest which has not already been disclosed to the Monitoring Officer, the member shall disclose he/she has an interest but not the nature of it.
3. Where a matter arises at a meeting which relates to "other Interests" declarable under Appendix 2, the member shall disclose the nature of the interest and withdraw from the meeting. He/she may speak on the matter before withdrawing only if members of the public are also allowed to speak at the meeting. If it is a 'sensitive interest' the member shall declare the interest but not the nature of the interest.

## **DISPENSATIONS**

On a written request, the Council's Monitoring Officer may grant to a member a dispensation to participate in a discussion and vote on a matter at a meeting even if he/she has an interest in Appendices 1 and/or 2 where the Monitoring Officer believes that:

- the number of members otherwise prohibited from taking part in the meeting would impede the transaction of the business; or
- it is in the interests of the inhabitants in the Council's area to allow the member to take part or
- it is otherwise appropriate to grant a dispensation.

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## Exeter City Council

### Exeter City Council

# How to make a Complaint about the behaviour of a local authority Councillor in Exeter

Policy development and Version details  
V1 November 2012

<b>Title</b>	How to make a Complaint about the behaviour of a local authority Councillor in Exeter
<b>Author</b>	John Street
<b>Owner</b>	Office of Democratic & Civic Support Manager
<b>Effective from</b>	
<b>Review dates</b>	
<b>Status for FOI</b>	Open
<b>EIA conducted</b>	
This policy can be made available in large print and other formats such as printed on yellow paper, taped, Braille etc. as requested.	

## **CODE OF CONDUCT FOR COUNCILLORS: INFORMATION AND GUIDANCE FOR POTENTIAL COMPLAINANTS**

### **The new complaints regime**

The law and arrangements for dealing with complaints against elected or co-opted councillors was changed as from 1 July 2012. Whilst the responsibility for considering written complaints against elected councillors of Exeter City Council for breach of the Code of Conduct for councillors still sits with this Council's Standards Committee, the rules have changed and there is no longer one statutory code that applies to all councils. In addition the regulatory body, Standards for England, has been abolished and the focus now is on local solutions to local problems. The sanctions available to the Standards Committee have also been constrained and are set out later in this note.

The complaints process and related matters are overseen by the Standards Committee of Exeter City Council. This Committee is a group of councillors appointed by Exeter City Council to help maintain and promote high ethical standards.

### **Is this a complaint that can be dealt with?**

The points listed below will help you decide whether this is something that can be dealt with by the Standards Committee. You should speak to the Monitoring Officer if you are not clear if the Standards Committee can consider your complaint.

Please note that trivial, frivolous, vexatious and politically motivated tit-for-tat complaints are likely to be rejected.

The Monitoring Officer will make the decision about what action, if any, to take on your complaint.

- Your complaint must be about conduct that occurred while the councillor(s) complained about were in office. Conduct of an individual before they were elected to the authority, or after they have resigned or otherwise ceased to be a councillor, cannot be considered by the Standards Sub-Committee.
- Your complaint must be about one or more named councillors of Exeter City Council.
- Your complaint must be that the councillor(s) has, or may have, breached the Council's Code of Conduct.
- The alleged breach must have occurred when the councillor was acting in their "official capacity". What the councillor does in their private life is not a matter for the Code of Conduct.
- Complaints about dissatisfaction with a decision or action of the authority or one of its committees, a service provided by the authority or the authority's procedures or decision making, do not fall within the jurisdiction of the Standards Committee. Complaints about the actions of people employed by the authority also do not fall within the jurisdiction of the Standards Committee.

- **Your complaint must be in writing.** If a disability prevents you from making your complaint in writing then please let us know and we will provide you with appropriate assistance.

It is important to note that not every complaint that does fall within the jurisdiction of the Standards Committee will be referred for investigation. The Monitoring Officer must decide whether this is appropriate. The Monitoring Officer will endeavour to resolve complaints without the need for a formal investigation. The factors to be taken into account in reaching a decision are:-

- Whether a substantially similar allegation has previously been made by you to the Standards Committee, or the complaint has been the subject of an investigation by another regulatory authority;
- Whether the complaint is about something that happened so long ago that those involved are unlikely to remember it clearly enough to provide credible evidence, or where the lapse of time means there would be little benefit or point in taking action now;
- Whether the allegations are anonymous;
- Whether the allegation discloses a potential breach of the Code of Conduct, but the complaint is not serious enough to merit any action and:-
  - The resources needed to investigate and determine the complaint are wholly disproportionate to the allegations;
  - Whether, in all the circumstances, there is no overriding public benefit in carrying out an investigation
- Whether the complaint appears to be malicious, vexatious, politically motivated or tit-for-tat;
- Whether the complaint suggests that there is a wider problem throughout the authority;
- Whether it is apparent that the councillor complained about is relatively inexperienced, or has admitted making an error and the matter would not warrant a more serious sanction;
- Whether a simple apology, training or conciliation would be the appropriate response;
- Whether a reasonable offer of local resolution is offered by the councillor the subject matter of the complaint but is rejected by you.

### **What happens once you submit your complaint?**

When you submit your complaint we will write to you to let you know we have received it, usually within 5 working days. We will notify the councillor to whom the complaint relates with details of the complaint and invite them to make representations. These must be received by the Monitoring Officer within 10 working days of receiving the notification.

The Monitoring Officer will contact you with their initial assessment of the complaint. You and such other persons as the Monitoring Officer feels appropriate may be required to provide additional information in order that they can complete this assessment. On the completion of this initial assessment, the Monitoring Officer will contact you to advise you whether your complaint relates to a breach of the Code of Conduct and what action is proposed. The councillor will be similarly informed. This will all happen within an average of 25 working days of the date we have receive your complaint or additional information (where requested). Before making any decision, the Monitoring Officer will discuss your complaint with an "Independent Person". This is an individual who is a not a councillor and who Exeter City Council is required to appoint to assist it in dealing with complaints against councillors.

If the Monitoring Officer considers that an investigation is required to establish the facts, then the Monitoring Officer or someone acting on their behalf will undertake this.

If the investigation reveals no failure to comply with the code then the Monitoring Officer, after consulting with the Independent Person, is authorised to close the matter and issue his/her report to the complainant and the councillor complained about. The Monitoring Officer can also refer the matter to the Standards Committee before exercising that power.

If the investigation reveals a failure to comply with the code then the Monitoring Officer in consultation with the Independent Person is authorised to seek a local resolution of the complaint providing all parties agree. If a local resolution is not appropriate or not agreed by the parties, then the outcome of the investigation will be reported to a Standards Sub-Committee comprising of 3 Members of the Standards Committee (one from each Political Group represented on the Council) for a local hearing. This hearing will be held in public and although conducted on a relatively informal basis, both parties will be able to make representations and call witnesses. At the end of the hearing, the Sub-Committee, after consulting with the Independent Person, will decide whether, on the balance of probabilities, there has been a failure to comply with the Code of Conduct and what "sanctions" should be imposed. Although there is no right of appeal against the decisions of the Monitoring Officer or Sub-Committee, if you are unhappy with the outcome then you are still entitled to complain to the Local Government Ombudsman or challenge any decision through the Courts by way of Judicial Review.

The procedure the Council has adopted is designed to be proportionate, timely and fair to both sides. Its overriding objective is to seek to provide pragmatic local solutions to local problems wherever possible.

### **What happens if the complaint is to be investigated?**

The complaint will be investigated by the Monitoring Officer or investigators appointed by him/her. The Monitoring Officer will let all those involved know that this is the case and the process that will be followed.

At the end of an investigation, the Monitoring Officer will issue a draft report and invite comments which must be received within 10 working days. The Monitoring Officer will send a copy of the final investigation report to you, the Standards Committee, the councillor complained about and the Independent Person. If a hearing is required and reaches a finding that there has been a failure to comply with the Code, then there is a limited range of sanctions available as set out below. There is no longer the ability for the Standards Committee to suspend a Member and

neither is there any ability to refer a complaint to another body as previously was the case when Standards for England existed.

### **How should I set out my complaint?**

It is very important that you set your complaint out fully and clearly, and provide all the information at the outset. You should also provide any documents or other material that you wish to be considered. If a complaint does not contain sufficient information it may not be dealt with.

We recommend that you use our complaint form or provide a covering note summarising what you are complaining about, especially if your complaint includes a lot of supporting documentation. In the summary you should tell us exactly what each person you are complaining about said or did that has caused you to complain. If you are sending supporting documentation please cross-reference it against the summary of your complaint.

You should be as detailed as possible and substantiate your complaint where you can. Although you are not required to prove your complaint at this stage of proceedings, you do have to demonstrate that you have reasonable grounds for believing that the councillor(s) complained about has breached the Code of Conduct.

### **I am the complainant but I don't want my identity revealed**

If you ask for your identify to be withheld, this request will be considered by the Monitoring Officer at the initial assessment stage.

As a matter of fairness and natural justice, the councillor you complained about should usually be told who has complained about them and receive details of the complaint. However, in exceptional circumstances, the Monitoring Officer may withhold your indentify if on request from you, or otherwise, they are satisfied that you have reasonable grounds for believing that you or any witness relevant to the complaint, may be at risk of physical harm, or their employment may be jeopardised if your or their indentify is disclosed, or where there are medical risks (supported by medical evidence) associated with their or your identity being disclosed.

If the Monitoring Officer decides to refuse your request for confidentiality, they will offer you the option to withdraw the complaint, rather than proceed with the your identify being disclosed. The Monitoring Officer will balance whether the public interest in taking action on a complaint will outweigh your wish to have your identify withheld.

### **What you should do if you wish to submit a written complaint**

- Get a copy of the Code of Conduct to see whether the behaviour you wish to complain about is covered by their code. **If it is not covered by the relevant code then it is unlikely we will be able to deal with it.**
- Talk to / raise the matter with the Council's Monitoring Officer for general advice before submitting a formal complaint.
- Fully complete the attached complaints form (or ensure your letter of complaint addresses, in full, all of the issues covered in the complaint form.)

- Submit the written complaint by post, email or fax to the address set out below, as soon as possible after the date of the alleged breach.

**Address for submission of a written complaint**

Baan Al-Khafaji  
Corporate Manager – Legal & Monitoring Officer  
Civic Centre  
Paris Street  
Exeter  
EX1 1JN

Tel: 01392 265874

Fax: 01392

Email: [baan.al-khafaji@exeter.gov.uk](mailto:baan.al-khafaji@exeter.gov.uk)

If you would like this document translated into other languages or into Braille, large print, audio tape or CD, please contact:

 01392

## Behaviour covered by the Code of Conduct

You can complain about a councillor breaking any part of Exeter City Council's Code of Conduct. This means you need to have seen the Code of Conduct relating to the councillor about whom you wish to complain and that the behaviour you wish to complain about is covered by the code. The Standards Committee cannot consider any complaints that fall outside of the Code of Conduct.

The code that relates to Members of Exeter City Council covers the following areas:-

- Unlawfully discriminating against someone
- Failing to treat people with respect
- Bullying any person
- Intimidating any person involved in any investigation or proceedings about someone's misconduct
- Doing something to prevent those who work for the authority from being unbiased.
- Revealing information that was given to them in confidence, or stopping someone getting information they are entitled to by law
- Damaging the reputation of their office or authority, where the conduct is linked to their public role and not in their private capacity
- Using their position improperly; to their own or someone else's advantage or disadvantage
- Misusing their authority's resources
- Allowing their authority's resource to be misused for the activities of a registered political party
- Failing to register a Disclosable Pecuniary Interest (DPI)
- Failing to reveal any other interest (as defined at Appendix 2 to the Code of Conduct) at a meeting
- Taking part in the discussion or making a decision where they have a "disclosable pecuniary interest" or an interest that is so significant that it is likely to affect their judgement
- Improperly influencing a decision about a matter in which they have a "disclosable pecuniary interest"

Any breaches in relation to requirements around "disclosable pecuniary interests" are matters for the Police as a criminal offence may have been committed. We suggest you speak to the Council's Monitoring Officer first as he/she should be able to advise you whether or not it is a matter for the Police.

## Sanctions available to the Standards Committee

The change on the law introduced by the Localism Act 2011 means that the Standards Committee no longer has the power to suspend a Member from acting as a councillor for up to 6 months. **The only sanctions now available to the Standards Committee are set out below**

- Recommending to the Member's Group Leader that he/she be removed from any or all Committees or Sub-Committees of the Council (other than the relevant Area Committee), or from all outside appointments to which he/she has been appointed or nominated by the authority;
- Recommending to the Leader of the Council that the Member be removed from the Executive Committee, or removed from particular Portfolio responsibilities;
- Instructing the Monitoring Officer to arrange training for the Member;
- Restricting contact to named officers or requiring contact be through named officers;
- Excluding 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; or
- The Monitoring Officer being instructed to censure the Member.