

LOCALISM ACT 2011 – THE STANDARDS REGIME
REVIEW OF THE COUNCIL'S LOCAL STANDARDS
ARRANGEMENTS
REPORT OF THE MONITORING OFFICER
SEPTEMBER 2015

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1. Introduction

- 1.1 The Localism Act 2011 (“the Act”) required principal local authorities to introduce new standards of conduct arrangements. The Act provides that local authorities must put in place arrangements to investigate and determine complaints that Members have failed to comply with their authority’s code of conduct, and that an independent person should be part of the arrangements. Beyond that authorities have the freedom to determine themselves how best to address local authority standards.
- 1.2 The Council approved Stockton’s arrangements for dealing with allegations of misconduct, the registration and declaration of Member’s interests and applications for dispensations in relation to disclosable pecuniary interests and other prejudicial interests on the 7 March 2012 (agenda link <http://www.egenda.stockton.gov.uk/aksstockton/users/public/admin/kab12.pl?cmte=COU&meet=83&arc=71>)
- 1.3 A new code of conduct for Stockton’s Members was approved by full Council on the 18 July 2012 (agenda link <http://www.egenda.stockton.gov.uk/aksstockton/users/public/admin/kab12.pl?cmte=COU&meet=76&arc=71>)
- 1.4 As agreed by full Council, the Council’s Local standards arrangements were then formally reviewed in September 2013.
- 1.5 Reports regarding the outcome of the review were presented to Cabinet on the 4 September 2013 (agenda link <http://www.egenda.stockton.gov.uk/aksstockton/users/public/admin/kab12.pl?cmte=CAB&meet=112&arc=71>), and then to Council on the 11 September 2013 (agenda link <http://www.egenda.stockton.gov.uk/aksstockton/users/public/admin/kab12.pl?cmte=COU&meet=87&arc=71>)
- 1.6 Council agreed in particular that:-
- No changes be made to the Council’s code of conduct for members;
 - Appropriate advice, guidance and training continue to be provided in connection with the code;
 - Proposals to update the descriptions of the principles of conduct in the preamble to the code, in light of the revisions (by the Committee on Standards in Public Life) to the descriptions of the Nolan principles, be the subject of further reports to Cabinet and Council;

- The arrangements for dealing with member misconduct complaints remain as originally approved by Council;
 - Regular reminders, advice and guidance continued to be provided to Stockton's members and to the members of Town/Parish Councils in Stockton's area regarding the need to submit and keep up to date their registrable interests;
 - The procedures relating to the disclosure of interests and withdrawal from meetings; sensitive interests and dispensations, be reaffirmed;
 - Further training regarding the code of conduct, disclosable pecuniary interests and the arrangements for dealing with the allegations of member misconduct be provided as and when required or considered appropriate;
 - The Monitoring Officer reviews the Council's standards arrangements again after a further 12 months of operation, and the outcome with any recommendation for change be reported back to the Audit Committee, Cabinet and Council for consideration.
- 1.7 Proposals to update the descriptions of the principles of conduct in the preamble to the Council's code of conduct for Members were agreed by Cabinet on the 28 November 2013 (agenda link <http://www.egenda.stockton.gov.uk/aksstockton/users/public/admin/kab12.pl?cmte=CAB&meet=115&arc=71>), and by Council on the 11 December 2013 (agenda link <http://www.egenda.stockton.gov.uk/aksstockton/users/public/admin/kab12.pl?cmte=COU&meet=89&arc=71>)
- 1.8 A further review of the Council's standard arrangements has now been undertaken, as requested by Council and this report provides details of the outcome of that review.

2. Principles of Conduct

- 2.1 It is right that high standards of conduct should be expected from, and demonstrated by everyone in public life.
- 2.2 To this end, it is important that ethical principles, as determinants of appropriate behaviour, are embedded in the culture and practice of public sector organisations.

- 2.3 The principles of conduct apply to everyone in public life, and insofar as local government is concerned, whether they are employed (e.g. Officers), appointed (such as co-optees) or elected (like Councillors).
- 2.4 It is essential, therefore, that all public office holders are aware of their responsibilities in that respect.
- 2.5 For Members, the general principles of conduct are contained within a preamble to the Council's Code of Conduct. Council agreed to revise the descriptions of the principles, underpinning the Code, in November 2013, in order to reflect the change to the Nolan principles introduced nationally by the Committee on Standards in Public Life.
- 2.6 The updated principles of conduct formed a key part of the May 2015 induction for elected members.

3. The Code of Conduct

- 3.1 As agreed by Members, the Council's Code of Conduct was developed on the basis of the general principles of conduct, and the current version of the code was unanimously approved by Members in July 2012.
- 3.2 In the three years since then, no specific issues regarding the Code's provisions or their application to Members' conduct have been raised by Members, Officers or the public.
- 3.3 At a national level, there have been no developments that effect the Council's code or the general principles of conduct on which it is based.
- 3.4 **Accordingly, no changes to the Code or the principles are proposed.**
- 3.5 **Awareness will however continue to be maintained and appropriate advice, guidance and training will continue to be provided in connection with the code and the general principles.**

4. Arrangements for dealing with allegations of misconduct

- 4.1 Under the Localism Act, a principal Local Authority is required to have in place arrangements under which allegations of failure to comply with the Authority's code of conduct (and the code(s) of any Parish Councils in its area), can be investigated, and under which decisions on those allegations can be made.

- 4.2 The Act does not however make provisions for local authorities to have any particular powers to impose sanctions, should they determine after an investigation that a Member has breached their code. When the Standards Board regime was abolished, along with statutory local authority standards committees, and the power to suspend Members from office, it was made clear that it is for the electorate to determine who represents them on their Council.
- 4.3 There are criminal offences prescribed in the Act, but these are in connection with disclosable pecuniary interests, in respect of which prosecutions can be instituted by, or on behalf of the Director of Public Prosecutions. A person found guilty of such an offence can be liable to a fine and a Court dealing with such a matter can also disqualify a person, for a period not exceeding five years, for being or becoming a member.
- 4.4 Insofar as an Authority's arrangements for dealing with misconduct allegations are concerned, sanctions for a breach of a code are limited to, for instance, reporting the finding of a breach to full Council, or censuring the Member concerned.
- 4.5 Taking this into account, and unless and until the position regarding sanctions changes, Stockton's arrangements under the Localism Act are deliberately light touch, but with the ability to refer matters to a member panel should that be considered appropriate.
- 4.6 A copy of a flow chart illustrating the agreed procedure is attached as an **Appendix** to this report.
- 4.7 As part of the last review of the Council's local standards arrangements, it was concluded that experience of dealing with the complaints received to that point did not indicate that there were any revisions required to those arrangements. At that time (2012/13), nine complaints had been received and dealt with in accordance with the agreed procedure, none of which warranted further action as a code of conduct matter.
- 4.8 The number of complaints dealt with in the two years since the last review, are as follows:-

Year	Complaints Total	Town/Parish Councillor	Borough Councillor	Borough Councillor		Decisions		
				Executive	Non-Executive	Monitoring Officer		Standards Panel
						Not referred for investigation	Not upheld/rejected	
2013/14	18 (37 Councillors)	1	36	6	30	17	0	1
2014-	22 (32	8	24	6	18	21	0	0

15	Councillors)							
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- 4.9 In 2013/14, ten of the complaints related to concerns raised by members of the public about Members' conduct at a planning committee meeting regarding the determination of a particular planning application. In response to the concerns expressed, detailed consideration of the allegations was carried out over a number of weeks, but without referral to a formal investigation, culminating in guidance in the form of a letter being sent to all planning committee members regarding the Council's code of conduct and the high standards expected of persons in public life.
- 4.10 Another matter was investigated formally, and a report was presented to a Standards Panel hearing, as a result of which a Member was found to be in breach of the Council's code of conduct due to knowingly having disclosed privileged legal advice provided in confidence to Planning Committee members, and marked as exempt information. Details of the decision were reported to the Planning Committee and to full Council. A copy of the Council's confidential Information Protocol was also re-issued and re-circulated to all Members.
- 4.11 **In view of the number of new Councillors who have been elected to the Council, it is considered appropriate to recirculate the Protocol again, to highlight the Council's arrangements and requirements regarding exempt and confidential information.**
- 4.12 Formal action was not taken in relation to other complaints because they related to a Member's conduct in a private capacity; dissatisfaction with a Member's response regarding a ward issue, rather than a breach of the code; and conduct for which a Member provided an appropriate apology.
- 4.13 In 2014/15, eleven of the complaints again related to concerns raised by the Members of the public about certain Members' comments and conduct during consideration of a particular planning application at a planning committee meeting. The concerns raised were again considered in detail and discussed with the Members in question and a further letter was sent to all of the Committee Members, in order to reiterate the requirements of the Council's code and the high expectations of Members in that respect.
- 4.14 **In view of the fact that there is now a new Planning Committee, it is considered prudent to ensure that the new Committee Members are fully aware of this previous correspondence by circulating further copies.**
- 4.15 An apology was provided by a Member in relation to two other complaints (about failure to attend a ward meeting) and in the circumstances, that was considered to be an acceptable resolution of the complaints.

- 4.16 Further action was not taken in relation to another complaint because an apology had been given to the complainant and the Member complained about was absent from Council duties due to ill health.
- 4.17 The number of complaints alleging misuse by Members of social media and of other electronic means of communication has increased. This is perhaps not surprising given the increase in the availability of such technologies and the significant benefits they provide, not least in terms of their efficiency and effectiveness, particularly as regards connecting quickly with a wider cross-section of residents.
- 4.18 The induction programme for Members included training on the use of social media, and this will continue to be made available as part of the ongoing training and development provided for members. It is clearly important, however, to **continue to stress the importance of complying with the law (e.g. defamation; data protection; protection from harassment; malicious communications; copyright etc), and the significant risks of not doing so, when using social media or any other electronic communication methods.**
- 4.19 Referral for investigation and/or formal action under the Code was not considered to be justified in connection with any of the 2014/15 complaints.
- 4.20 Generally, the procedures for receiving, considering and determining complaints, including the arrangements for consulting the Independent Persons, continue to work effectively.
- 4.21 Although there have been complaints regarding the merits of the decisions taken in respect of some of the complaints, most notably the complaints about Planning Committee Members' conduct, there have been no particular complaints about the procedures or arrangements for dealing with complaints.
- 4.22 **No revisions to these procedures or arrangements are, therefore, proposed.**

5. Independent Persons

- 5.1 The Council's three Independent Persons (Norman Rollo; Jeff Bell and Mike Hill) were appointed on 18 July 2012 and were re-appointed on 22 July 2015 (following advertisement; an Appointments Panel meeting and a decision by full Council) for a further term of office expiring on the 3 July 2019.

- 5.2 Each of the Independent Persons has been consulted by the Monitoring Officer and Deputy Monitoring Officers about allegations of member misconduct and applications for dispensation in relation to Members' interests. Their input in this respect has been invaluable and their working relationships with Officers have proved to be efficient and effective.
- 5.3 The Monitoring Officer and Deputy Monitoring Officers meet quarterly with the Independent Persons to discuss the operation of the Council's standards arrangements and also general conduct issues from a local, sub-regional, regional and national perspective.
- 5.4 Tees Valley Officers, Independent Persons, Standards Chairs and Vice Chairs also meet to discuss these issues and will be concentrating, in particular, at the next meeting on Members responsibilities in an official and private capacity.
- 5.5 In addition, Stockton's Officers and Independent Persons attend the regional meetings of Standards Chairs, Vice-Chairs and Independent Persons. The last such meeting considered issues such as Members and social media; Officer and Member relations; perceptions of local government standards from a national perspective; and general code of conduct matters.
- 5.6 Stockton's Independent Persons attended events in the Members' induction programme, and participated in the discussions regarding the standards of conduct expected of those in public life.
- 5.7 On occasion, they have also attended meetings of committees, cabinet and Council.
- 5.8 They have been consulted about, and provided input to the review of the Council's standards arrangements and to this report.

6. Registers of Members' Interests

- 6.1 As a result of the elections, new registers of interests for the Members of the Council, and of the Town/Parish Councils in the Borough Council's area, are being established.
- 6.2 New Members are required to complete and return full register of interest forms. Continuing members whose interests have not changed can confirm this in writing or by email. Those whose interests have changed can either provide details of the changed interests in writing or by email, or they can submit new completed interests forms.

- 6.3 All Stockton Council, Town and Parish Council members' interests are accessible on the Borough Council's website.
- 6.4 Reminders, advice and guidance are being provided to ensure that all of the required registers are completed as soon as possible.
- 6.5 **All Members should, however, take the necessary steps to ensure that their register of interest details have been submitted and are kept up to date.**
- 6.6 **For the future, Borough Councillors and Town/Parish Councillors through Town/Parish Clerks will be reminded on a regular basis of the statutory requirement to keep their interests up to date.**

7. Disclosure of Interests and withdrawal from Meetings

- 7.1 If a Member has a disclosable pecuniary interest in an item of business at a meeting of the Council, Cabinet, Committee or Sub-Committee, the Member must not:-
- (i) Participate in any discussion of the item at the meeting; or
 - (ii) Participate in any vote on the matter.
- 7.2 Failure to comply with these requirements will be a criminal offence.
- 7.3 Although there is no statutory requirement to leave the meeting room during consideration of the particular item, the procedure rules for Council, Cabinet, Executive Scrutiny Committee and Select Committees provide that the member must leave the room, unless the Member has received a dispensation allowing them to remain and to participate in the consideration of the item.
- 7.4 The Council's Code of Conduct (paragraph 22) also provides that Members must comply with these procedure rules.
- 7.5 Disclosable pecuniary interests are defined as follows:-

Interest

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 (12 months) period in respect of any expenses incurred by the member in carrying out his or her duties as a member, or towards his or her election expenses. This includes any payment or financial benefits from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992).
Contracts	Any contract which is made between the Member (or a body in which the Member has a beneficial interest) and the Council:- <ul style="list-style-type: none"> (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 Council.
Licences	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):- <ul style="list-style-type: none"> (a) the landlord is the Council; and (b) the tenant is a body in which the Member 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.

- 7.6 What seems to be the first conviction for a pecuniary interest offence occurred in March this year. A Councillor was found guilty of participating and voting, without reasonable excuse at a Council meeting in connection with a matter in which he had such a disclosable interest. He was given a six-month conditional discharge and ordered to pay £930 costs.
- 7.7 The Council meeting had been considering the District's Core Strategy. The Councillor was a remunerated director of a Charity that provided homes for those in need. The charity had responded to the Core Strategy consultation; owned land that was being considered and was a part of the details in the Strategy. The Councillor knew this and had been involved in discussions about the land's future use and although the Court accepted that participation in the meeting could not lead to any direct benefit to him, it found that he was under a positive duty not to participate and not to vote on the matter.
- 7.8 Members with significant/prejudicial interests in any item of Council business are not required to leave the meeting room during consideration of the matter, but may consider it to be prudent to do so.
- 7.9 They may however be precluded from participating in any discussion about the matter at the meeting, and in any vote taken on the matter.

7.10 These requirements have not caused any material problems to date, and there have been only limited occasions when Members have not been able to participate in the discussions or voting because of such interests.

7.11 **The arrangements do not, therefore, require any revision but given the number of new Members elected to the Council, it will be important to ensure that appropriate and timely advice about such matters is available when needed.**

8. Dispensations

8.1 The 2013 review concluded that the procedure, documentation (protocol and application form) and arrangements for consultation with one of the Independent Persons had worked both proportionately and effectively.

8.2 There is nothing to suggest that this is not still the case.

8.3 The Independent Persons, Members who have made applications and others who have not, have not raised any issues of concern, or suggestions for improvement regarding the procedure or supporting documentation.

8.4 **As before, no changes are therefore considered necessary.**

8.5 Since the May elections, a dispensation regarding a Member's NHS employment has been granted in relation to the business of the Adult Services and Health Select Committee and the Executive Scrutiny Committee.

8.6 The all Member dispensations granted in respect of Cabinet and Council (Council Tax precept/Council Tax/Council Budget setting) and in relation to the Police and Crime Panel's consideration of the Police and Crime Commissioner's precept are valid for 2015/16, but will need to be renewed thereafter.

8.7 **In view of the fact that the Council has 17 new Members following the local elections, information regarding the dispensations procedure should be circulated again to all Members.**

8.8 Town/Parish Councils will continue to be responsible for handling and determining dispensations concerning their own Members.

9. Training and Development

- 9.1 Ad hoc advice and guidance has continued to be provided to Members regarding the code of conduct and registration and declaration of interests. In particular, written advice is circulated to Members before each Cabinet and Council meeting.
- 9.2 Where necessary, this has also been the case before relevant Committee meetings (e.g. Planning Committee).
- 9.3 Prior to the May 2015 elections, information about the principles of conduct and the code of conduct was provided with candidates' nomination packs and was made available at Candidates' briefings.
- 9.4 Post election, a copy of a powerpoint presentation regarding the Council's code of conduct was provided to elected Members, and an induction session, in a round table discussion format, covered the standards of conduct expected of those in public life. The feedback from this session was very positive.
- 9.5 All newly elected and continuing Members received an information pack containing copies of the code of conduct for members; registration of interests forms; notes on completing the forms and a Government guide for Councillors on personal interests.
- 9.6 **Guidance and/or briefings are available and can also be provided to individual Members or groups if required, on request.**

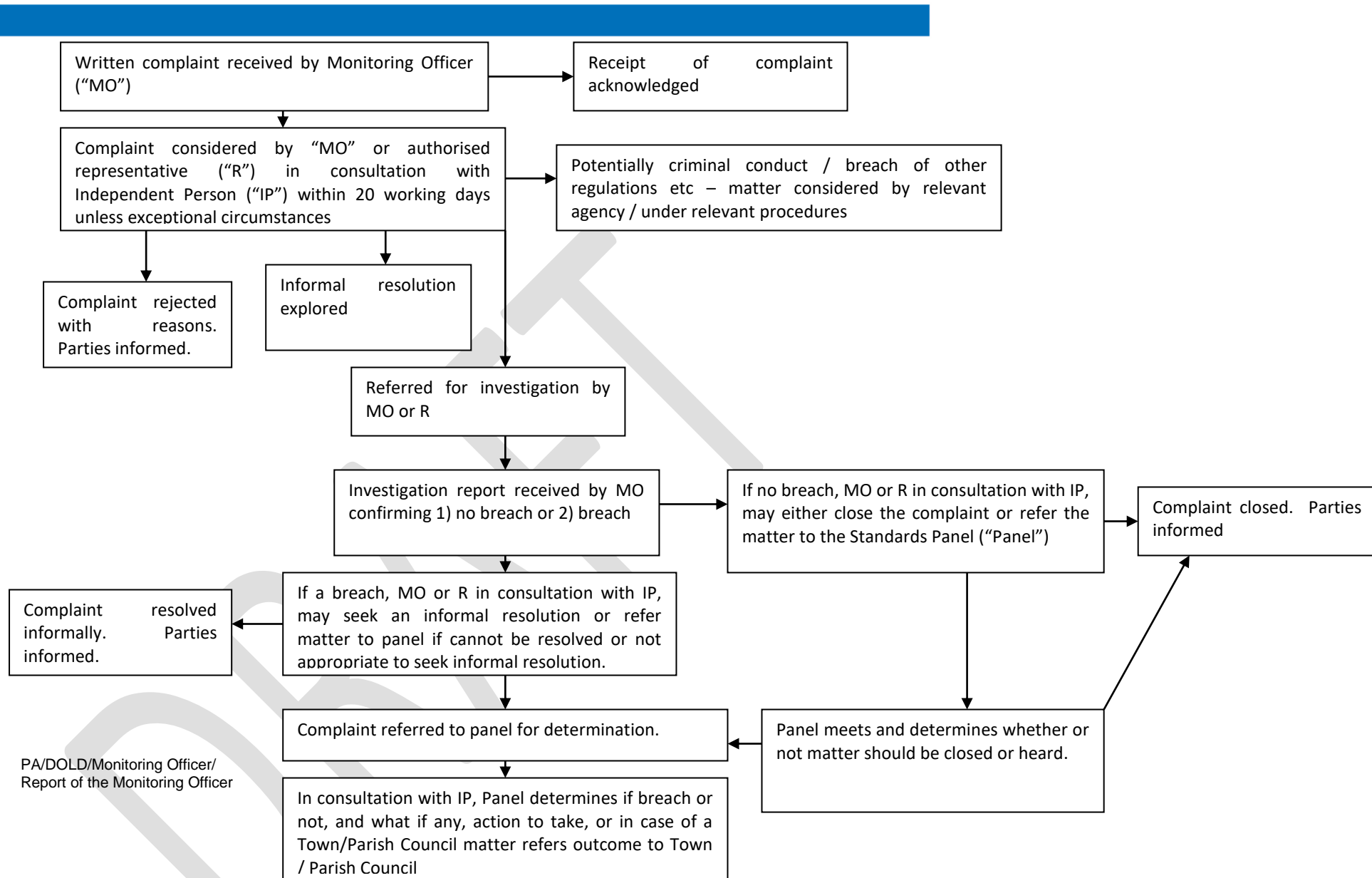
10. Gifts and Hospitality

- 10.1 The principles of conduct (honesty and integrity) provide that holders of public office should avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work; that they should not act or take decisions in order to gain financial or other material benefits for themselves, their family or their friends; and that they must declare and resolve any interests and relationships.
- 10.2 Members should provide details of any appropriate gift or hospitality they have accepted and of the person or organisation from whom it has been received. The Council's Register of Interests Forms (Form B) ask for this information.

- 10.3 Members are also asked to report any instances where inappropriate gifts or hospitality have been offered to, but rejected by them.
- 10.4 Legislation (Bribery Act 2010) makes it an offence to offer, promise or give a financial or other advantage to someone for the purpose of bringing about an improper performance of a function or activity; and to request, agree or receive a reward for having done so.
- 10.5 Guidance has been produced for Members to assist in understanding what may or may not be regarded as appropriate in this context. This is accessible at <https://www.stockton.gov.uk/media/4498/part-8-essential-supporting-documents.doc>
- 10.6 **For the benefit of all Members and new Councillors particularly, it is considered that details of the Guidance should be circulated again.**

11. Reviews

- 11.1 The maintenance of high standards is key to good, corporate governance and an inherent part of the Council's vision as an excellent Authority.
- 11.2 In view of the fact, therefore, that there is now a new Council following the May local government elections; a new political governance framework; and 17 new Councillors, it will be more important than ever to monitor, review and re-assess the effectiveness of the Council's standards arrangements.
- 11.3 **Accordingly, it is suggested that another review is carried out after the mid-point of the new administration (in 2017) unless an earlier review is considered to be necessary for any reason.**



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