

# Protocol for Independent Persons Appointed under the Localism Act 2011

## 1. Context

This protocol is intended to be used by Independent Persons who have been appointed under section 28 (7) of the Localism Act 2011, when undertaking their duties.

It will make clear the role of the independent persons and their relationship with the authority and others.

This protocol should be read in conjunction with the Council's "Arrangements" for dealing with standards allegations under the Localism Act 2011.

## 2. Role of the Independent Persons

Independent Persons are trusted, experienced and objective consultants who must remain (as the name suggests) independent at all times.

Independent Persons views are to be sought, and taken into account, by the authority before it makes its decision on an allegation against a member or co-opted member, that it has decided to investigate.

The views of the Independent Persons can be sought by the authority and by a member, or co-opted member, of the authority **if that person's behaviour is the subject of an allegation.** An Independent Person's role is not to act as an 'advisor' to the subject member.

When a Member is seeking the views of the Independent Person the Independent Person can provide guidance in relation to the code of conduct and the arrangement they can not advice the Member what the Member should say or how to respond nor can they accompany the Member to meetings. In practice, it will be the Monitoring Officer or Deputy Monitoring Officer from the authority who will contact the Independent Persons for their views which will then be incorporated into any relevant decision notices.

The views of the Independent Persons may also be taken into account by the Monitoring Officer at various stages during the informal process.

Independent Persons will consider all the information relating to a complaint, the views of the parties involved in the complaint, the Code of Conduct and the law as it affects standards matters, before offering their view.

### **3. Methods of Consultation**

The Monitoring Officer may contact the Independent Person by telephone, email, in writing or arrange a meeting. Any communication should be formally recorded.

The Independent Person will be provided with sufficient information in order to provide their view and be given sufficient time to consider that information before providing their view. This will change on a case by case basis.

The Independent Person should provide their views in written form, even if the views have already been given verbally.

When providing their view to the Subject Member, the same principles apply.

The Monitoring Officer will advise the Subject Member of their right to contact the Independent Persons and will provide contact details. It should be made clear to the Subject Member by the Independent Person that any communication between them is potentially disclosable to the authority. Communications between the authority and the Independent Persons may also be disclosable to the subject member.

Where a matter is referred to the Standards Committee or its Sub-Committee for determination, the Committee will seek the views of the Independent Persons before reaching its conclusions. Those views will be recorded in any decision notice.

#### **4. Relationship with the Standards Committee**

Independent Members will be invited to attend meetings of the Standards Committee, with agreement of the Chair, and will be provided with agendas and minutes of such meetings.

#### **5. Distinct Roles**

The Local Authority does not want to fetter the independence of the Independent Person; therefore, we will not allocate specific roles (e.g. one to advise the Council and one to advise the Subject Member). If an Independent Person is consulted by the Subject Member, this would not preclude the Complainant consulting the same Independent Person in the same matter or advising the Standards Sub-Committee or Committee.

#### **6. Other Considerations**

Where the Independent Person feels that they cannot provide their views due to a conflict of interest, they should advise the Monitoring Officer of this without delay. The Monitoring Officer will then inform the parties and an alternative Independent Person will be utilised.

The Independent Person may at any time raise any concerns about standards or the implementation of the process with the authority's Chief Executive, the Monitoring Officer and/or the Chair of the Standards Committee.

The Independent Persons may be consulted on any proposed changes to the 'arrangements', the Code of Conduct and any other procedures or policies involving the handling of allegations.

The Independent Persons will agree to sign a Code of Conduct, including a register of interests to be held by the Monitoring Officer and will declare any relevant interests in relation to cases to the Monitoring Officer.

The Independent Persons shall not make any comments to the media on any matter without prior the agreement of the Monitoring Officer.

The Independent Persons may be requested by the Monitoring Officer or Standards Committee to assist in any training on conduct issues as appropriate.