

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

This protocol is to make clear the relationships between the Independent Person (IP) and the various parts of the local authority involved in the process of handling member complaints and wider promotion of the Code of Conduct. Its aim is to ensure that responsibility is clear at each stage of the process and set out the expectations and rights of the IP.

### **Considering written allegations**

1. The Monitoring Officer (MO) will seek the views of the Independent Person (IP) before reaching a decision on whether any further action should be taken on a written complaint.
2. When issuing the decision letter/email, the MO will record that the IP has been consulted and that their views have been taken into account. Where the view of the MO and IP differ, the MO will record the reasons for following a particular course. The letter will make clear that it is the MO and not the IP who is the decision-maker.

### **Matters under investigation**

3. A member of the Council who is the subject of a complaint may seek the views of the IP. A member wishing to contact the IP should do so via the MO who will arrange for a meeting to take place on council premises. These arrangements will be communicated to the subject member by the MO at the point when the subject member is advised of the complaint.
4. Where the IP has given views to the subject member, those views shall be put in writing and made available to all relevant parties in the case.
5. The IP will need to record their discussion with the subject member and provide it to the subject member and also the MO and Group Leaders Panel (GLP).
6. The complainant may also seek the views of the IP. As with the subject member, contact should be arranged through the MO and any views expressed shall be recorded and made available to both the MO and the Group Leaders Panel.
7. The MO may consult the IP at any stage during the process, particularly on matters which relate to the procedures for handling complaints.
8. Where a matter has been referred to the Group Leaders Panel for determination, the committee must seek the views of the IP before reaching its conclusions. The IP's views should be recorded in any decision notice and,

where those views do not reflect the final outcome reasons must be given for any differences. However, it must be clear that it is the Group Leaders Panel and not the IP who is the decision-maker.

9. The IP shall not make any comments to the media (or on social media) on any matter without prior agreement of the MO or council communications team. Any requests for comments from media shall be referred in the first instance to the MO who may refer these to the Chair of the Group Leaders Panel as appropriate.
10. The IP may be requested by the MO or Group Leaders Panel to assist in mediation or conciliation in order to resolve complaints where that is considered the most appropriate course of action.
11. The IP may be requested by the MO or Group Leaders Panel to assist in any training on conduct issues as appropriate.
12. Where the IP is unable to act because of a conflict of interest or because they are otherwise unavailable their role will be carried out by the reserve IP.

#### Relationship with the Group Leaders Panel

13. The IP (and reserve) shall receive agendas and minutes of all meetings of the Group Leaders Panel and shall be entitled to request for items to be added to the agenda with the agreement of the chair and to speak at the committee.
14. The IP (and reserve) are not members of the Group Leaders Panel 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 chair.

#### Other matters

15. The IP has the right to raise any concerns about Code of Conduct issues or implementation of the process with the authority's Chief Executive.
16. The council, through its Constitution, Ethics and Probity Committee, Group Leaders Panel and MO, is responsible for ensuring that the council meets its duty to promote and maintain high standards. However, the IP has the right to be consulted on any proposed changes to the Code of Conduct or procedures for handling allegations.

17. The IP has the right of access to any confidential information required to carry out their role. Access to such information and its storage shall be agreed with the MO.
18. The IP has the right of access to council buildings in order to carry out their role. Access should be agreed in advance with the MO.
19. The MO will meet as required with the IP (and reserve) to review relevant matters.
20. The IP (and reserve) will agree to sign a Code of Conduct, including a register of interests to be held by the MO and will declare any relevant interests in relation to cases to the MO who will decide whether the interest conflicts them out of involvement in the matter.
21. The IP is to be considered an office-holder of the authority in accordance with the duty under s28(7) of the Localism Act 2011 and is therefore entitled to be covered by the council's indemnity insurance provided they act reasonably and within the terms of this Protocol.