

ANNEXE 2

WAVERLEY BOROUGH COUNCIL INDEPENDENT PERSON PROTOCOL

Waverley Borough Council in conjunction with 3 other County authorities, namely Guildford Borough Council, Mole Valley District Council and Spelthorne Borough Council has appointed a pool of Independent Persons to be drawn from when required.

Any reference in this document to 'the Council', applies to each of the four Local Authorities. Any reference in this document to 'the Committee' applies to any Committee or Panel of the Council which may have responsibility for promoting the maintenance of high standards of conduct by councillors and any co-opted members of the Council. The four Councils follow a similar approach, but the committee structures vary between them according to each Council's Constitution and Arrangements.

This Protocol sets out the expected roles and responsibilities of an Independent Person (IP) when they are carrying out their function in assessing an allegation that a Member of the Council or Town and Parish Council has failed to comply with the appropriate Council's Code of Conduct for Members.

Principles

Appointment

1. Each Independent Person (IP) will initially be appointed until May 2015. In respect of Waverley Borough Council, only two of the three IPs have been appointed for 2012 – 2015.
2. Thereafter appointments will be made on the basis of a four year term, which reflects the ordinary term of office of a councillor, with serving IPs being eligible for re-appointment.

Role and Obligations

3. The role of the IP is a consultative position required under section 28 of the Localism Act 2011.
4. The purpose of the IP role is to assist the Council and Town and Parish Councils in promoting high standards of conduct by elected and co-opted members of the Council and in particular to uphold the Code of Conduct adopted by the Council and the seven principles of public office, namely selflessness, honesty, integrity, objectivity, accountability, openness and leadership.
5. The IP is expected to develop a sound understanding of the ethical framework as it operates within the Council.

6. The IP may be invited to attend or participate in training events organised or promoted by the Council.
7. The views of an IP must be sought by the Council before it takes a decision on whether an allegation may be investigated, and may be sought by the Council at any other stage (e.g. before a final hearing is arranged or where a local resolution may be appropriate), or by a Member against whom an allegation has been made.
8. The Council is expected to support the IP in his/her role by:
 - providing information on its processes and procedures
 - adhering to this Protocol
 - providing training which meets the needs of the IP
 - supporting the IP by dealing with press enquiries
 - providing advice if an IP is unsure of their role or conduct
 - paying reasonable travelling and subsistence expenses claimed by the IP for undertaking this role. (Such expenses must be claimed within three months of incurring them). The IP will receive no other remuneration.

Allocation of Independent Person

9. This Protocol covers all the IPs appointed by the authorities and any reference in this Protocol to an IP covers reference to all IPs.
10. The four authorities will endeavour to choose IPs from the pool on an even and fair basis, as far as possible. In order to assist this, each authority will inform the other authorities at the time an IP first becomes involved in a complaint.
11. The authorities will keep a log on Sharepoint and update it promptly when a new case arises.
12. Before approaching an IP, the Council will consider the number of complaint cases each IP has been allocated by all the Local Authorities using the pool.
13. An IP is not obliged to accept a request to be involved in a complaint, should they either have other commitments or have recently been involved in a complaint at one of the other authorities.
14. Where there is a link between any complaints made to the Council, the same IP will normally be approached if the MO feels it will assist the efficiency of the investigation.

Independent Person's Conduct

15. In carrying out the role, the IP will ensure that he/ she -

- a. acts in accordance with -
 - i. any relevant legislation or guidance and the Council's Code of Conduct in force at the time; and
 - ii. the agreed processes/ procedures approved by the Panel and the Council's Constitution; and
- b. acts impartially at all times, without political bias or prejudice and in accordance with the rules of natural justice; and
- c. maintains confidentiality at all times.

The Standards Panel

16. The Monitoring Officer's (MO) role is to give advice to the Panel.

Involvement in hearings

17. The MO will brief the IP, either on the phone, face to face or by email, to provide the context of a complaint upon first contact.
18. The MO will consult the Independent Person for advice on action to take in accordance with the Council's hearing arrangements, which may include any of the following stages:

Upon receipt of a complaint, (either before referring the matter to any Assessment Panel with a recommendation as to whether it merits formal investigation or in consultation with the Chairman of the Committee to decide whether or not to investigate, depending on the individual authority's arrangements).

When the Monitoring Officer feels it is appropriate to resolve the complaint informally, without the need for a formal investigation.

Following a formal independent investigation, on the outcomes or recommendations of the Investigating Officer.

Where an Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct, on whether any form of local resolution is possible.

19. When the MO is deciding how to progress with a complaint, he/she should consult with the IP and should consider the following:
 - a. Was the Member/ co-optee acting in their official capacity at the time of the alleged misconduct?
 - b. Was the Member/ co-optee in office at the time of the alleged misconduct?
 - c. Can the complaint be considered as being of a very minor or trivial nature; or vexatious, frivolous or politically motivated?
 - d. Has the complaint been made within the appropriate time scales?
 - e. Is there a potential breach of the Council's Code of Conduct?
 - f. Is there public interest in the matter?
 - g. Is there sufficient information to enable him/her to make a decision?
If not, what information is required?

20. The MO will make a written record of any discussions that take place with the IP and send these to the IP for agreement.
21. The MO will provide a summary with any documents provided to the IP.
22. The MO will inform the IP at the earliest opportunity in the process of an investigation, of the Council's expectations with regards to the timescales for their responses during each stage.

Feedback and Learning

23. At the resolution of the complaint, whether there is a formal investigation or not, the MO will advise the IP of the outcome of the complaint.
24. The MO and IP may have a discussion on the lessons learnt, from both the hearings arrangements process and following this Protocol, whether any improvements are required.
25. The MOs and IPs will meet on an annual basis to review progress with the operation of the Protocol and deal with any training requirements.

Conflicts of Interest, Access to Contact details and Confidentiality

26. The IP should inform the MO if they feel there are circumstances which would suggest that they had a conflict of interest e.g. being a friend of either the complainant or Member concerned; or have previously been involved in the matter.
27. If the IP approached has a conflict of interest, another IP will be consulted.
28. A complainant will not be given the IP's contact details. In the unlikely event that the IP is contacted directly by a complainant, he/she should not respond to them and is expected to inform the MO immediately.
29. The subject member will not automatically be given the IP's contact details. Upon first contact, the MO will ask the IP how they wish to communicate with the subject member. Where the subject Member wishes to speak to the IP then the MO will try to facilitate this in a planned way between the IP and the Member.
30. The Council will not give out details of IPs to the Press or other enquirers.
31. In terms of confidentiality, the IP should not discuss any matters about a complaint, either past or present, with the media or any other third party without appropriate advice having been taken from the MO.

Methods of Contact

32. The IP is requested to provide the MO with appropriate methods of contact e.g. email and telephone numbers, and is expected to make themselves available at all reasonable times.
33. The IP will advise during initial discussions with the MO their preference for communications, whether in hard copy, by email, or both.
34. The IP is asked to inform the MO with as much reasonable notice as possible if they will not be contactable for any extended period once they have first become involved in an investigation, so that one of the other IPs can be advised that he/she would be required to stand-in as necessary during this period.