



DRAFT

**Procedure for
external Code of
Conduct
investigations**

Our Values



Looking After Leeds

We are committed to improving the quality of life in Leeds and want to inspire pride in our city and communities. We will work with our partners, build on our successes and protect our city for future generations.



Putting Customers First

We will make sure our services meet the needs of our customers and communities. We will communicate clearly and work hard to find out and respond to our customers' needs. We are committed to providing excellent services that are value for money.



Treating People Fairly

We value the diversity of our communities and strive to ensure that everyone shares in the city's success. We will tackle discrimination and improve access to our services - especially to those with the greatest need.



Valuing Colleagues

We know that the good work of our colleagues is key to providing excellent services. We will support colleagues and encourage them to work creatively.

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Section 1 – Introduction and Purpose of the Procedure

Introduction

- 1.1 Since July 2008, the Standards Committee of Leeds City Council has received and considered complaints about the behaviour of Members of Leeds City Council and Members of the Parish and Town Councils in the Leeds area. Leeds City Council has adopted the model Code of Conduct for Members as it appears within “The Local Authorities (Model Code of Conduct) Order 2007” (SI No. 1159), which is in force for the time being.
- 1.2 The Standards Committee has created three sub-committees to deal with Code of Conduct complaints. These are the Assessment Sub-Committee, the Review Sub-Committee and the Hearings Sub-Committee.
- 1.3 The Assessment Sub-Committee receives allegations and decides whether to take any action, and can therefore refer a matter for investigation or other action by the Monitoring Officer or decide not to take any action. The Assessment Sub-Committee may also decide to refer the allegation to another relevant authority or Standards for England. The Assessment Sub-Committee also receives final investigation reports prepared by both the Monitoring Officer and an Ethical Standards Officer. In the case of a Monitoring Officer’s report where there the finding is of no failure, the Assessment Sub-Committee must decide whether to accept the Monitoring Officer’s finding or refer the matter to the Hearings Sub-Committee for a hearing, or to the Adjudication Panel for England. If the Monitoring Officer’s or Ethical Standards Officer’s finding is a breach of the Code, the Assessment Sub-Committee must consider whether it should be heard by the Hearings Sub-Committee or the Adjudication Panel for England.
- 1.4 If there is a request for a review of a decision made by the Assessment Sub-Committee to take no further action, the Review Sub-Committee can consider that request. When considering such requests the Review Sub-Committee considers the allegations afresh, and also considers whether the Assessment Sub-Committee acted properly when making their initial decision. The Review Sub-Committee has the same decisions open to it as the Assessment Sub-Committee.
- 1.5 Both the Assessment and Review Sub-Committee assess complaints against a set of Local Assessment Criteria. These are agreed by the Standards Committee and are contained as an appendix to the Standards Committee Procedure Rules (within Part 4 of Leeds City Council’s Constitution).
- 1.6 If the Assessment or Review Sub-Committee decide that investigation of the matter would be in the public interest, and that if proven to be true the allegations would probably warrant some form of sanction (apart from training), they may refer the matter to the Monitoring Officer for investigation.
- 1.7 The Hearings Sub-Committee has been set up to carry out local hearings in

relation to any investigation by the Monitoring Officer or an Ethical Standards Officer which identifies a breach of the Members' Code of Conduct. If the Hearings Sub-Committee concludes that the Member has breached the Code of Conduct it has a range of sanctions open to it which are listed in the Standards Committee Procedure Rules.

The purpose of this procedure

- 1.8 The purpose of this procedure is provide clarity as to how external investigators are selected and commissioned. Specifically sections 4-7 of the procedure will act as the terms of agreement between Leeds City Council and an external investigator who is chosen to carry out a Code of Conduct investigation on behalf of the Monitoring Officer.
- 1.9 The procedure covers the following:

Section 2 Establishing the approved list of investigators

Section 3 Commissioning an external investigator

Section 4 Monitoring the investigation

Section 5 Conducting the investigation

Section 6 Production of investigation reports

Section 7 Presentation of the final report to the Standards Committee

Review of this procedure

- 1.10 This procedure will be reviewed on an annual basis and Members of the Standards Committee will be asked for any comments on the workings of the procedure as part of this review.

Section 2 – Establishing the approved list of external investigators

How the approved list is established

- 2.1 The approved list is kept by Leeds City Council's Procurement Unit. The approved list is made up of Investigators who display the following skills or experience:
- Understanding of the Code of Conduct or experience of applying a similar code of practice;
 - Experience of conducting interviews;
 - Experience of report writing; and
 - Objectivity.
- 2.2 The Investigators on the approved list are also checked to ensure that they are not mandatorily excluded and will also have been assessed on their business credentials by the Procurement Unit. The Council's Procurement Unit will undertake the review of the applicants business credentials whilst the Monitoring Officer (or other suitable officer) will appraise the candidates' professional capabilities.

How the approved list is updated

- 2.3 The existence of the approved list is advertised on the Council's supplier contract management system and applications to join the list can be made at any time. In order to make an application, interested parties should visit the Supplier and Contract Management System (SCMS) (<http://scms.alito.co.uk>) which is the procurement website for all the Councils within the Yorkshire and Humber region. The website provides advice and guidance on the procurement process used by the Council, and allows applicants to register their details and tell the Council about the services they can provide. Applicants to join the list may also contact the Council's Procurement Unit by telephone on 0113 2474007.
- 2.4 After expressing an interest in being added to the approved list the applicant will be sent a copy of this procedure. In order to be considered for the approved list the applicant will have to provide an acceptance letter agreeing to the terms of this procedure and the completed confidentiality agreement to the Procurement Unit (the relevant form is attached as Appendix 1 to this procedure). Applicants should also be aware that Code of Conduct investigations are covered by the Local Government Act 2000, and information gathered by a Monitoring Officer during such an investigation is considered 'confidential' in accordance with Section 63 of this Act.
- 2.5 The Procurement Unit will then assess the applicant's business credentials in terms of financial standing and potential cost of an investigation. The Monitoring Officer (or other suitable officer) will appraise the applicant's skills and experience (as outlined in paragraphs 2.1 and 2.2 above).

Review of the approved list

- 2.6 The Procurement Unit will carry out periodic reviews of the approved list and the business credentials of the listed solicitors. In addition, at the conclusion of the investigation (when the matter has been considered by the Assessment Sub-Committee and Standards Committee, if appropriate), the Head of Governance Services will contact the following parties for feedback on the investigations process:
- The subject Member;
 - The Chair of the Standards Committee¹;
 - The Monitoring Officer;
 - The complainant; and
 - Any witnesses.
- 2.7 Once appropriate feedback has been received, the Head of Governance Services will share this feedback with the Monitoring Officer and decide whether a debrief meeting is required with the investigator. The Head of Governance Services will also consider whether any negative feedback should be passed to the Procurement Unit to be considered as part of the maintenance of the approved list of investigators.

¹ In relation to an Investigator's performance at an Assessment Sub-Committee or Hearings Sub-Committee meeting.

Confidentiality Agreement

DATED

(day)/(month)/(year)

**THIS AGREEMENT
BETWEEN**

XXXXXXXXXXXXX

and

LEEDS CITY COUNCIL

FOR THE XXXXXXXXXXXX

on behalf of insert

Reference No insert

XXXXXXXXXX

Leeds City Council

Civic Hall

LEEDS

LS1 1UR

THIS AGREEMENT is made **BETWEEN:**

- (1) **xxxxxxxxxx** and
- (2) **LEEDS CITY COUNCIL** who are jointly called (“the Parties”)

WHEREAS:

- (a) It is proposed that the Parties shall disclose to each other certain confidential information
- (b) The Parties accordingly wish to record their agreement to maintain the confidentiality of such information

NOW IT IS HEREBY AGREED as follows:

1 Interpretation

- 1.1 In this Agreement unless the context requires otherwise the following expression shall bear the following respective meaning:

‘Confidential information’ means any private confidential or secret information in the possession of any member of the Parties in whatever form contained relating to the business or affairs of any product or project of any member of the Parties (including but not limited to information relating to the identity and requirements of any customer of any member of the Parties and information contained or embodied in documents computerised information tapes specifications equipment and or data of any kind) and internal prices

- 1.2 Headings are for convenience only and shall not affect the interpretation of this Agreement

2 Confidentiality

- 2.1 Subject to Clause 3.1 below the Parties jointly undertake:

2.1.1 that they will treat Confidential Information directly or indirectly disclosed to each other as strictly confidential and will

not without obtaining the prior written consent of the other party disclose any part of such Confidential Information to any third party

2.1.2 that it will not make any use of any part of the Confidential Information disclosed to it except for the following purposes:

- (i) determining the desirability and practicality of collaboration between the parties on agreed work relating to the Confidential Information;
- (ii) the carrying out of any collaboration between the parties on agreed work relating to the Confidential Information;
- (iii) any other purpose which may be expressly permitted in writing by the parties

3 Exceptions

3.1 The undertaking contained in this Agreement shall not apply to any part of the Confidential Information which the Parties can demonstrate to have been known to it or to have been public knowledge at the time of its disclosure the other or to have been disclosed to it (otherwise than by or on behalf of the other Party) or to have become public knowledge subsequent to such disclosure (provided that this has not been caused by any breach of any obligation of confidentiality owed to each party pursuant to the Agreement)

4 Indemnity

4.1 The Parties hereby agree that if either Party shall breach any of its undertakings contained in this Agreement it shall indemnify the other party

against all and any loss claim liability damage or demand arising out of or in connection with such breach

5 Property Rights

5.1 All Confidential Information disclosed by or on behalf of one of the Parties shall remain the sole property of that Party and its disclosure shall not be deemed to confer upon the Recipient any rights whatsoever with respect to any part thereof except for the purpose set out in Clause 2.1.2 above. The Recipient will forthwith on request by the other party return to it all Confidential Information which has been given to it or to a third party at its request together with all copies thereof

IN WITNESS whereof this Agreement has been executed as a Deed by the parties

on the date set out below

Signed for and on behalf of
insert

Signature

Name

Title

Signed for and on behalf of

LEEDS CITY COUNCIL

Signature 1

Signature 2

Name

Name

Title

Title

Section 3 – Commissioning an external investigator

Overview

- 3.1 The scope of the investigation will be agreed with the chosen Investigator at the start of the investigation through the production of an investigation plan. The plan must be prepared by the Investigator and agreed with the Head of Governance Services in accordance with clause 3.14. This plan will set out the various 'milestones' in the investigation process and how long the investigation is likely to take. The plan will also incorporate regular progress updates to the Head of Governance Services through the Senior Corporate Governance Officer throughout the investigation process. The Standards Committee of Leeds City Council expects investigations to be carried out within the six month period following the Assessment Sub-Committee meeting which initially assessed the complaint wherever possible, as advised by Standards for England. Where unexpected delays occur, Investigators must have regard to clause 4.5 of this procedure.
- 3.2 During the investigation process there may be occasions when the Investigator wishes to refer the case back to the Assessment Sub-Committee or defer the investigation for whatever reason. Any such decisions will only be made by the Monitoring Officer and as soon as an Investigator becomes aware of such circumstances they should immediately notify the Monitoring Officer so she can consider the issue. The Monitoring Officer will decide whether the case should be referred back to the Assessment Sub-Committee for further consideration.
- 3.3 Once the Investigator considers that the investigation is complete and has reached a finding as to whether the Member has breached the Code of Conduct or not, they will be required to submit a draft of their final report to the Head of Governance Services and the Monitoring Officer, before issuing such a draft to the parties for comments. The Monitoring Officer reserves the right to decide when the investigation is complete and when the report is of an acceptable quality to be put before the Standards Committee – Assessment Sub-Committee for consideration.
- 3.4 Once the final report has been issued, the Investigator will be required to attend the Assessment Sub-Committee meeting when the report is considered in order to present their findings. This is to allow the Monitoring Officer to act as the legal advisor to the Sub-Committee. The Investigator will also be required to present their findings at any subsequent meeting of the Hearings Sub-Committee or Adjudication Panel Case Tribunal.

General standards of conduct

- 3.5 Leeds City Council expects all its contractors, suppliers or service providers to abide by the following minimum standards of general conduct:

Appointments – You must keep appointments and arrive on time. If it is not possible to arrive on time the customer should be informed.

Confidentiality – Any personal information that is supplied by the Council, or any other personal information that is acquired during the course of the investigation must be kept confidential.

Dress Code – You should wear appropriate clothing which does not bear wording or images that could cause offence. If tattoos or body markings could cause offence, they should where possible, be covered up.

Customer Service – The personal conduct of the Investigator must not cause offence or personal harassment to a customer. This includes unkind, embarrassing, inflammatory, sexual, threatening or damaging words or gestures.²

Difficult situations – There may be occasions where you might feel uncomfortable with the circumstances or behaviour of a customer and/or their guests. For example a customer who is under the influence of drugs or alcohol, or who is verbally abusive. If a situation like this occurs, and you feel you cannot work in these circumstances, explain to the customer, if possible, why you are leaving and report the problem to the Council (through the Head of Governance Services).

Violence at work – Occasionally contractors may come across situations where violence or the threat of violence to them or others becomes apparent. It is advisable to try and minimise confrontation as soon as possible and not be drawn into arguments with others. If the situation escalates, for safety reasons, it is acceptable to leave the premises as quickly as possible and tell the customer why. If incidents do occur tell the Council (through the Head of Governance Services) as soon as possible.

- 3.6 The more specific requirements of external investigators are covered below.

Seeking initial expressions of interest for undertaking an investigation

- 3.7 After a decision to refer a case to the Monitoring Officer for investigation by either the Assessment or Review Sub-Committee, the Head of Governance Services will review the “approved list” to identify appropriate investigators to carry out the investigation. This decision may be made on the basis of:
- Availability;

² Depending on the nature of the investigation and the allegations it may be necessary to highlight to a witness unkind, embarrassing, inflammatory, sexual, threatening or damaging words or gestures.

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Section 3 – Commissioning an external investigator

- Cost; and
 - Connections with any previous cases investigated by the Investigator.
- 3.8 Once potential investigators have been identified, they will be sent information regarding the complaint including:
- A copy of the original complaint;
 - Any readily obtainable information presented to the Assessment or Review Sub-Committee;
 - A copy of the covering report presented to the Assessment or Review Sub-Committee;
 - A copy of the Assessment or Review Sub-Committee’s Decision Notice;
 - Details of any training undertaken by the subject Member;
 - Contact details of the subject Member;
 - Details of the subject Member’s membership of Council committees, sub-committees and outside bodies, both currently and at the time of the alleged conduct;
 - A copy of the written undertaking to abide by the Code of Conduct completed by the subject Member; and
 - Any other relevant and obvious background information relating to decisions made or action taken by the Council referred to in the complaint and not supplied by the complainant.
- 3.9 The potential investigators will also be sent a copy of the “Procedure for external Code of Conduct investigations” for reference. As the investigators are on the “approved list” of investigators held by the Procurement Unit, they will already have signed the pro-forma agreement to the requirements of the procedure.
- 3.10 Each potential investigator will be asked to consider whether they may have any direct or indirect personal conflict of interest arising from the complaint. For example, the investigator must not participate if they have a direct financial interest, or a family member or friend is involved. If this is the case they should notify the Head of Governance Services that they are unable to accept the investigation.
- 3.11 Each potential investigator will also be asked to provide the following information to the Head of Governance Services within five working days of being sent the case file and procedure:
- An outline investigation plan;
 - Proposed timescale for the investigation;
 - Details of the estimated cost of the investigation³;
 - Details of any professional experience that is relevant to the investigation.
- 3.12 The Head of Governance Services will evaluate the responses from each investigator and identify the most appropriate investigator for the case.

³ This will include potential costs for any follow up work required of the Investigator, for example, their attendance at a Consideration meeting, a Standards Committee Hearing or an Adjudication Panel Case Tribunal or Appeals Tribunal.

Issuing a formal invitation to undertake the investigation

- 3.13 The Head of Governance Services will place an order with the chosen investigator to confirm their appointment. This will make clear the scope of the delegation being provided to the Investigator and the requirement to adhere to the provisions of Sections 3-7 of this procedure.

Requirement to produce an investigation plan

- 3.14 The Investigator is required to produce a detailed investigation plan within ten working days of the order being placed. Appendix 1 is an investigations plan template. The plan should contain the following information:
- The complaint made against the subject Member. This may require clarification from the complainant.
 - The paragraphs of the Code of Conduct that may have been breached. The Investigator does not need to accept the complainant's interpretation of what paragraphs may have been breached. It is helpful to breakdown each potential failure to comply into the component parts of each provision. For example, in considering paragraph 6(a) the Investigator will need evidence to demonstrate that:
 - the Member used their position;
 - the Member used their position improperly; and
 - the Member conferred or attempted to confer an advantage or disadvantage.
 - The facts which need to be determined to establish if the Member breached the Code and to decide what the appropriate finding might be. They need to include:
 - Facts which would establish if the conduct happened as alleged;
 - Facts that would need to be proven to show that the conduct constituted a breach of the Code; and
 - Facts which may aggravate or mitigate the alleged breach, for example, provocation or an apology.
 - The evidence needed to determine the issues outlined in the plan. This includes who the Investigator will need to interview and why.
 - The evidence that has been supplied by the complainant.
 - How the Investigator plans to gather the evidence they need.
 - A list of potential interviewees, details regarding the areas for questioning for each interviewee, and any potential issues with the interview process.
 - How long the investigation is likely to take.
- 3.15 Once the investigations plan has been provided to the Head of Governance Services, he will contact the Investigator to discuss and agree the following matters:
- A firm deadline (or completion date);
 - Interim deadlines (dates when key milestones in the investigation are reached or a programme of updates); and
 - A payment structure (in some circumstances it may be appropriate for the authority to pay per stage or work completed).

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- 3.16 Once the contents of the investigation plan have been agreed and a formal order raised for the investigation, the progress of the investigation will be monitored by the Senior Corporate Governance Officer who will liaise with the Head of Governance Services and the Monitoring Officer as appropriate. The Senior Corporate Governance Officer will be the Investigator's first point of contact for issues arising during the investigation and the Investigator will be advised of the relevant contact details in their appointment letter.

Investigation plan

Case No:

Date received by standards committee:			
Date referred to investigator:			
Ref No:			
Subject member:		Complainant:	
Authority:		Investigator:	

Target for monitoring officer's receipt of draft report

Date due:	
Explanation:	

Target for issue of draft report

Date due:	
Explanation:	

Target for issue of final report

Date due:	
Explanation:	

Case analysis

Behaviour alleged	
Relevant Code paragraphs	
Issues for determination	
Evidence required	
Evidence obtained	

To add additional analysis, copy and paste the above table.

Interviews:

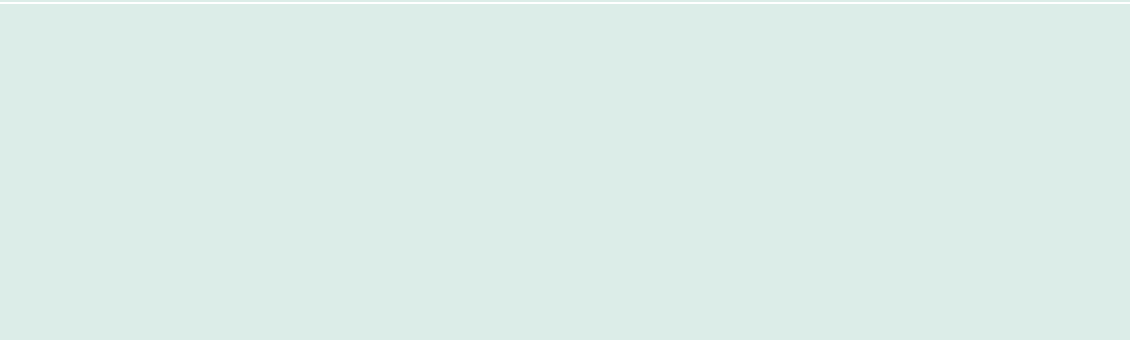
Name of interviewee	Broad areas to question and any issues

Interview target dates:

Date for completion of interviews:	
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Other matters

Identify any thoughts/lines of inquiry not outlined in the table and also highlight any problems in the referral process.



Approved by:

(Head of Governance Services)

Date:.....

Section 4 – Monitoring the investigation

Maintenance of the investigation plan

- 4.1 Once the investigation plan has been completed in accordance with Section 3 of this procedure, it should be kept under review by the Investigator. If at any stage during the investigation there are significant changes to any of the information in the investigations plan, an investigation plan review will need to be completed and submitted to the Senior Corporate Governance Officer, in accordance with Section 5 (Conducting the investigation).
- 4.2 At the end of the investigation the Investigator should have documents which chart the approach they took during the investigation, the reasons for this approach, and when their approach changed. The Investigator will not be required to share these documents with any of the parties, but they will provide an audit trail in the event of a complaint or review of the investigation itself.

Requirement to provide a monthly update of progress

- 4.3 The Investigator will be required to provide a brief update of their progress against the timescales outlined in the investigation plan every four weeks. This update should be provided to the Senior Corporate Governance Officer. In addition the Senior Corporate Governance Officer may contact the Investigator at any time to seek a progress report on behalf of the Head of Governance Services, the Standards Committee or the Monitoring Officer.
- 4.4 As soon as any key milestones in the investigation have been reached, as identified in the investigation plan, the Investigator must contact the Senior Corporate Governance Officer to confirm this.

Complaints about the investigation

- 4.5 If the Investigator, the Head of Governance Services or the Monitoring Officer is made aware of a complaint about the investigation, they must first consider the nature of the complaint.
- 4.6 There are two types of complaints which can be made about the investigation. These are:
- Complaints about the conduct of the investigation (service complaints); and
 - Complaints about the interpretation and reasoning in the Investigator's report.⁴
- 4.7 Service complaints will occur when a party criticises the actions of an Investigator, such as:

⁴ Advice for investigators dealing with this type of complaint is contained in Section 4 of this procedure.

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- Administrative errors (e.g. the misspelling of a name);
 - Failure to communicate;
 - Criticism of the manner in which the investigator behaved; and
 - Criticism of the length of time it took to conclude the investigation.
- 4.8 Service complaints will be processed through the Corporate Complaints system in accordance with the Leeds City Council Compliments and Complaints Policy. The Compliments and Complaints Policy is available to view on the Council's website at the following address:
<http://www.leeds.gov.uk/page.aspx?pageidentifier=B86E4EBD055F708180256E1D003AF927>
- 4.9 Should the Investigator, Head of Governance Services or Monitoring Officer receive a service complaint, they should direct the complainant to the Corporate Complaints Team by providing them with the following contact details and a copy of the 'Let us know' complaints leaflet:
- Telephone number: 0113 2224405 (Monday – Friday 8am – 6pm)
 - Email address: complaints@leeds.gov.uk
 - Freepost address:
Freepost RLZR-ELTX-RUEH
Leeds City Council
PO BOX 657
LS1 9BS
 - Or advise them to visit a Council service point.
- 4.10 Whilst a service complaint is being processed, the investigation process, including writing the report, **should not be suspended** while a complaint about the investigation is dealt with. The only exemption to this is if a service complaint is so substantive that it would not be appropriate for the same Investigator to continue on the case while the service complaint is ongoing. In these cases the investigation will be referred back the Monitoring Officer whilst the complaint is resolved.
- 4.11 If the Investigator, Head of Governance Services or Monitoring Officer receives a complaint which comments on interpretive matters and service issues, they should write to the complainant outlining which matters should be referred to through the Compliments and Complaints procedure and which matters are differences of interpretation which will not be considered as part of the complaint.

Section 5 – Conducting the investigation

Basic principles of an investigation

- 5.1 The Investigator must bear in mind that the process can be a frightening and stressful experience from the subject Member(s), witnesses and complainant(s).
- 5.2 The Investigator must ensure that:
- They establish what happened in a fair and objective manner;
 - They set out clearly the reasoning for the finding reached; and
 - They complete the investigation promptly and proportionately.
- 5.3 Interviews must be conducted in such a way as to obtain the most informed, reliable evidence possible, not to catch out interviewees.
- 5.4 Standards for England recommend that most investigations are carried out, and a report on the investigation completed, within six months of the original complaint being assessed by the Assessment Sub-Committee. The Standards Committee of Leeds City Council expect investigations to be completed within this recommended timescale wherever possible. However realistic targets should be agreed between the Investigator and the Head of Governance Services so that the Standards Committee can monitor the progress of the investigation and explore the reasons for any delay.
- 5.5 The Investigator should conduct their investigation in accordance with the investigations plan agreed with the Head of Governance Services. The Investigator must keep the agreed plan under review to ensure all necessary information is being obtained as well as identifying whether there are additional enquiries required and whether the investigation should be limited or directed in another way. If at any stage during the investigation there are significant changes to any of the information in the investigations plan, an investigation plan review will need to be completed and submitted to the Senior Corporate Governance Officer. Appendix 1 is the investigation plan review template.
- 5.6 Once the Investigator's appointment has been confirmed in accordance with Section 3 of this procedure, the Investigator must contact the complainant and the subject Member to advise them of their contact details and provide them with a preliminary timescale for the investigation. Appendix 2 is a template letter for contacting the subject Member. Standards for England also suggest that the Investigator should enclose a copy of the documents which form the allegations against the subject Member to them for information, which they can then share with their representative (if they have one). However, this is a matter for the discretion of the Investigator. If the case is sensitive, the Investigator may wish to withhold the documents which form the allegation until the subject Member is interviewed.

Gathering documentary evidence

- 5.7 Documentary evidence, where this exists and is necessary to the investigation, should be sought before any interviews are conducted and at the earliest opportunity. It would be helpful if the documents which are required are listed in the investigations plan with details of who can provide them. This should form the basis of the Investigator's initial contact with the parties and other witnesses.
- 5.8 When initially contacting the subject Member, the Investigator should ask them to provide an initial response to the allegation in writing, which gives the subject Member the opportunity to admit to the breach if they would like to do so, which may save time in the investigation (see Appendix 2 for the template letter for contacting the subject Member). The written response may also provide useful additional information for use during the interview stage of the investigation.
- 5.9 When requesting documentary information the Investigator should ensure that;
- the request is made in writing;
 - the Investigator's legal authority and broad purpose for requesting the information is explained (details of the complaint are not required);
 - the confidentiality requirements that relate to the information are outlined;
 - a deadline is set for the response; and
 - a contact name and number are provided for further enquiries.
- 5.10 If the evidence is held on a computer it is good practice to identify the person using the computer, and it may be appropriate to search the hard drive for deleted or corrupted documents (a specialist firm may be employed to facilitate this). Prior to a specialist firm being employed, the Investigator must discuss with the Head of Governance Services the necessity to obtain such information and the likely costs. The Council would also require assurances as to the appropriate experience and reputation of the proposed firm.
- 5.11 If the information is highly sensitive, the Investigator may not wish for the subject Member or other party to be made aware of a request for evidence. For example, if the Investigator is concerned that this might lead to destruction of evidence or to improper collaboration of witnesses. In such circumstances, it may be appropriate for the Investigator to arrange to meet with the witness, and to make the request for evidence during the meeting. The Investigator must make it clear what powers they have to obtain information.
- 5.12 If any party refuses to provide the information requested, the Investigator should remind them of any legal obligation they have to provide it (e.g. Regulation 14(4)(b) of the Standards Committee (England) Regulations 2008). Alternatively, the Investigator could ascertain whether there is another route to obtaining the same information or whether alternative information can be obtained instead.

- 5.13 If it is not possible to obtain any of the information, and it is essential to completing the investigation, consideration should be given to referring the matter back to the Assessment Sub-Committee. The Assessment Sub-Committee may then refer the case to Standards for England who would be able to use their statutory powers to compel the provision of this information. Any such decision to refer the case back to the Assessment Sub-Committee would need to be made by the Monitoring Officer, with advice from the Investigator. Alternatively, the Investigator should state in their report that such information, which was crucial to the investigation, could not be obtained and should draw such inferences as appropriate.

Conducting interviews

- 5.14 Standards for England advise that the subject Member should normally be interviewed at the end of the investigation after all the evidence has been gathered by the Investigator. This should allow the Investigator to put that evidence to the subject Member and obtain their responses to it. However this is a matter of discretion for the Investigator and depends upon the nature of the complaint. It would be helpful to ascertain at an early stage whether the subject Member agrees with the allegation which may help streamline the investigation. This will especially be the case if the subject Member has failed to provide a written response to the allegation as requested in paragraph 5.8 above. It may also be useful to obtain the subject Member's view as to what happened, particularly if it is an element of one word against the other, as it may well be that there is a misinterpretation which needs to be put to the complainant and other witnesses.
- 5.15 Where the Investigator has concerns that witnesses may collude or use information provided to them, the Investigator should consider carrying out consecutive interviews on the same day.
- 5.16 If the complainant and the subject Member are interviewed towards the beginning of the investigation, the Investigator should consider re-interviewing them near the end, which may allow the Investigator to get the interviewees to agree facts and give them an opportunity to comment on issues that have been raised during the course of the investigation. The Investigator should also present potential inconsistencies to the relevant parties for comment.
- 5.17 The Investigator may conduct face-to-face interviews rather than telephone interviews in the following circumstances:
- The matters involved are sensitive;
 - The interviewee is vulnerable;
 - The Investigator will need to refer to multiple documents during the interview;
 - The interviewee wishes to have a legal representative present;
 - The interview is with the subject Member (unless in the circumstances of the case the Investigator thinks a face-to-face interview is unnecessary); and
 - The circumstances of the case require the Investigator to conduct a face-to-face interview with the complainant.

- 5.18 The Investigator may conduct a telephone interview if:
- There are significant resource implications, either in terms of cost or time in conducting a face-to-face interview; and
 - The interview does not fall into one of the categories outlined above.
- 5.19 If a subject Member or witness insists on a face-to-face interview then serious consideration should be given to their request. The Investigator should specifically check that there is no medical or disability-related reason for their request. If there is, the Investigator should conduct a face-to-face interview. If there is no such reason, then the decision is up to the Investigator. If the Investigator decides to proceed with a telephone interview despite their request, then this decision should be outlined in writing on the case file. This is to demonstrate that it was both proportionate and reasonable.
- 5.20 The Investigator must not conduct joint interviews, as it is important that each witness gives their own account without having their recollection influenced by hearing another person's account. However, an interviewee may have a friend or advisor present unless that person is a witness and they should be asked to keep the matters confidential. They should also clarify their role during the interview. If the interviewee is a vulnerable person or a minor, the Investigator should ensure that they are accompanied by another person when conducting the interview. This may involve suspending the interview to allow another person to accompany that witness. Again that person may be a friend or advisor unless that person is a witness and they should be asked to keep the matters confidential and to clarify their role during the interview.
- 5.21 When conducting a face-to-face interview, the Investigator should ensure that the venue meets the following criteria:
- It is mutually convenient;
 - Is preferably on neutral territory, although circumstances may mean this is not possible;
 - In a private room where the interview cannot be overheard;
 - In a place where the interviewee will feel comfortable and is unlikely to be seen by people whose presence may intimidate or upset them, for example, the complainant or the subject Member; and
 - Is safe for the Investigator.
- 5.22 It may sometimes be appropriate to interview someone at their home, but this should generally be at the request of the interviewee.
- 5.23 The following information should be provided to the interviewee in writing prior to the interview:
- Confirmation of the agreed time, date and venue or that it will be a telephone interview;
 - Confirmation that the interview will be recorded, if appropriate;
 - Confirmation that the interviewee can have a legal or other representative with them, but that the representative must not be a potential witness in the investigation. They should also not be a Leeds City Council (or Parish

Council) officer or a Standards Committee Member. The Investigator should ask the interviewee to provide them with the name and status of their representative before the interview, and if the Investigator is unsure they should contact the Senior Corporate Governance Officer for assistance;

- The legal framework within which the Investigator is conducting the interview;
- How the information provided by the interviewee will be used;
- The circumstances in which the information given by the interviewee may be made public;
- The confidentiality requirements that the interviewee is under;
- Details and copies of any documents the Investigator will refer to during the interview;
- In the case of the subject Member, details and copies of any evidence the Investigator has gathered and which they may refer to in their report. The Investigator does not have to disclose witness testimony prior to the interview, depending on the nature of that testimony and whether the Investigator wants the interviewee's account prior to putting the witness's testimony to them.
- The Investigator should consider providing an outline of the areas they intend to cover at the interview; and
- The Investigator's contact details in case they have any questions or concerns before the interview.

5.24 Appendix 3 is the pre-interview letter template, and should be used for the purposes outlined above. When the Investigator is planning to interview a Leeds City Council officer they must also contact the Senior Corporate Governance Officer beforehand, in order that the interviewee can be briefed on their role and the purpose of the investigation.

5.25 If the Investigator needs to confirm one or two factual details with a Leeds City Council officer (or a Parish officer) they may contact them by phone and does not need to forewarn them. However, when obtaining this information the Investigator should:

- Orally outline all of the information they would have otherwise provided in writing as set out in paragraph 5.23;
- Check that they are happy to give the information straight away, rather than at an agreed date in the future; and
- Confirm the detail of the information the officer provides in writing.

5.26 Interviews should be planned in advance, using the interview plan template attached as Appendix 4 to this procedure. The Investigator should plan their questions using the following format:

- Divide the information required into discreet issues;
- Make a note of the evidence which has already been obtained about each issue;
- Note how they would briefly summarise the evidence to the interviewee.

- 5.27 All important interviews should be audio recorded wherever possible. The only exception is when the interview is likely to cover only a small number of factual matters. In this case, it may be more appropriate to resolve these factual matters in writing. Before recording an interview the Investigator should:
- Obtain the consent of the interviewee before starting to record the interview;
 - Ask them to confirm for the record that they consent to the recording;
 - Confirm for the record who they are and the powers under which they are conducting the interview;
 - State the date and time of the interview;
 - Ask the interviewee to confirm that they received the Investigator’s letter outlining the interview arrangements;
 - Ask the interviewee to confirm that they read and understood the letter and if they have any questions about the information in the letter;
 - If the interviewee is the subject Member, or if the interviewee is unclear about any of the information, the Investigator should orally repeat the information in the letter;
 - Explain that the interviewee can take a break whenever they choose, and they will be offered a break after one hour;
 - Tell them how long the interview is likely to take and ask them if they have a time by which it needs to end; and
 - Explain that they can ask the Investigator to rephrase a question if they do not understand it.
- 5.28 There is a suggested Interview Preamble attached as Appendix 5 to this procedure.
- 5.29 During the interview the Investigator should consider the following advice:
- During the interview with the subject Member, the Investigator should begin by asking some background questions, such as “How long have you been a Member?” or “What training have you had on the Code of Conduct?”;
 - The Investigator should not ask multiple questions, they should ask one question at a time and allow the interviewee to answer before asking another;
 - The Investigator should not dart back and forth between different issues so as not to cause confusion to either party, and tackle one subject issue at a time;
 - The Investigator should deal with each issue by starting with a broad open question about the subject, drill down for information with specific open questions, and conclude the area by asking closed questions to confirm what they have been told;
 - Where relevant, the Investigator should ask the interviewee to reconcile differing accounts;
 - If there are two people conducting the interviews, the first interviewer should ask the open questions and the second interviewer should then pick up the points to be clarified at the end of each subject area and ask closed questions to confirm what was said;

- The Investigator should not ask leading questions, e.g. “You said this, didn’t you?”, and should not ask the interviewee to speculate;
 - The Investigator should accurately put the evidence of other interviewees to the interviewee and ask for their response;
 - When asked, the Investigator should explain the relevance of their question;
 - The Investigator must not allow the interviewee’s lawyer or representative to answer a question, but must allow the interviewee to stop to obtain advice whenever they choose;
 - If the interviewee becomes upset or unwell the Investigator must offer them a break;
 - The Investigator should never raise their voice, and should only interrupt if the interviewee is being unreasonable or is not providing relevant information;
 - The Investigator should be mindful of avoiding oppressive or repetitive questioning. If an interviewee will not properly answer a question, despite significant attempts to obtain a satisfactory response, then the Investigator should move on to another point or issue;
 - The Investigator should not question the subject Member about matters which fall outside the scope of the original allegation;
 - If the interviewee asks for a break, the time of the break should be recorded and the time that the interview was resumed. The Investigator should also ask the interviewee to confirm for the record that they did not discuss anything about the case during the break; and
 - To close the interview, the Investigator should state the time the interview finished, thank the interviewee for their time and outline what will happen next.
- 5.30 Following the interview the Investigator should send the interviewee a copy of the transcript. The Investigator should state in the letter that if they do not hear from the interviewee by a specified date, they will assume the transcript is agreed.
- 5.31 If the content of the transcript is disputed, the Investigator should check the discrepancies against the recording of the interview. If the transcript is confirmed by the recording, the Investigator should write to the interviewee to inform them of this. Appendix 6 is the interview statement/transcript letter template to be used for this purpose. When the matter is referred to the Standards Committee, the Investigator should submit the transcript, the recording, the interviewee’s letter outlining the dispute and their response.
- 5.32 After the interview, the Investigator should:
- review the investigation plan in the light of the information gathered during the interview (if considered necessary);
 - review all the evidence they gathered to determine if there are any gaps in it;
 - take a view on all the disputed relevant matters. If the Investigator is unable to reach an opinion, they should seek further information or decide that they are unable to reach a conclusion;

- weigh up all the evidence and decide if the alleged conduct occurred;
- consider whether, if the subject Member acted as alleged, there is sufficient evidence to meet the factors identified in the investigation plan to demonstrate a failure to comply with the Code of Conduct, or whether further information needs to be obtained; and
- consider whether, if the subject Member has breached the Code, there is evidence of any mitigating or aggravating circumstances. If not, the Investigator may need to seek further information.

Evidence of other potential breaches

- 5.33 If during the investigation the Investigator uncovers evidence of conduct by a Member which breaches the Code of Conduct, but extends beyond the scope of the investigation referred to them, they should notify the Senior Corporate Governance Officer as soon as possible.
- 5.34 The Investigator's powers only relate to matter which has been referred to them and agreed in the investigation plan. If the new breach does not directly relate to the allegation they are investigating, the Investigator should inform the party they obtained the information from that they cannot investigate the possible breach as part of the existing investigation. The Investigator should also advise them that they may wish to make a separate complaint to the Standards Committee through the Monitoring Officer. Alternatively, the Investigator could make a new complaint about the conduct in the same way.⁵
- 5.35 If the new breach is discovered by the Investigator through documents obtained as part of the investigation, they should discuss the issue with the Monitoring Officer to ask whether to make a referral to the Assessment Sub-Committee in accordance with paragraphs 5.41 to 5.43 below. Alternatively, the Investigator⁶, the Monitoring Officer or the Head of Governance Services could make a new complaint to the Standards Committee.

Referring cases back to an Ethical Standards Officer or Standards Committee

- 5.36 If the case was referred to the Monitoring Officer to investigate by an Ethical Standards Officer (ESO), the Investigator may wish to request that the case is referred back to the ESO in the following circumstances:
- There is evidence of a further possible breach that relates directly to the investigation, revealing for instance, a consistent pattern of behaviour.
 - The Investigator has genuinely been prevented from completing the investigation, for example the subject Member has refused to co-operate.

⁵ Consideration will need to be given to whether the Investigator may appear biased against the subject Member for the remainder of the investigation if they submit a new complaint regarding that Councillor's behaviour.

⁶ Consideration will need to be given to whether the Investigator may appear biased against the subject Member for the remainder of the investigation if they submit a new complaint regarding that Councillor's behaviour.

- 5.37 If the investigation is being obstructed by an officer of the Council, the Investigator should inform the Senior Corporate Governance Officer as this may be a disciplinary matter for the Council to consider under separate procedures. This is not a reason for the Investigator to request that the case is referred back to the ESO.
- 5.38 If the Investigator considers that the case does need to be referred back to the ESO they should contact the Monitoring Officer in writing outlining the reasons why they believe that an ESO should carry out the investigation. Any such request should be made prior to the completion of the investigation.
- 5.39 The Monitoring Officer will contact the Investigator as soon as possible to discuss whether their request will be forwarded to Standards for England. This request can only be made once during the course of an investigation, so it is important that the Investigator and the Monitoring Officer agree that it is the correct course of action to take.
- 5.40 If the Investigator's request is forwarded, the ESO will respond to the Monitoring Officer within 21 days with either a request that the Investigator continue with the investigation or that they accept the matter as requested. The Monitoring Officer will notify the Investigator of the decision within 5 working days of receiving it.
- 5.41 If the case was referred to the Monitoring Officer to investigate by the Standards Committee, the Investigator may wish to request that the case is referred back to them in the following circumstances:
- Evidence has been uncovered suggesting a case is more or less serious than may have seemed apparent to the Standards Committee originally. Furthermore, had the Standards Committee been aware of that evidence they would have made a different decision about how the case would be dealt with.
 - The subject Member has died, is seriously ill⁷ or has resigned from the authority and the Investigator is of the opinion that it is no longer appropriate to continue with the investigation.
- 5.42 If the Investigator considers that the case does need to be referred back to the Standards Committee they should contact the Monitoring Officer in writing outlining the reasons why. Any such request should be made prior to the completion of the investigation.
- 5.43 The Monitoring Officer will contact the Investigator as soon as possible to discuss whether their request will be forwarded to the Standards Committee for consideration. The Investigator should then notify the subject Member and the complainant of a decision to refer the allegation back to the Standards

⁷ According to Standards for England's guidance, 'seriously ill' means that the Member has a medical condition which would prevent them from engaging with the process of an investigation or a hearing for the foreseeable future. This can include terminal illness or a degenerative condition. The investigator would be expected to establish this from a reliable independent and authoritative source other than the subject Member. Stress brought on by the investigation is unlikely to fall into this category.

Committee, and provide timescales within which the matter will be dealt with. This information will be provided by the Senior Corporate Governance Officer.

Deferring investigations

- 5.44 The Monitoring Officer can choose to defer an investigation when any of the following conditions are met:
- There are ongoing criminal proceedings or a police investigation into the subject Member's conduct.
 - The Investigator cannot proceed with their investigation without investigating similar alleged conduct or needing to come to conclusions of fact about events which are also the subject of some other investigation or court proceeding.
 - The investigation might prejudice another investigation or court proceeding.
 - There is an ongoing investigation by another regulatory body.
 - A key party has a serious illness.
 - A key party is genuinely unavailable.
- 5.45 Where there is an ongoing investigation or related proceedings being carried out by another body, the Investigator should make enquiries about the nature of the investigation or proceedings.
- 5.46 If the Investigator considers during an investigation that any of the above circumstances apply, they should contact the Monitoring Officer and seek their consent for the deferral. When doing so the Investigator must gather sufficient information which will enable the Monitoring Officer to come to a decision. Such sufficient information may be obtained from the police or other organisation involved or alternatively from the complainant and/or the subject Member. However care must be taken as to whom is asked for relevant information. The Investigator should also highlight those areas where an investigation may be possible (i.e. where there is no overlap) in the investigations plan, if applicable.
- 5.47 In some cases, it may be possible to investigate the alleged conduct in parallel with another investigation, for example if the Local Government Ombudsman is investigating a Council decision and the Investigator is investigating the conduct of a Member involved in that decision. If this is the case, the Investigator will need to work closely with the other organisation and agree the steps that each party will take. The Investigator must inform the Senior Corporate Governance Officer of any such agreement.
- 5.48 When a decision is taken by the Monitoring Officer to defer an investigation, the Investigator must inform (in writing):
- The subject Member
 - The complainant
 - The Standards Committee
 - The relevant Parish or Town Council if applicable
 - The Head of Governance Services

- 5.49 The Investigator should ask the police, other relevant organisation or individual in writing to keep them informed of the outcome of any police or other investigation, court proceedings or other relevant matter. The Investigator must make a note of any important dates in the investigation plan review.
- 5.50 The deferred investigation should be kept under regular review and the Investigator should communicate with the Monitoring Officer on a regular basis in order to consider the reasonableness of continued deferral. Once a decision is taken to restart the investigation, the Investigator must notify the same parties in writing.
- 5.51 The Investigator should also update the investigations plan accordingly and communicate any changes to the Senior Corporate Governance Officer.

Confidentiality Issues

- 5.52 Section 63 of the Local Government Act 2000 (as amended) limits the circumstances where information obtained by an Ethical Standards Officer (ESO) or a Monitoring Officer during an investigation can be disclosed. Any person who discloses information in breach of this section is guilty of a criminal offence.
- 5.53 The Investigator should not disclose information obtained in an investigation unless:
- The disclosure will assist an ESO to perform their statutory functions;
 - The disclosure will assist the Monitoring Officer⁸ or Standards Committee to perform their statutory functions;
 - The person who the information relates to gives permission to disclose it;
 - The information has already lawfully been made public;
 - The disclosure is made for the purposes of criminal proceedings in the UK;
 - The Investigator is required to do so by a court or other similar body; or
 - The disclosure is to one of the public bodies listed in Section 63(1) of the Local Government Act 2000 for the purpose of their functions.
- 5.54 The Investigator should take the following practical steps to ensure that the integrity of the investigation is preserved:
- Mark all written communications⁹, transcripts and reports as confidential.
 - Outline the legal restrictions on the disclosure of information in all letters that are sent in relation to the investigation. The subject Member should be clearly informed in writing that they can appoint a solicitor, or other person, to act as their representative. The Investigator should also clearly

⁸ For the purposes of the investigation, the Investigator is carrying out the Monitoring Officer's statutory functions, and therefore the Investigator may disclose such information if it will assist with the investigation.

⁹ Emails should be marked as "confidential" both in the heading of the email as well as in the delivery options.

inform them that they can disclose any relevant document to this representative.

- The Investigator should state that their representative should not be someone who may be involved in the investigation.
- The Investigator should advise all parties that they should make any approach to witnesses in writing in order to avoid confusion about the investigative process.
- When arranging interviews the Investigator should ask interviewees to identify the name of any person who is accompanying them to the interview, and ask them to state what their relationship is to the interviewee. The Investigator should explicitly state, in writing, that they should not be accompanied by anyone who may be called as a witness in the investigation.
- If the Investigator believes that the witnesses may discuss their testimonies with each other, they should not send the transcripts of any interviews until all of the interviews have been conducted. For example, the transcripts could be sent out at the same time that the draft report is sent to the parties.
- When the Investigator is interviewing a number of people who have close relationships with one another, it may be prudent to interview them immediately after each other, thereby reducing the opportunity for collaboration. The Investigator may need to amend to pre-interview letter in such cases to reduce the details regarding the interview subject, and if there is potential for collusion this should be highlighted in the report to the Assessment Sub-Committee and appropriate conclusions as to the facts or breaches of the Code reached.

5.55 If the Investigator believes that confidentiality may have been breached they should write to the party reminding them of the confidentiality requirements and, if they are a Council Member, of their duties under the Code of Conduct. If the Investigator has evidence that information was disclosed to a party prior to their interview, they can take this into account when evaluating the reliability of the witness's evidence.

5.56 If the Investigator believes that a disclosure has been made by a Council Member, they should contact the Monitoring Officer for advice as to whether a formal complaint should be made about their conduct. If the disclosure was substantial the Investigator should contact the Monitoring Officer regarding the possibility of referring the matter to the police.

Investigation plan review sheet

Case No:

Date:	Investigator:
Authority:	

Target Reason for review (tick box)

<input type="checkbox"/>	New allegation
<input type="checkbox"/>	Additional information/witnesses
<input type="checkbox"/>	Periodic review (Investigation plans should be reviewed periodically)

Details relating to above

Review of targets

Revised draft report target:	
Revised dispatch of final report date:	

Reason for revisions:

Approved by: Head of Governance Services

Signed:

Date:

PRIVATE AND CONFIDENTIAL

Dear [insert name]

Ref: 12345X

I write further to [insert name]'s letter of [insert date] and [insert complainant name]'s allegation that you have or may have failed to comply with [insert authority name]'s Code of Conduct.

I have been appointed by Nicolé Jackson, Monitoring Officer of Leeds City Council, to investigate the allegations which have been made about your conduct. I would like to assure you that although the Standards Committee: Assessment Sub-Committee has referred the allegation for investigation, the Committee has formed no view on the matters set out in the allegation. The investigation will enable the Standards Committee to reach a conclusion on whether there has been any failure to comply with [insert authority name]'s Code of Conduct. Part of the investigation will include seeking information and documentation from you and other people, where relevant.

[I enclose a copy of the documents which make up the allegation made against you. Sections of text that contain personal data have been removed in accordance with the provisions of the Data Protection Act 1998. Information that is irrelevant to the allegation has also been removed. You may disclose these documents to your solicitor or other representative, should you choose to appoint one, for the purposes of seeking advice in relation to this investigation. The documents should not be disclosed to anyone else.]

Please provide the following information in writing by [insert date], in order that I can progress the investigation:

- [insert required information]
- [insert required information]
- [insert required information]

You are welcome to provide me with your initial response to the allegation should you wish to do so at this point.

I hope to complete the investigation within [insert time period as agreed in the investigations plan]. In order to assist in the progress of the investigation could you please let me know of any periods of time, such as holidays, when you will not be available?

I want to keep you informed of the progress of the investigation. However, I am aware that some people would prefer to be contacted only when there are substantive developments, while others will want to be updated more regularly. If you would prefer to be updated on progress at monthly intervals please contact me to confirm this and I will endeavour to accommodate your wishes.

If you have any queries I can be contacted directly on [insert contact number] or by e-mailing [insert email address]. Please quote the reference number on all correspondence.

Yours sincerely,

[insert investigator name]

PRIVATE AND CONFIDENTIAL

Dear [insert name]

Ref: 12345X

Following our conversation on [insert date] I am writing to confirm our [interview/telephone interview] arrangements for [insert date, time and location] and to give you some additional information.

The interview will be conducted under the powers given to me under the Local Government Act 2000.

I will be taking notes and may be recording our conversation. If I wish to record the interview I will ask you to give your consent beforehand. If I rely on information gained during this interview in a report, I will send you a copy of the record and give you an opportunity to comment on it. If I do not send you a copy of the interview record, you may request it. It is possible that what you say at interview may be disclosed and you might be called as a witness.

Please inform me in advance if you will be accompanied and if so by whom. You may have a friend or adviser with you during the interview. However, the person who accompanies you should not be a member of the Leeds City Council Standards Committee, a Council officer or a potential witness.

I estimate that the interview will take approximately [insert time].

I enclose the following documents that may be required during the interview:

[insert required document]
[insert required document]
[insert required document]

It is important that you have copies of these documents with you, as they may be needed during the interview. It is also important that you have copies of any other relevant documents with you, as they may be needed during the interview.

When the investigation is finished, I will report to the Standards Committee. The Standards Committee will decide whether there has been a breach of the Code and what action should be taken including whether to refer the matter to the Adjudication Panel for England.

[Before I complete this investigation, you will be sent a draft of the investigation report to enable you to make any representations you consider necessary. Having considered these, I will then issue my final report.]

I must also ask that you treat any information provided to you during the course of this investigation as confidential. In addition, there are statutory restrictions on the disclosure of information obtained by the Monitoring Officer. This is covered by Section 63 of the Local Government Act 2000 and disclosure of information contrary to this is a criminal offence. Anyone who accompanies you to your interview should also be made aware of the restrictions on disclosure of information.

If you have any queries prior to the interview, please do not hesitate to contact me on [insert contact number] or by sending an email to [insert email address].

Yours sincerely

[insert investigator name]

Interview plan

Case No:

Interviewee:

Ref No:

Subject member:

Interviewer:

Authority:

Date:

Nature of complaint (optional)

Purpose of interview

Facts already established (which relate to purpose of interview)

Facts to be established (which relate to purpose of interview)

--

Record of disclosure to witness before interview

--

Planned disclosure to witness during interview

--

Areas to be covered in interview	Key questions

Interview Preamble

Unrecorded Interviews

My name is [insert name] and I am an investigator for the Monitoring Officer of Leeds City Council.

As I advised you [on the telephone/by letter] I will be taking notes, and I am not recording this interview.

The Monitoring Officer responsible for this investigation has asked me to help [him/her] with case number [insert number] about allegations of the conduct of [insert subject member name].

I am conducting this interview under the powers given to the Monitoring Officer by the Local Government Act 2000 and The Standards Committee (England) Regulations 2008.

Prior to the completion of the investigation, [insert subject member name] and [insert complainant name] will be sent a draft of the report to enable them to make any representations they consider necessary. As a witness you may be sent relevant extracts from the draft report for the same purpose. Having considered comments on the draft report, I will then issue my final report. Parts of the notes of this interview may be included in the draft and final report.

If the matter is considered at a hearing, notes of this interview may be submitted as evidence and you might be called as a witness. If you provide us with information of a sensitive or private nature, I will ask the Adjudication Panel for England or the Standards Committee to keep this information confidential. This is, however, their decision and they may disagree with my recommendation and allow the information you have provided to be made public.

Please treat any information provided to you during the course of this investigation as confidential. In addition, there are statutory restrictions on the disclosure of information obtained during an investigation. This is covered by Section 63 of the Local Government Act 2000 and disclosure of information contrary to this is a criminal offence.

Do you have any questions about what I've said?

If at any stage you feel you would like a break please say so, and we will adjourn the interview for a short period. Do you have a fixed end time (such as to collect children from school)?

The interview should take approximately [insert time], however this may change. I will offer you a break around every hour and I may decide to take a break to assist me in my role, even if you do not feel you need one.

Recorded Interviews

[Switch on the tape recorder before beginning preamble]

My name is [insert name] and I am an investigator for the Monitoring Officer of Leeds City Council.

As I advised you [on the telephone/by letter] I will be recording this interview. Could you confirm for the record that you consent to this?

For the benefit of the tape it is [insert time & date]. The Monitoring Officer responsible for this investigation has asked me to assist her in this matter.

For the record this is an interview with [insert name of interviewee] about case number [insert case number] regarding allegations about the conduct of [insert subject member name].

I am conducting this interview under the powers given to the Monitoring Officer by the Local Government Act 2000 and The Standards Committee (England) Regulations 2008.

Before the investigation is completed, [insert subject member name] and [insert complainant name] will be sent a draft of the report to enable them to make any representations they consider necessary. As a witness you may be sent relevant extracts from the draft report for the same purpose. Having considered comments on the draft report, I will then issue my final report. Parts of the transcript of this interview may be included in the draft and final report.

If the case is considered at a hearing, parts of the transcript of this interview may be submitted as evidence and you may be called as a witness. If you provide me with information of a sensitive or private nature, I will ask the Adjudication Panel for England or the standards committee to keep this information confidential. This is however, their decision and they may disagree with my recommendation and allow the information you have provided to be made public.

Please treat any information provided to you during the course of this investigation as confidential. In addition, there are statutory restrictions on the disclosure of information obtained during an investigation. This is covered by Section 63 of the Local Government Act 2000 and disclosure of information contrary to this is a criminal offence.

Do you have any questions about what I've said?

If at any stage you feel you would like a break please say so, and we will adjourn the interview for a short period.

[For telephone interviews, ask whether the interviewee can talk freely, somewhere where there are no interruptions and the conversation cannot be overheard].

Is there anything else you would like me to explain, either procedural or otherwise?

The interview should take approximately [insert time], however this may change. I will offer you a break around every hour and I may decide to take a break to assist me in my role, even if you do not feel you need one.

PRIVATE AND CONFIDENTIAL

Dear [insert name]

Ref: 12345X

I write further to our [interview/telephone interview] of [insert date] and enclose [as agreed] two copies of the record/transcript taken from the interview.

Record:

I would be grateful if you could review the record and make any alterations you consider necessary from your recollection of the interview. Please then sign and date the declaration at the end of the interview record and initial the bottom of each page, returning one copy to me to the above address by [insert date]. Should you not sign and return a copy of the interview record by this date I will assume that you accept and agree with its content.

Transcript:

I would be grateful if you could review the transcript and make any alterations if you think there are any errors with the transcript. Please then sign and date the declaration at the end of the interview transcript and return one copy to me to the above address by [insert date]. If I do not hear from you by that date I will assume you accept the transcript as an accurate record of the interview.

The copy of the interview record/transcript has been provided to you solely to enable you to confirm the accuracy of the interview. It should not be disclosed or used for any other purpose. You are, however, able to disclose these documents to your solicitor, should you choose to appoint one, or other representative, for the purpose of seeking advice in relation to this investigation.

If, on reading the interview record/transcript, you have any additional comments that you feel are relevant to the investigation, please address these to me in writing in a separate document and send it to the above address, or by sending an email to [insert email address]. Alternatively you can telephone me directly [insert contact number]. Should you wish to write would you please quote the reference number on all documentation.

Yours sincerely

[insert investigator name]

Section 6 – Production of investigation reports

Producing draft investigation reports

6.1 The Investigator will be required to produce a report (Appendix 1 is the report template) at the conclusion of the investigation which should provide the following details:

6.1.1 Title page

- Who the report is for
- Who the report is by
- The date of the report

6.1.2 Executive summary

- The full allegation and who it was made by
- The provisions of the Code of Conduct that were considered
- A conclusion as to whether there has been a failure to comply with the Code
- The finding

6.1.3 The subject Member's details

- When the Member was elected
- The Member's term of office
- Any other relevant authorities they are a member of
- Details of any committees on which the Member serves or has served
- The date a Member ceased to be a Member (if relevant)
- The date the Member signed an undertaking to abide by the Code
- Full details of any training the Member has received on the Code

6.1.4 Relevant legislation and protocols

- Any relevant extracts from the Code
- Any relevant extracts from any other legislation or protocols considered in the report

6.1.5 Evidence gathered and the investigator's consideration of it

- A summary of who information was obtained from
- A chronological outline of the facts that have been established (undisputed facts should be set out as facts and stated accordingly)
- An outline of the disputed facts, including the different views, the Investigator's conclusions on them based on the balance of probabilities and the reasons for those conclusions
- All the relevant evidence gathered even if it does not support the Investigator's conclusions
- Any mitigating or aggravating factors, such as a the state of mind of those involved
- When referring in the report to material in the evidence bundle, identify the document referred to

6.1.6 Summary of the material facts¹⁰

- A summary of the facts needed to confirm the conclusions you have reached
- Where there was a disputed fact, the Investigator only need include the conclusion they came to

6.1.7 The subject Member's additional submissions

- An outline of the information or opinions submitted by the subject Member, which the Investigator did not consider relevant to the case
- An outline of why the Investigator did not deem the information or opinions submitted by the subject Member to be relevant

6.1.8 Reasoning as to whether there has been a failure to comply with the Code of Conduct

- Where possible, take each alleged breach in turn
- Outline which part of the Code of Conduct the Investigator is considering. Explain the test being applied when determining if there has been a failure to comply with the Code.
- Explain in detail, giving reasons, why the Investigator does or does not consider that the conduct constitutes a breach of the Code
- Do not introduce any new facts or opinions. The Investigator must only refer to evidence or opinions that have been outlined earlier in the report
- Make sure that the explanation of the test being applied, and the reasons for the conclusions, are detailed and clear enough to understand for a lay person with no legal background

6.1.9 Finding

- Outline the statutory finding of the investigation, and provide reasons for the decision
- Refer to aggravating or mitigating factors, which must be outlined in the facts section earlier in the report
- The Investigator may also add any other observations and/or recommendations they consider necessary

6.1.10 Schedule

- List the exhibits with the title "Schedule of evidence taken into account" (Appendix 2 is the schedule of evidence template)
- Exhibit all the evidence upon which the Investigator has relied when reaching their conclusion
- In complex cases it may be appropriate to provide a chronology of important events in the case which should appear at the end of the report
- Provide a list of unused material

¹⁰ The Investigator may decide that this section is not required where there is no dispute as to the findings of fact and no requirement for the Investigator to reach conclusions on those facts.

Issuing the draft report

- 6.2 The Investigator must issue a draft report, sending a copy to the Monitoring Officer, Head of Governance Services and Senior Corporate Governance Officer initially. The Monitoring Officer reserves the right to decide when the investigation is fully complete, and when the report is of an acceptable quality to be put before the Standards Committee. If the Monitoring Officer agrees that the investigation is complete, both the Monitoring Officer and the Head of Governance Services will provide comments on the draft investigation report.
- 6.3 Once these comments have been addressed by the Investigator, they must send a copy of the draft report to the subject Member and the complainant, inviting their comments by a specified date. This is helpful if the report is complex or the conclusions are likely to be disputed by either party. The draft should not be sent to other witnesses or parties interviewed, but confirmation of their evidence should be sought following their interview (as explained in paragraphs 5.30 and 5.31).
- 6.4 The draft report should be clearly marked as 'draft' and must state that it is subject to change and does not represent the Investigator's final conclusion. Whether the Investigator has or has not found the subject Member to be in breach of the Code of Conduct, copies of the evidence that were relied upon when reaching their conclusion should also be included. The Investigator should keep a copy of the draft and the bundle of evidence that they send to the subject Member. This acts as a record of what information the subject Member has received and prevents duplication of work when issuing the final bundle. No such evidence should be provided to the complainant.
- 6.5 The Investigator must consider whether any of the information in the draft report, or evidence bundle, is confidential information that should not go into the public domain. For example, medical details or personal contact details. Information of this nature should be edited from the draft and final report unless it is essential to the reasoning.
- 6.6 The Investigator should enclose an accompanying letter stating the following:
- The report is confidential in accordance with Section 63 of the Local Government Act 2000
 - The report can be discussed with a legal representative
 - The date by which comments must be received

Appendix 3 is the draft report covering letter to be used for this purpose.

- 6.7 Responses to the draft report may reveal the need for further investigation, or they may add nothing of relevance. If there are significant changes to the report, the Investigator may wish to consider issuing a second draft. Any such draft should be sent to the Monitoring Officer, Head of Governance Services and Senior Corporate Governance Officer for comment prior to being sent to the parties. Once the Investigator has considered whether the responses add anything of substance to the investigation, they will be able to make their final conclusions and recommendations.

- 6.8 Where comments on the draft report are critical of the investigation or the Investigator, they may need to consider how to respond to the comments made. The Investigator should not let such criticism prevent a draft report being finalised unless this is unavoidable. In particular, the investigation process, including writing the report, **should not be suspended** while a complaint about the investigation is dealt with. The only exemption to this is if a service complaint¹¹ is so substantive that it would not be appropriate for the same Investigator to continue on the case while the service complaint is ongoing. In these cases the investigation will be referred back the Monitoring Officer whilst the complaint is resolved. Further guidance on how the Investigator should respond to service complaints is contained in Section 4 of this procedure (Monitoring the investigation).
- 6.9 When commenting on a draft report, a party may disagree with:
- The interpretation of the Code or other legislation
 - The analysis of the evidence
 - The analysis of an individual's conduct
 - Conclusions reached in an investigation
 - The scope of the investigation
 - How and who evidence was obtained from

The Investigator should avoid getting drawn into lengthy correspondence with the subject Member or other interested parties if they criticise the Investigator for reaching certain conclusions.

- 6.10 If the subject Member provides comments to the Investigator before the draft report has been issued, the Investigator should respond in writing. If the subject Member does not understand the Code of Conduct or the investigative process, the Investigator should seek to explain the position to them. Failure to do so may be taken into account at any subsequent hearing, and the Investigator will need to show that they took all reasonable steps to address the subject Members' confusion.
- 6.11 If the comments are made by the complainant, the Investigator can either respond to their comments or ask them to wait until they have read the draft report.
- 6.12 In relation to comments received after the draft report has been issued, the Investigator should keep a written record of their consideration of these comments. The Investigator should provide a written response to the party explaining their position or referring them to the relevant paragraph of the report. This can be done when they are sent the final report. The Investigator should also add any critical comments on the draft report to the bundle of evidence.

¹¹ A complaint about the conduct of an investigation, as oppose to a complaint about the interpretation and reasoning in the Investigator's report.

Issuing the final report

- 6.13 Once the Investigator has completed the investigation they will:
- Make a finding that there has been a failure to comply with the Members' Code of Conduct ("a finding of failure") or there has not been a failure to comply with the Members' Code of Conduct ("a finding of no failure"); and
 - Prepare a written report of the investigation ("the Final Report") which contains their findings.
- 6.14 The final report will contain the same information as the draft report (outlined in paragraph 6.1 of this procedure), but will contain a "final" marking.
- 6.15 The Investigator must consider whether any of the information in the report or evidence bundle is confidential information that should not go into the public domain. For example, medical details or signatures. All information of this nature should be edited from the final report unless it is essential for the reasoning. This is especially important given that once the final report is presented to the Standards Committee for consideration it becomes exempt information in accordance with Regulation 8(6) of the Standards Committee (England) Regulations 2008, and may therefore be considered in public by the Standards Committee and published accordingly.
- 6.16 Once the final report is completed, the Investigator must send a copy of the report (enclosing a copy of the Standards Committee Procedure Rules for the subject Member) to:
- The subject Member;
 - The Monitoring Officer; and
 - The Senior Corporate Governance Officer.
- 6.17 The Investigator should also include a covering letter to the subject Member which states that some aspects of the report are confidential, that they have considered any comments they made in response to the draft report and have amended the final report where appropriate, and that it can be discussed with a legal representative. Appendix 4 to this procedure is the final report covering letter template.

Producing and referencing the evidence bundle

- 6.18 The Investigator must produce an evidence bundle which contains the evidence used, which will need to be submitted to the Standards Committee or Adjudication Panel Case Tribunal (as appropriate), and a schedule of unused evidence. The documents referred to in the schedule may be requested by the Standards Committee or subject Member.
- 6.19 The evidence bundle will need to include:
- a) Documents which establish the legal framework for the investigation such as the complaint letter, a copy of the Code of Conduct (along with a copy of the minute confirming the Code's adoption and any subsequent amendments to the Code), a copy of any legislation referenced in the final

report, and a copy of the subject Members' declaration of acceptance of office.

- b) Any document relied upon by the Investigator when making their decision, such as transcripts, interview records or interview statements with all the relevant parties and interviewees; written correspondence from the subject Member including comments on the draft report; minutes, reports and other documentary evidence upon which they have relied when reaching their conclusion on the facts.
- c) Any document which would assist in the subject Member's defence such as any document that the subject Member may seek to rely on in their defence of the conclusions reached; documents which contain information that is inconsistent with the facts as established by the investigation; documents which raise questions about the accuracy of any of the evidence, including the reliability of witnesses; documents containing information which could lead to a finding that the Standards Committee or Investigator has acted in breach of the subject Member's rights under the Human Rights Act 1998; and documents which provide an explanation or partial explanation of the subject Member's actions.
- d) Background documents which the Investigator relied upon when reaching their decision but which may be helpful to the Standards Committee when considering the case. The Investigator should also include documents which the subject Member thinks are relevant but which are not, in the Investigator's opinion, material to the case.
- e) A list of unused evidence, which is a list of the documents the Investigator believes are irrelevant to the investigation. The Investigator should provide sufficient information about each document so that the subject Member or Standards Committee can request a copy if they wish. The Investigator does not need to prepare a bundle of the unused evidence.

6.20 Where the following information is material to the case, the Investigator should discuss with the Monitoring Officer whether such material should be included in the evidence bundle¹²:

- Sensitive information which has been edited or deleted.
- Information protected by legal professional privilege and public interest immunity.

6.21 Internal documents, such as file notes and draft reports, should not be included in the evidence bundle. The Investigator should ensure that they exercise proper version control in relation to any draft reports and should ensure that any other notes are precise and clear. Instead these documents should be referenced in the schedule of unused evidence, and therefore may be requested by the Standards Committee.

6.22 The Investigator **must** ensure that they disclose all documents which may be relevant to the case or to the subject Member's defence. This is because failure to disclose such documents may result in the Standards Committee

¹² Particularly as such information may be necessary for the subject Member to prepare a proper defence.

reaching an inappropriate decision, and the decision being deemed unsafe upon appeal to the Adjudication Panel's Appeals Tribunal.

- 6.23 The evidence bundle should be structured as follows:
- The documents which establish the legal framework for the investigation;
 - The remaining evidence grouped thematically, for example policy documents or minutes;
 - Documents should be arranged chronologically within their group;
 - The front page should be numbered 000001 which each subsequent page numbered in ascending order;
 - If a document is missing, the investigator should provide a note to this effect to the Standards Committee outlining the reasons why the document is unavailable; and
 - Multiple versions of a document should only be included if it is important to do so for the evidence.
- 6.24 The Investigator should consider what information needs to be deleted from the evidence bundle on a case by case basis. Information should be deleted on the basis that it may end up in the public domain. The Investigator should consider removing the following types of information:
- Telephone numbers, addresses, email addresses or signatures of any person other than on a transcript or witness statement. This is personal data as defined by the Data Protection Act 1998. If the Standards Committee require such details, these should still be deleted from any documents and provided as a separate list to the Standards Committee instead.
 - Age and date of birth of a party (unless directly relevant to the case).
 - Any information which relates to matters which were not referred for investigation.
 - Other personal data as defined by the Data Protection Act 1998.
 - Items such as petitions, legal advice and the evidence of vulnerable people need to be deleted on a case-by-case basis.

Confidentiality Issues

- 6.25 Section 63 of the Local Government Act 2000 (as amended) limits the circumstances where information obtained by an Ethical Standards Officer (ESO) or a Monitoring Officer during an investigation can be disclosed. Any person who discloses information in breach of this section is guilty of a criminal offence.
- 6.26 The Investigator should not disclose information obtained in an investigation unless:
- The disclosure will assist an ESO to perform their statutory functions;
 - The disclosure will assist the Monitoring Officer¹³ or Standards Committee to perform their statutory functions;

¹³ For the purposes of the investigation, the Investigator is carrying out the Monitoring Officer's statutory functions, and therefore the Investigator may disclose such information if it will assist with the investigation.

Procedure for external Code of Conduct investigations
Section 6 – Production of investigation reports

- The person who the information relates to gives you permission to disclose it;
- The information has already lawfully been made public;
- The disclosure is made for the purposes of criminal proceedings in the UK;
- The Investigator is required to do so by a court or other similar body; or
- The disclosure is to one of the public bodies listed in Section 63(1) of the Local Government Act 2000 for the purpose of their functions.

6.27 The Investigator should therefore mark all written communications¹⁴, transcripts and reports as confidential.

6.28 However once the final report has been forwarded by the Monitoring Officer to the Standards Committee for consideration (in accordance with Regulation 17 of the Standards Committee (England) Regulations 2008), the final report is considered as exempt information under paragraph 7C of Schedule 12A of the Local Government Act 1972, and is therefore subject to the public interest test.

¹⁴ Emails should be marked as “confidential” both in the heading of the email as well as in the delivery options.

PRIVATE AND CONFIDENTIAL

Case Reference: 1234X

Report of an investigation under Section 59 of the Local Government Act 2000 by [insert investigator name] appointed by the Monitoring Officer for Leeds City Council into an allegation concerning [insert subject member name].

DATE: [insert date]

Contents

- 1 Executive summary
 - 2 **[Insert member's name]**'s official details
 - 3 The relevant legislation and protocols
 - 4 The evidence gathered
 - 5 Summary of the material facts
 - 6 **[Insert member's name]**'s additional submissions
 - 7 Reasoning as to whether there have been failures to comply with the Code of Conduct
 - 8 Finding
-
- Appendix A Schedule of evidence taken into account and list of unused material
-
- Appendix B Chronology of events

1 Executive summary

- 1.1 [Insert summary of allegation]
- 1.2 [Insert summary of Investigation outcome]

2 [Insert member's name]'s official details

- 2.1 [Insert member's name] was elected to office on [insert date] for a term of [insert number] years. [insert member's name] is also a member of the following other relevant authorities: insert authority names].
- 2.2 [Insert member's name] currently serves on the following committees: [insert committee names] and has also served on [insert committee names] committees in recent years.
- 2.3 [If no longer a member, state how the period of office ceased]
- 2.4 [Insert member's name] gave a written undertaking to observe the Code of Conduct on [insert date].
- 2.5 [Insert member's name] has received the following training on the Code of Conduct [insert training details].

3 The relevant legislation and protocols

- 3.1 At a meeting on [insert relevant date], the Assessment / Review Sub-Committee of the Standards Committee of Leeds City Council decided to refer the allegation against Councillor [insert subject Member's name] to the Monitoring Officer for investigation under Section 57A(2) of the Local Government Act 2000.
- 3.2 An investigation carried out by the Monitoring Officer following referral under Section 57A(2) is governed by Section 66 of the Local Government Act 2000. Under Section 66, the Secretary of State may make regulations as to the way in which any matters referred to the Monitoring Officer are to be dealt with. Regulations made by the Secretary of State under this section are the Standards Committee (England) Regulations 2008 (SI 1085). These Regulations apply to this investigation.
- 3.3 Section 82A of the Local Government Act 2000 enables a Monitoring Officer to delegate any part of his or her functions in relation to an investigation to any nominated person. In this case, I have been appointed under Section 82A to investigate the allegation and prepare a report of my investigation.
- 3.4 Leeds City Council has adopted a Code of Conduct in which the following paragraph[s] is/are included:

[insert included paragraph]

[insert included paragraph]
[insert included paragraph]
[insert included paragraph]

4 The evidence gathered

- 4.1 I have taken account of oral evidence from [insert evidence details]
- 4.2 I have also taken account of documentary evidence obtained from [insert evidence details]

5 Summary of the material facts

- 5.1 [Insert summary]

6 [Insert member's name]'s additional submissions

- 6.1 [Insert submissions]

7 Reasoning as to whether there have been failures to comply with the Code of Conduct

- 7.1 [Insert reasoning]

8 Finding

- 8.1 [Insert finding]

Appendix A

[When printed, insert a copy of the **schedule of evidence** here.]

Appendix B

Chronology of events

[insert event]
[insert event]
[insert event]
[insert event]
[insert event]

Appendix A

Schedule of evidence taken into account

Case No:

Core documents

Doc No	Description	Pages
XX123	Allegation letter	1-13

Notes of telephone conversations, letters, and interviews with witnesses

Doc No	Description	Pages

Minutes of meetings and other documentary evidence

Doc No	Description	Pages

[insert subject member name]'s comments on draft report

Doc No	Description	Pages

List of unused materials

PRIVATE AND CONFIDENTIAL

Dear [insert name]

Ref: 12345X

I write further to enquiries that have been made into [insert complainant's name]'s allegation, that you may have failed to comply with [insert authority name]'s Code of Conduct, which was referred to me for investigation.

I am writing to you and to [insert complainant's name] to let you know my draft finding[s] and the reasons why I have reached [it/them].

If you choose to make comments on the draft report, it would be most constructive to focus only on matters that I have relied upon to reach my findings.

Please note that the disclosure of information from parts of the report [and some of the documents in the schedule of evidence] may be an offence under Section 63 of the Local Government Act 2000.

Section 63 prohibits the disclosure of information gathered during an investigation. However, information can be disclosed to your solicitor or other adviser and in any of the following circumstances:

- The disclosure will enable the Standards Committee, an Ethical Standards Officer, the Ombudsman, the Audit Commission (and Welsh equivalent), the Electoral Commission or the Adjudication Panel for England to perform their statutory functions.
- The disclosure will assist the Monitoring Officer to perform their statutory functions.
- You have permission from the person to whom the information relates to disclose it.
- The information has already lawfully been made public.
- The disclosure is made for the purposes of criminal proceedings in the UK.
- You are required to do so by a court or similar body.

You may wish to seek your own advice if you are unsure if you can legally disclose information from the report. Additionally, this is a draft report and does not necessarily contain my final findings.

If you wish to comment on the draft report and findings, please let me have your comments in writing to the above address or fax number by 12 noon on [insert date]

10 working days from date of letter]. If I have not heard from you by that date, I shall proceed to issue the final report.

Should you require any clarification on the points raised in this letter, please contact me on [insert telephone number] or send an email to [insert email address].

Yours sincerely

[insert investigator name]

PRIVATE AND CONFIDENTIAL

Dear [insert name]

Ref: 12345X

I refer to my letter dated [insert date] and advise that the investigation into the allegation made against you by [insert complainant's name] has now been completed.

[Before finalising my report, I considered carefully any comments received in response to the draft report, including those in your letter of [insert date]. I have amended the report, where I have considered it appropriate to do so.]

I enclose a copy of my final report. The report is marked 'confidential'. While my finding may be disclosed, please note that the disclosure of information from parts of the report may be an offence under Section 63 of the Local Government Act 2000.

Section 63 prohibits the disclosure of information gathered during an investigation. However, information can be disclosed to your solicitor or other adviser and in any of the following circumstances:

- The disclosure will enable the Standards Committee, an Ethical Standards Officer, the Ombudsman, the Audit Commission (and Welsh equivalent), the Electoral Commission or the Adjudication Panel for England to perform their statutory functions.
- The disclosure will assist the Monitoring Officer to perform her statutory functions.
- You have permission from the person to whom the information relates to disclose it.
- The information has already lawfully been made public.
- The disclosure is made for the purposes of criminal proceedings in the UK.
- You are required to do so by a court or similar body.

You may wish to seek your own advice if you are unsure if you can legally disclose information from the report.

[Insert any appropriate information about publication of summary of report by Leeds City Council and its availability]. A copy of this summary will be forwarded in due course and may be disclosed.

Procedure for external Code of Conduct investigations
Section 6 – Appendix 4

I am required by the Act to inform [insert complainant's name] of the outcome of the investigation and am therefore sending them a copy of my report. [I am also informing the clerk of my finding[s].]

Yours sincerely

[insert investigator name]

Section 7 – Presentation of the final report to the Standards Committee

Consideration of final investigation reports

- 7.1 In Leeds, the Assessment Sub-Committee of the Standards Committees receives and considers final investigation reports in accordance with Regulation 17 of the Standards Committee (England) Regulations 2008. The Assessment Sub-Committee has monthly scheduled meetings, to which the final investigation report will be added.
- 7.2 The Investigator will be expected to attend in order to present their findings and answer any questions about the final report. The Monitoring Officer will act as the legal advisor to the Sub-Committee at this meeting, as agreed within the scope of the delegation. As soon as the date of the Assessment Sub-Committee is known the Senior Corporate Governance Officer will contact the Investigator to invite them to attend.

Hearings conducted by the Hearings Sub-Committee

- 7.3 Should the Assessment Sub-Committee decide to refer the matter to a hearing by the Hearings Sub-Committee, the Investigator will be expected to take part in the pre-hearing process and the hearing itself according to the provisions of the Standards Committee Procedure Rules (contained in Part 4 of the Constitution of Leeds City Council).
- 7.4 During the pre-hearing process the Investigator will be required to complete an information form within a set timescale decided on a case by case basis (a minimum of ten days), which will ask the Investigator to confirm whether:
- They wish to be represented at the hearing;
 - They want to call relevant witnesses to give evidence to the Hearings Sub-Committee;
 - They want any part of the hearing to be held in private or want any part of the report of documents to be withheld from the public.
- 7.5 The Investigator will also be sent a copy of the subject Member's response to the pre-hearing process which will outline any areas of disagreement with the Investigator's final report, as well as whether they will be represented, whether they wish to call witnesses, and whether they will be giving evidence to the Sub-Committee.
- 7.6 The Investigator will be expected to attend the meeting of the Hearings Sub-Committee itself and will be sent a copy of the pre-hearing process summary, which will confirm the time and date of the hearing and the number of witnesses to be called, at least ten days before the hearing. The hearing will be held within three months of the final investigation report being issued by the Investigator.

- 7.7 Should the Investigator fail to attend the hearing, the Hearings Sub-Committee will consider whether there is sufficient reason for the failure. The Hearings Sub-Committee will consider any representations made in writing before making a determination in the Investigator's absence. If the Hearings Sub-Committee does not consider that there is sufficient reason for the Investigator not attending, it will consider the complaint and make a determination in the Investigator's absence. If the Hearings Sub-Committee does consider there is sufficient reason, it may adjourn the hearing to another date.
- 7.8 The Investigator may be asked to make representations and answer questions throughout the different stages of the hearing. The Investigator may also call witnesses to support their findings of fact within the final report, if necessary.

Case Tribunals and Appeals Tribunals conducted by the Adjudication Panel for England

- 7.9 Should the Assessment Sub-Committee refer the matter to the President of the Adjudication Panel for England, the case will be heard by a Case Tribunal.
- 7.10 The Adjudication Panel for England publish a procedure called "Case Tribunal Procedures for matters referred from a Standards Committee", which explains what is expected of the Investigator throughout the process. This procedure can be found at <http://www.adjudicationpanel.tribunals.gov.uk/formsguidance.htm>
- 7.11 Following a hearing conducted by the Hearings Sub-Committee of Leeds City Council, the subject Member may appeal against the finding or the sanction imposed by the Hearings Sub-Committee. Any such appeal will be made to the President of the Adjudication Panel. If the President decides to allow such an appeal, the Appeals Tribunal must convene to consider the matter. The Adjudication Panel for England publish a procedure called "Appeals Tribunal Procedure" which can be found at <http://www.adjudicationpanel.tribunals.gov.uk/formsguidance.htm>
- 7.12 There is no specific provision for the Investigator to be involved in an Appeals Tribunal, however the Monitoring Officer may contact the Investigator for assistance in preparing for an Appeals Tribunal. The costs of such assistance will have been agreed with the Head of Governance Services through the commissioning process.