

# Unrestricted Document Pack

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CHIEF EXECUTIVE'S OFFICE  
CHIEF EXECUTIVE  
Fiona Marshall

24 May 2017

## PLEASE NOTE CHANGE OF TIME OF MEETING

Dear Councillor

You are summoned to attend the meeting of the;

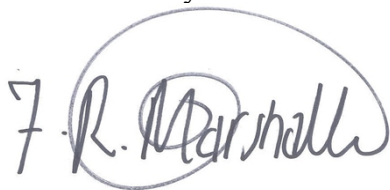
### **JOINT STANDARDS COMMITTEE**

on **THURSDAY 1 JUNE 2017** at **5.00 pm.**

in the Council Chamber. Maldon District Council Offices, Princes Road, Maldon.

A copy of the agenda is attached.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Fiona Marshall', enclosed within a large, hand-drawn oval.

Chief Executive

CHAIRMAN Councillor Rev. A E J Shrimpton

VICE-CHAIRMAN Councillor Mrs M E Thompson

COUNCILLORS Mrs B F Acevedo  
I E Dobson  
M R Pearlman

PARISH COUNCILLORS Councillor J Anderson  
Councillor S Nunn

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## **AGENDA JOINT STANDARDS COMMITTEE**

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**THURSDAY 1 JUNE 2017**

1. **Chairman's notices (please see overleaf)**

2. **Apologies for Absence**

3. **Minutes of the last meeting** (Pages 5 - 10)

To confirm the Minutes of the meeting of the Committee held on 23 February 2017 (copy enclosed).

4. **Disclosure of Interest**

To disclose the existence and nature of any Disclosable Pecuniary Interests, other Pecuniary Interests or Non-Pecuniary Interests relating to items of business on the agenda having regard to paragraphs 6-8 inclusive of the Code of Conduct for Members.

(Members are reminded that they are also required to disclose any such interests as soon as they become aware should the need arise throughout the meeting).

5. **Constitutional and Operating Arrangements for the Joint Standards Committee**  
(Pages 11 - 20)

To consider the report of the Monitoring Officer (copy enclosed).

6. **Any other items of business that the Chairman of the Committee decides are urgent**

7. **Exclusion of the Public and Press**

To resolve that under Section 100A (4) of the Local Government Act 1972 (the Act) the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Part 1 of Schedule 12A to the Act and that this satisfies the public interest test.

8. **Councillor Code of Conduct Complaint** (Verbal Report)

To receive a verbal report from the Deputy Monitoring Officer on progress of a complaint referred to investigation at the last meeting.

## **NOTICES**

### **Sound Recording of Meeting**

Please note that the Council will be recording any part of this meeting held in open session for subsequent publication on the Council's website. At the start of the meeting an announcement will be made about the sound recording. Members of the public attending the meeting with a view to speaking are deemed to be giving permission to be included in the recording.

### **Fire**

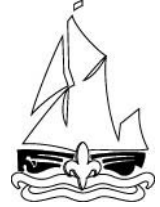
In event of a fire, a siren will sound. Please use the fire exits marked with the green running man. The fire assembly point is outside the main entrance to the Council Offices. Please gather there and await further instruction.

### **Health and Safety**

Please be advised of the different levels of flooring within the Council Chamber. There are steps behind the main horseshoe as well as to the side of the room.

### **Closed-Circuit Television (CCTV)**

This meeting is being monitored and recorded by CCTV.



**MINUTES of  
JOINT STANDARDS COMMITTEE  
23 FEBRUARY 2017**

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**PRESENT**

Chairman	Councillor Mrs M E Thompson
Vice-Chairman	Councillor Rev. A E J Shrimpton
Councillors	Mrs B F Acevedo, R G Boyce MBE, CC and M R Pearlman
Parish / Town Councillors	Councillors J Anderson and S Nunn
In attendance	Councillors Miss M R Lewis

**1015. CHAIRMAN'S NOTICES**

The Chairman drew attention to the list of notices published on the back of the agenda.

**1016. APOLOGIES FOR ABSENCE**

An apology for absence was received from Mr N Hodson, the Independent Person, who was away. The Chairman then welcomed Councillor J Anderson of Southminster Parish Council who had been nominated by the Essex Association of Local Councils to be one of the two Parish/Town Council representatives on the Committee.

**1017. MINUTES OF THE LAST MEETING**

**RESOLVED**

- (i) that the Minutes of the special meeting of the Committee held on 13 January 2017 be received.

Councillor R G Boyce referred to Minute 867 – Resumption of Meeting, and the further consideration of the Allegation of Misconduct matter begun in Minute 865, and in particular to resolution (i) and the paragraph preceding it. He said that the reference to the words “but that it be noted that the actions of the complaint be regarded as having reflected bad judgement.” had not been part of his proposition at the time on which a vote was taken and decision reached. It was accepted however that the words had been said during the course of the meeting. This was supported by his seconder at the time, Councillor Mrs B F Acevedo.

There then followed discussion on this point and also whether the decision reached by the Committee had included these words. It was noted that the Committee Services Manager had recorded a spoken reference to this in conjunction with the proposition and recalled having read this back to the Committee prior to a vote being taken. There had been no move to delete or disregard this wording at the time. He then offered a possible revision to deal with the point raised. Further discussion ensued from which it was concluded that the reference to these words were not part of Councillor Boyce's proposition or the final decision and upon being put to the meeting by the Chairman and a vote taken this was agreed.

#### **RESOLVED**

- (ii) that subject to the amended wording of Minute 867 as shown below, the Minutes of the special meeting of the Committee held on 23 February 2017 be confirmed.

*"It was then proposed by Councillor R G Boyce, and seconded by Councillor Mrs B F Acevedo, that on the basis that the Committee had neither seen nor heard anything that led it to conclude that a potential breach of the Code of Conduct may have occurred such as to warrant referral to investigation, that no further action be taken. Upon being put to the meeting and a vote taken the proposition was agreed.*

#### **RESOLVED**

- (i) *That on the basis that the Committee had neither seen nor heard anything that led it to conclude that a potential breach of the Code of Conduct may have occurred no further action be taken. "*

### **1018. DISCLOSURE OF INTEREST**

There were none.

### **1019. CONSTITUTIONAL AND OPERATING ARRANGEMENTS FOR THE JOINT STANDARDS COMMITTEE**

The Committee considered the report of the Monitoring Officer on possible revisions to its constitutional and operational arrangements.

A number of revisions had arisen from discussion at recent meetings and a training/briefing session for Members of the Committee, and these were shown at **APPENDIX 1** including consequential changes to the Conduct Complaints Process Flowchart Stage I. **APPENDIX 2** showed some proposed minor revisions to Stage II of the Flowchart.

Some discussion took place on the proposed 30 working days for the Monitoring Officer to conclude an initial assessment of a conduct complaint and what the status of the complaint would be if this was not achieved. It was noted that when the Committee last reviewed the Complaints Process it was clearly envisaged that the Monitoring

Officer would have the ability to proceed to investigation with the agreement of the Independent Person although this had not been reflected in the Stage I flowchart. It was generally agreed however that the 25 working days should be retained and in the event of exceptional circumstances preventing the normal process from occurring in that timeframe that the Monitoring Officer will consult with the Independent Person and the Chairman of the Committee with a view to a special meeting of the Committee being called. It was highlighted that the proposed revisions to the Stage I flowchart should mean such circumstances will be rare.

Particular reference was made to the proposed revision to the Committee's operating arrangements to bring it in line with the Investigating and Disciplinary Committee so far as the restricted circulation of papers and the attendance of non-Members of the Committee in relation to the conduct of private session business. It was recommended that if accepted Council and Committee Procedure Rule 20 be amended to exclude the Joint Standards Committee when dealing with private session business.

With the permission of the Chairman, the Leader of the Council spoke with regard to references in the flowchart to the Leader and the Political Group Leader. Arising from this it was agreed that the Stage I flowchart acknowledges that the Leader of the Council will be alerted to the existence of a conduct complaint relating to a District Councillor at an early stage in the process and kept generally advised of progress throughout.

It was also agreed that the two boxes in the final line of the Stage I flowchart should also refer specifically to Political Group Leader.

Arising from clarification of Members' concerns over what the initial assessment entailed, and the ability of the Monitoring Officer to proceed to investigation under Stage I of the process without referral to the Committee, it was further agreed that any such investigation should be carried out internally.

#### **RECOMMENDED**

- (i) that the Council agrees that the revisions to the constitutional and operating arrangements of the Joint Standards Committee as outlined in the report and clarified above, and shown as tracked in **APPENDICES 1 and 2** to these Minutes be adopted as part of the Council's constitutional documentation;
- (ii) that as a consequence of a revision included in (i) above, Council and Committee Procedure Rule 20 be amended to also exclude the Joint Standards Committee when conducting its business in private session.

#### **1020. EXCLUSION OF THE PUBLIC AND PRESS**

**RESOLVED** that under Section 100A (4) of the Local Government Act 1972 the public be excluded from the meeting for the following item(s) of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 1 and 2 of Part 1 of Schedule 12A to the Act, and that this satisfies the public interest test.

## **1021. INVESTIGATION INTO ALLEGATION OF MISCONDUCT**

The Committee considered the report of the Monitoring Officer on the outcome of an investigation into a complaint concerning the conduct of a District Councillor.

The Monitoring Officer took the Committee through the report, explaining the approach taken due to the personal circumstances of the Councillor in question, and the conclusion reached that there was either no evidence to support a potential breach of the Code of Conduct or that the allegation of a breach had not been properly made out.

Councillor S Nunn disclosed an interest due to his association with the Councillor complained of which did not affect his ability to participate in the matter. It was then proposed by Councillor Nunn that recommendation (i) be amended to reflect the fact that there was no corroborative evidence that the Councillor was not truthful in the action he took and therefore no potential breach of the Code of Conduct had occurred. This was seconded by Councillor Rev A E J Shrimpton and upon being put to the meeting there was an equality of votes. The Chairman then exercised her casting vote against the proposition which was then declared lost.

It was then proposed by Councillor R G Boyce and seconded by Councillor Mrs B F Acevedo that recommendation (i) as set out in the report be accepted, that recommendation (ii) be deleted, and that recommendation (iii) be revised by the deletion of the words “save for that identified in (ii) above” as inapplicable. This was put to the meeting and on a vote taken agreed by the Committee.

### **RESOLVED**

- (i) That the Committee considers the outcome of the investigation into the substantive complaint and the Monitoring Officer’s recommendation that a finding of no breach be found in respect of the substantive allegation of misconduct against the Councillor;
- (ii) That the Committee finds that the Councillor has not failed to comply with the Member Code of Conduct, as it was drafted at the time of the refusal to meet with the Monitoring Officer, and that no further action needs to be taken in respect of the matters.

## **1022. ALLEGATION OF MISCONDUCT**

The Committee considered the report of the Monitoring Officer on the alleged failure of a District Councillor to comply with the Council’s Code of Conduct through a refusal by the Councillor to meet with the Monitoring Officer. As a result, the Monitoring Officer had been unable to fulfil stage I of the complaints process.

The Monitoring Officer took the Committee through the report which detailed the considerable efforts made by the Deputy Monitoring Officer, in her absence, to meet with the Councillor in question, and in that connection referred to certain personal circumstances of the Councillor which may have affected the situation.



The Committee noted that this matter had occurred since the Council had revised the Code of Conduct to include complying with requests from the Monitoring Officer, so in that respect there was a clear breach of the Code which should be investigated.

There followed some discussion and some points of clarification on which the Monitoring Officer provided advice. Arising from this, and upon the proposition of Councillor M R Pearlman, seconded by Councillor S Nunn, it was

**RESOLVED** that the Monitoring Officer arranges for an investigation into both the apparent breach of the Code of Conduct through failure by the Councillor to comply with the request of the Monitoring Officer and also the alleged breach of the Code of Conduct being the substantive complaint, and for the outcome to be reported back to the Committee.

There being no further items of business the Chairman closed the meeting at 6.42 pm

MRS M E THOMPSON  
CHAIRMAN

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## **REPORT of MONITORING OFFICER**

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**to  
JOINT STANDARDS COMMITTEE  
1 JUNE 2017**

### **CONSTITUTIONAL AND OPERATING ARRANGEMENTS FOR THE JOINT STANDARDS COMMITTEE**

#### **1. PURPOSE OF THE REPORT**

- 1.1 To receive a reference from the Council to review certain aspects of these revised arrangements considered at the last meeting of the Committee.

#### **2. RECOMMENDATION**

To the Council:

That the revisions to the constitutional and operating arrangements of the Joint Standards Committee as outlined in this report and shown in **APPENDICES 1 and 2** be adopted as part of the Council's constitutional documentation, and that as a consequence Council Procedure Rule 20 be amended to also exclude the Joint Standards Committee when conducting its business in private session.

#### **3. SUMMARY OF KEY ISSUES**

- 3.1 At the last meeting of the Committee agreement was reached on a range of potential revisions to the constitutional and operating arrangements for the Committee. These were recommended accordingly to the Council. At the meeting of the Council on 5 April 2017 concerns were raised principally on –
- the ability of the Councillor being investigated to request that the matter is dealt with in open session.
  - the period of 28 working days given for responses to hearings.
- 3.2 The first point is easily clarified. Whether it is the Committee receiving an initial reference from the Monitoring Officer on a conduct complaint, or hearing the outcome of an investigation, the manner in which the Committee operates will be determined by the nature of the information it is receiving. A report from the Monitoring Officer containing 'exempt information' will therefore not be published and in accordance with normal practice the Committee would be invited to consider the matter with the press and public excluded. There is no basis for any party to the complaint to influence this process. As part of its recommendations to the Council the Committee sought to introduce a provision similar to that applicable to the Investigating and Disciplinary Committee. This was designed to protect the

sensitivity of the matters under consideration by restricting the circulation of papers and attendance at meetings of the Committee.

- 3.3 For further clarification it is important to understand the nature of ‘hearing’ in this process. The report of the Monitoring Officer to the Committee on a conduct complaint under stage II is a potential next step to the initial consideration by Monitoring Officer in conjunction with the Independent Person. This is merely another step towards determining whether a complaint should be referred to investigation and is not a hearing.
- 3.4 A hearing may occur under stage II in the light of the outcome of an investigation and would be conducted under rules or a procedure to be agreed which undoubtedly would make provision for the involvement of relevant parties including the complainant and the Councillor the subject of the complaint. As stated above however, the hearing would be conducted in the formal session of the Committee and therefore the normal rules affecting the consideration of business in open or closed session would apply.
- 3.5 There are no further matters requiring review and therefore it is open to the Committee to reiterate to the Council its recommendations agreed at the last meeting which are represented in **APPENDICES 1 and 2** to this report.

#### **4. IMPACT ON CORPORATE GOALS**

- 4.1 The review and updating of the corporate governance arrangements of the Council underpins the decision making processes of the Council, is in part a matter of compliance with the law and is also linked to high level outcomes associated with the corporate goal of delivering good quality, cost effective and valued services in a transparent way.

#### **5. IMPLICATIONS**

- (i) **Impact on Customers** – It is right and proper that the Council is able openly to explain, through well-presented and user-friendly constitutional documentation, the way in which it is set up and operates, and how it conducts its business. It is important that the Council’s procedures are seen as open and transparent.
- (ii) **Impact on Equalities** – None identified.
- (iii) **Impact on Risk** – None identified.
- (iv) **Impact on Resources (financial)** – None identified.
- (v) **Impact on Resources (human)** – None identified.
- (vi) **Impact on the Environment** – None identified.

Background Papers: None.

Enquiries to: Stuart Jennings, Committee Services Manager, (Tel: 01621 875745).

## JOINT STANDARDS COMMITTEE

### Constitutional Arrangements

- 1) The Joint Standards Committee consists of five Members of Maldon District Council, two Local Council representatives. The Independent Person (or Reserve) shall be notified of and invited to attend meetings and may participate in the discussion, and one Independent Person. The Independent Person has no voting rights.
- 2) Maldon District Council Members will be appointed at the Annual Meeting of the Council in line with the rules on political proportionality.
- 3) Local Council ~~Member~~ representatives will be nominated by the Essex Association of Local Councils (EALC) as co-opted members (with voting rights) and serve for a period of no more than two years subject to remaining elected and pending further nomination. ~~Independent Persons will be appointed by Council and will not have voting rights.~~
- 4) Independent Persons will be appointed by Council. Independent Persons shall be appointed for a period of four years, with the option of re-appointment for a further four years; no Independent Person may serve more than two terms of office.
- 5) Group Leaders may not be members of the ~~Joint Standards~~ Committee.
- 6) The Chairman and Vice-Chairman of the Committee shall be ~~a Maldon District Councillor~~ elected ~~appointed~~ at the first and special meeting of the Committee held on the day of the Annual Meeting of the Council. All members of the Committee will be notified of and invited to participate in the election of the Chairman and Vice-Chairman.
- ~~7) There will be one Vice-Chairman who shall be a Maldon District Councillor and shall be elected by the Committee.~~
- ~~8) 7)~~ The Vice-Chairman shall deputise for the Chairman in his or her absence.
- ~~9) 8)~~ The quorum for meetings of the ~~Standards~~ Committee shall be ~~at least~~ three voting Members.
- ~~10) Members, which must include one District Councillor and one Local Council member.~~
- ~~11) 9)~~ Substitutes shall be permitted for District Council Members to maintain political balance, and named substitutes as nominated by the EALC shall be permitted for Local Council Members.

### Roles and Functions of the ~~Joint~~ Standards Committee:

The ~~Joint~~ Standards Committee will promote and maintain high ethical standards of conduct by Councillors in the District of Maldon. It will hold Councillors to account where it determines that Councillors' conduct has fallen short of what is to be expected or otherwise required of them pursuant to the applicable Council's adopted Code of Conduct. Further details on the role and functions of the ~~Joint~~ Standards Committee are set out in Part 9 of the ~~Council's~~ Constitution.

### Procedural Arrangements

The Joint Standards Committee will conduct its proceedings in accordance with the relevant Procedure Rules set out in Part 8 of the Council's Constitution and also the adopted Conduct Complaints Process annexed here. The Committee will meet as and when required.

**ADD Additional Paragraph –**

When dealing with matters deemed to be private / confidential where the public is to be excluded from the meeting, it is essential that the Committee's work is confined to the Members of the Committee only at the time, and circulation of papers will be restricted accordingly. Notwithstanding Procedure Rule 20 and the general acceptance of the practice which enables Members to attend meetings of other Committees, private sessions of meetings of this Committee should proceed only with the appointed Members, the Independent Person, and required support Officers present.

**To exercise on behalf of the Council the following roles and functions:**

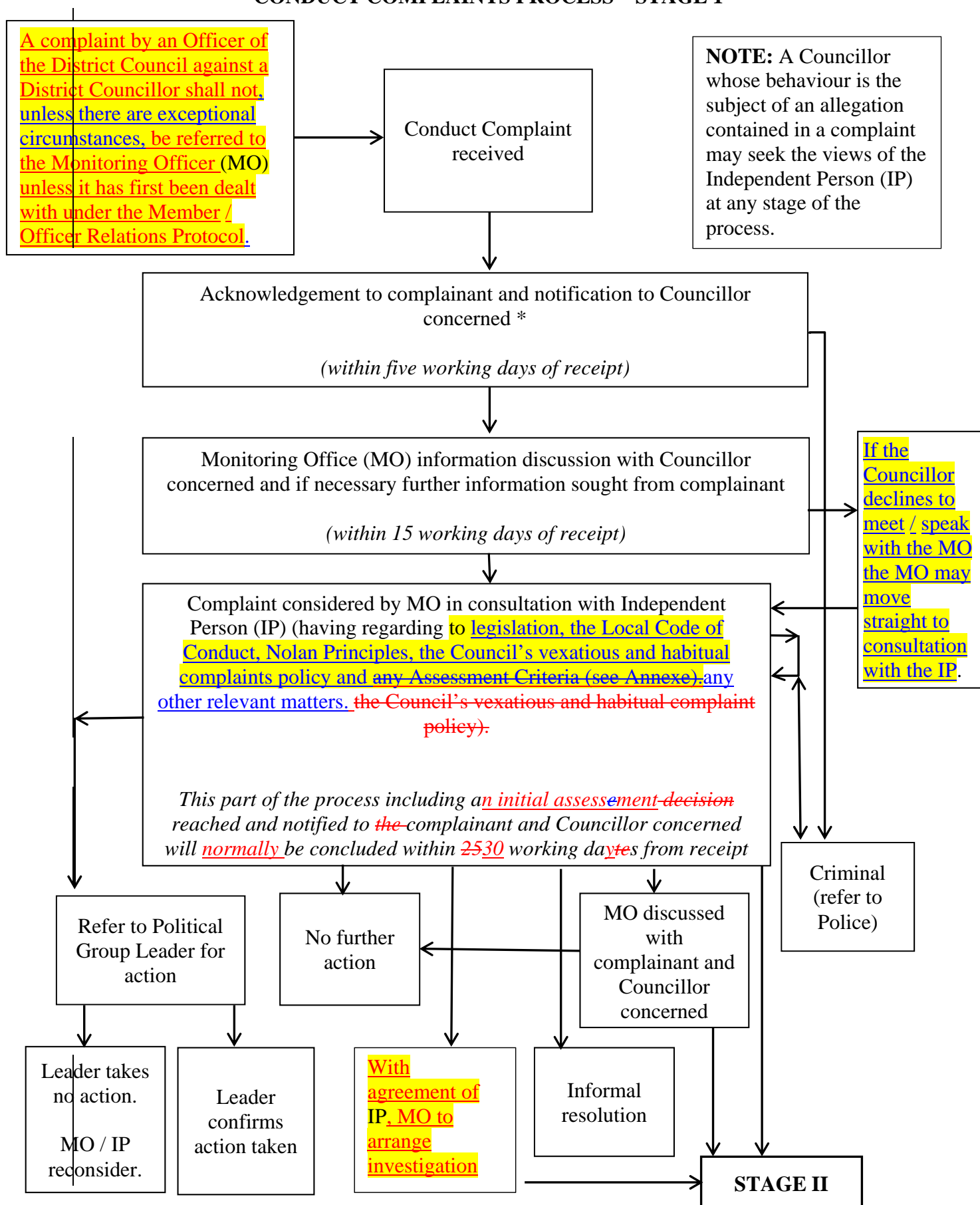
- 1) Promoting and maintaining high standards of conduct by Members and co-opted members (with or without voting rights) of the District Council and also Parish/Town (Local) Councils, and considering relevant issues to enable the Committee to fulfil this role;
- 2) Advising and assisting ~~Local Council(s) and~~ Councillors to maintain high standards of conduct and to make recommendation to Local Councils on improving standards or actions following a finding of a failure by a Local Councillor to comply with the Code of Conduct;
- 3) Advising the Council and Local Councils on the adoption or revision of the applicable Member Code of Conduct;
- 4) Receiving and considering referrals from the Monitoring Officer into allegations of misconduct ~~in accordance with any the authority agreed assessment criteria;~~
- 5) Receiving reports from the Monitoring Officer and assessing the operation and effectiveness of the Member Code of Conduct;
- 6) Advising, training or arranging to train ~~Councillors~~ Members and co-opted ~~M~~members on matters relating to the Member Code of Conduct;
- 7) Assisting Councillors and co-opted Members to observe the Member Code of Conduct;
- 8) Conducting hearings and determining complaints as necessary about District and Local Councillors and co-opted ~~M~~members where an investigation is undertaken to consider whether an allegation that there has been ~~alleging~~ a breach of the Member Code of Conduct ~~referred to it by the Monitoring Officer is made out~~ has been undertaken;
- 9) Following a hearing the Joint Standards Committee is able to make one of the following findings:-
  - (a) That the Member **has not failed** to comply with the Member Code of Conduct and no further action needs to be taken in respect of the matters considered at the hHearing; or
  - (b) That the Member **has failed** to comply with the Member Code of Conduct but that no further action needs to be taken in respect of the matters considered at the hHearing; or

- (c) That the Member **has failed** to comply with the Member Code of Conduct and that a sanction and/or an informal resolution should be imposed in respect of the matters considered at the hearing;
- 10) After making a finding at a hearing the Committee shall, within 28 working days, provide written notice of its findings including and the reasons for its decision to the subject Member and the complainant in the form of a decision notice;
- 11) Advising the Council upon the contents of and requirements for codes/protocols/other procedures relating to standards of conduct throughout the Council;
- 12) Maintaining oversight of the Council's arrangements for dealing with complaints against Councillors;
- 13) Informing the Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints;
- 14) Developing and adopting:
- ~~(a) — Assessment Criteria for dealing with complaints against councillors;~~
- ~~(b)~~(a) Arrangements for dealing with complaints against councillors and publicising the arrangements;
- ~~(c)~~(b) Such other provisions and procedures as may be required;
- 15) The Committee may impose any action or combination of actions available to it, or impose any informal resolution or combination of informal resolutions in accordance with the approved Complaints Procedure. The following list is an indication of the actions or combination of actions available:
- Reporting its findings to Council (or to the Local Parish Council) for information;
  - Recommending to Council that the Mmember concerned be issued with a formal censure or reprimand (or to the Local Parish Council);
  - Recommending to the Mmember's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
  - Recommending to the Leader of the Council that the Mmember be removed from, or removed from any particular posts or responsibilities they hold;
  - Instructing the Monitoring Officer to (or recommend that the Local Parish Council) arrange training for the member;
  - Removing (or recommend to the Local Parish Council that the Mmember be removed) from all outside appointments to which he/she has been appointed or nominated by the authority (or by the Local Parish Council);
  - Withdrawing (or recommend to the Local Parish Council that it withdraws) facilities provided to the Mmember by the Council, such as a computer, website and/or email and internet access; or
  - Excluding (or recommend that the Local Parish Council exclude) the Mmember from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- 16) Granting dispensations to elected and co-opted Members in respect of Disclosable Pecuniary Interests, Other Pecuniary Interests and Non-Pecuniary Interests.

- 17) Determining arrangements for the remuneration of the Independent Person(s).
- ~~17)~~ 18) Making recommendations to the Council in relation to the appointment of the Independent Person(s).



## CONDUCT COMPLAINTS PROCESS – STAGE 1

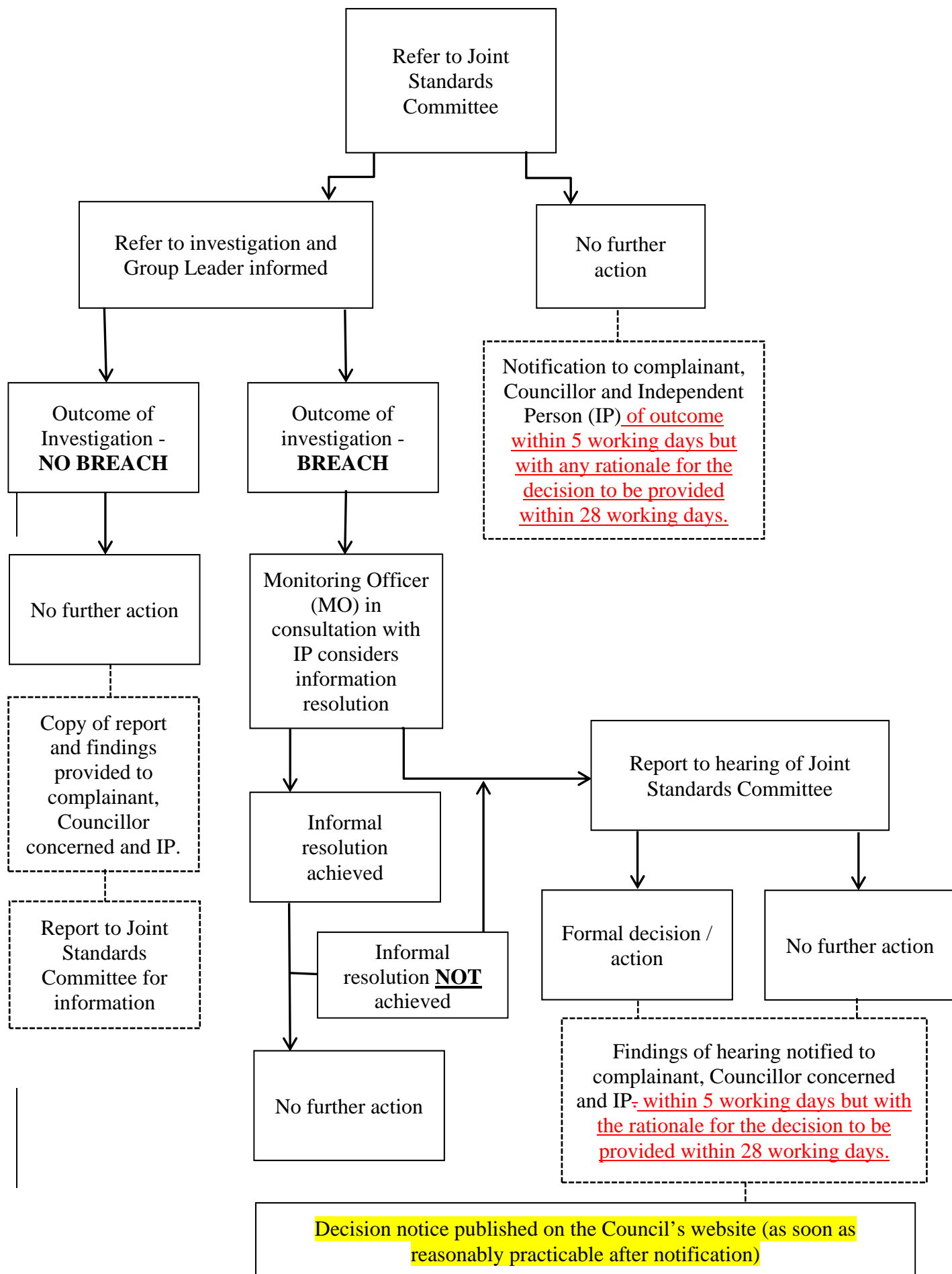


\* The acknowledgement will be sent by the recipient of the complaint and the letter then passed to the MO to deal with. In circumstances where the letter of complaint covers both a complaint regarding a Member and a complaint regarding a Council service, the acknowledgement may respond to the complaint regarding the Council service and the complainant will be informed that the complaint regarding the Member will be passed to the MO for response.

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**Maldon District Council**  
**Conduct Complaints Process**  
**STAGE II**

APPENDIX 2



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