ARRANGEMENTS FOR DEALING WITH ALLEGATIONS OF BREACHES OF THE MEMBER CODE OF CONDUCT

1 Context

1.1 Surrey County Council is committed to promoting and maintaining high standards of conduct amongst its 81 elected Councillors, known as Members, and has adopted a Code of Conduct setting out the conduct it expects of its Members and Co-opted Members as they carry out that role.

1.2 These are the Council's arrangements for dealing with any complaint it receives alleging that an elected or co-opted Member of Surrey County Council has failed to comply with its Code of Conduct. These arrangements will form the basis for investigating and deciding any such complaints.

1.3 The Council will appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on any allegation which it has decided should be investigated. The Council may also seek the view of the Independent Person at any other stage it chooses and a Member against whom an allegation as been made can also consult the Independent Person.

2 The Code of Conduct

2.1 A copy of the Council's Code of Conduct for Members is set outwithin the Constitution which is available for inspection on the Council's website and upon request from Democratic Services.

2.2 The Code applies to Members when they go about the work of the Council or their role as a Member. The Council will not investigate complaints relating to a Member's private life.

3 Making a complaint

3.1 Anyone wishing to make a complaint about the behaviour of a Surrey County Councillor ("Member"), should write or email to –

The Monitoring Officer
Surrey County Council
County Hall
Kingston Upon Thames
KT1 2DN
Or email monitoringofficer@surreycc.gov.uk

3.2 The Monitoring Officer is the member of the Council's staff who has statutory responsibility for maintaining the Register of Members' Interests and who is responsible for administering the system in respect of complaints of member misconduct.

3.3 Only written complaints will be investigated and the Council will require a name and a contact address or email address to acknowledge receipt of the complaint and keep the complainant informed of its progress. The Council does not normally investigate anonymous complaints, unless there is a clear public interest in doing so. The Monitoring Officer will disclose the name of the complainant to the Member unless specifically asked to withhold it. Only in very exceptional cases will the Council be able to progress a complaint to an investigation without disclosing the identity of the complainant to the Member.

3.4 The Monitoring Officer will acknowledge receipt of the complaint within 5 working days of receiving it, and will keep the complainant informed of the progress of the complaint. The Monitoring Officer will also inform the Member that a complaint has been received.

4 How a complaint is resolved

4.1 The Monitoring Officer will review every complaint received. Where they are of the view that your complaint, if proven, would not amount to a breach of the Member Code of Conduct they will notify you of this and will not progress the matter further.

4.2 Wherever possible the Monitoring Officer will seek to resolve your complaint through informal resolution. Informal resolution may avoid the need for a formal investigation and could, for example, consist of the Member accepting that their conduct was unacceptable and offering an apology, or other remedial action by the Council. The Monitoring Officer will consult the Chairman of the Member Conduct Panel before recommending informal resolution and will notify you and the Member concerned of any recommendation and how that will be progressed.

5 When a complaint will be investigated

5.1 On some occasions informal resolution will not be possible, because one of the parties does not agree to cooperate with an informal process. If this happens the Monitoring Officer will seek a ruling from the Independent Person, who will decide whether the matter proceeds to an investigation or progresses no further. In order to inform that decision the Monitoring Officer will disclose information to the Independent Person, including details of the complaint, steps taken to achieve informal resolution and why this has not been successful. The complainant and the Member will be notified of the outcome.

5.2 On some occasions the Monitoring Officer may consider that the conduct alleged, if proved to have occurred, would amount to a breach of the Members Code of Conduct and would not be capable of informal resolution. If this is the case, after consultation with the Chairman of the Member Conduct Panel, the Monitoring Officer will decide whether the complaint merits formal investigation. In making that decision the Monitoring Officer will take into account both the seriousness of the alleged breach and the information provided in support of the complaint. Where the Monitoring Officer requires additional information in order to come to a decision, they may contact either the complainant or the Member to request that information.

5.3 If a complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

6 How is the investigation conducted?

6.1 If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer. This may be a member of the Council's staff or an external investigator. The Investigating Officer will decide whether to speak to the complainant and to any other witnesses and may collect written evidence, such as correspondence, or minutes of meetings.

6.2 The Investigating Officer will contact the Member and provide them with a copy of the complaint, and ask the Member to provide his/her explanation of events, and to identify what documents the Investigating Officer needs to see and anyone they should interview. In very exceptional cases, where the Monitoring Officer, after consulting the Independent Person, considers that disclosing details of the complaint to the Member might prejudice the investigation, these will be withheld from the Member until the investigation has progressed sufficiently.

6.3 At the end of their investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to the complainant and to the member concerned, to give them both an opportunity to identify any inaccuracies in the report and to comment on their findings. Having received and taken account of any comments that you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

6.4 The investigation and the Investigating Officer's report will be kept confidential at this stage.

7 What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will send a copy of the Investigating Officer's report to the Chairman of the Member Conduct Panel and to the Independent Person and seek their views on whether to convene a Member Conduct Panel hearing. Where a hearing is inappropriate the Monitoring Officer will write to the parties, notifying them that they are satisfied that no further action is required. The Monitoring Officer will send them both a copy of the Investigating Officer's final report, which will no longer be confidential at this point.

8 What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

Where the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct the Monitoring Officer will arrange for the Member Conduct Panel to hold a meeting, within three months of the Investigator's final report being issued, so that it can take a decision on the complaint.

8.1 The Monitoring Officer will invite the Member to reply in writing to the Investigation Officer's report, in particular to identify what is likely to be agreed and what is likely to be in contention at the hearing. The Member will be invited to give a view on whether the Panel should meet in public or in private. The Chairman of the Member Conduct Panel will set a date for the hearing and may issue directions as to the manner in which the hearing will be conducted, including whether or not the Member Conduct Panel will meet in public or private.

8.2 At the hearing, the Investigating Officer will present their report, call such witnesses as they consider necessary and make representations to substantiate their conclusion that the Member has failed to comply with the Code of Conduct.

8.3 The Member will also have an opportunity to give evidence, to call witnesses and to make representations to the Member Conduct Panel as to why they consider that they did not fail to comply with the Code of Conduct.

8.4 After hearing from all the parties the Member Conduct Panel may conclude either:

- that the Member did not fail to comply with the Code of Conduct or
- that the Member did fail to comply with the Code of Conduct, in which case it will also decide what action to recommend or to take.

The Member Conduct Panel will not announce its decision at the Hearing. Before reaching a final decision on the complaint and any sanction, the Chairman of the Member Conduct Panel will report its

finding to the Independent Person, whose views will be sought and taken into account by the Panel before a final decision is made.

9 What action can the Member Conduct Panel take where a member has failed to comply with the Code of Conduct?

The Council has delegated to the Member Conduct Panel the power to take such action in respect of individual Members as may be necessary to promote and maintain high standards of conduct. Accordingly the Member Conduct Panel may –

9.1 Decide that no action is needed

9.2 Issue a statement of censure

9.3 Recommend to the Member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she consider all or any of the following sanctions:

- the Member be removed from any or all Committees or Sub-Committees of the Council;
- the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- the Member be removed from all outside appointments to which he/she has been appointed or nominated by the authority.

9.4 Report its findings and recommendations to the next available meeting of the County Council.

The Member Conduct Panel has no power to suspend or disqualify the Member or to withdraw members' or special responsibility allowances.

10 How are the Panel's findings communicated to me?

As soon as reasonably practicable after the Panel has made its final decision, the Monitoring Officer will prepare a formal decision notice in consultation with the Chairman of the Member Conduct Panel, and send a copy to the complainant and to the Member and will make that decision notice available for public inspection.

11 Who is on the Member Conduct Panel?

The Member Conduct Panel is a cross party Panel of Members of the Council chaired by the Chairman of the County Council. Any hearing will be conducted by three of their number, one of whom shall be the Chairman or Vice Chairman of the Council, who will chair the meeting. In the event that neither the Chairman nor Vice Chairman are able to chair the meeting the hearing will be conducted by three members of the Panel and the election of one of their number to chair the hearing will be the first item of business at the meeting.

12 Who is the Independent Person?

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the Members of Council.

A person cannot be "independent" if he/she –

- is, or has been within the past 5 years, a member, co-opted member or officer of the Council; or
- is a relative, partner or close friend, of a member, co-opted member or officer of the Council; or
- is an active member of a political party.

13 Revision of these arrangements

The Council may by resolution agree to amend these arrangements, and has delegated to the Chairman of the Member Conduct Panel the right to depart from these arrangements where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

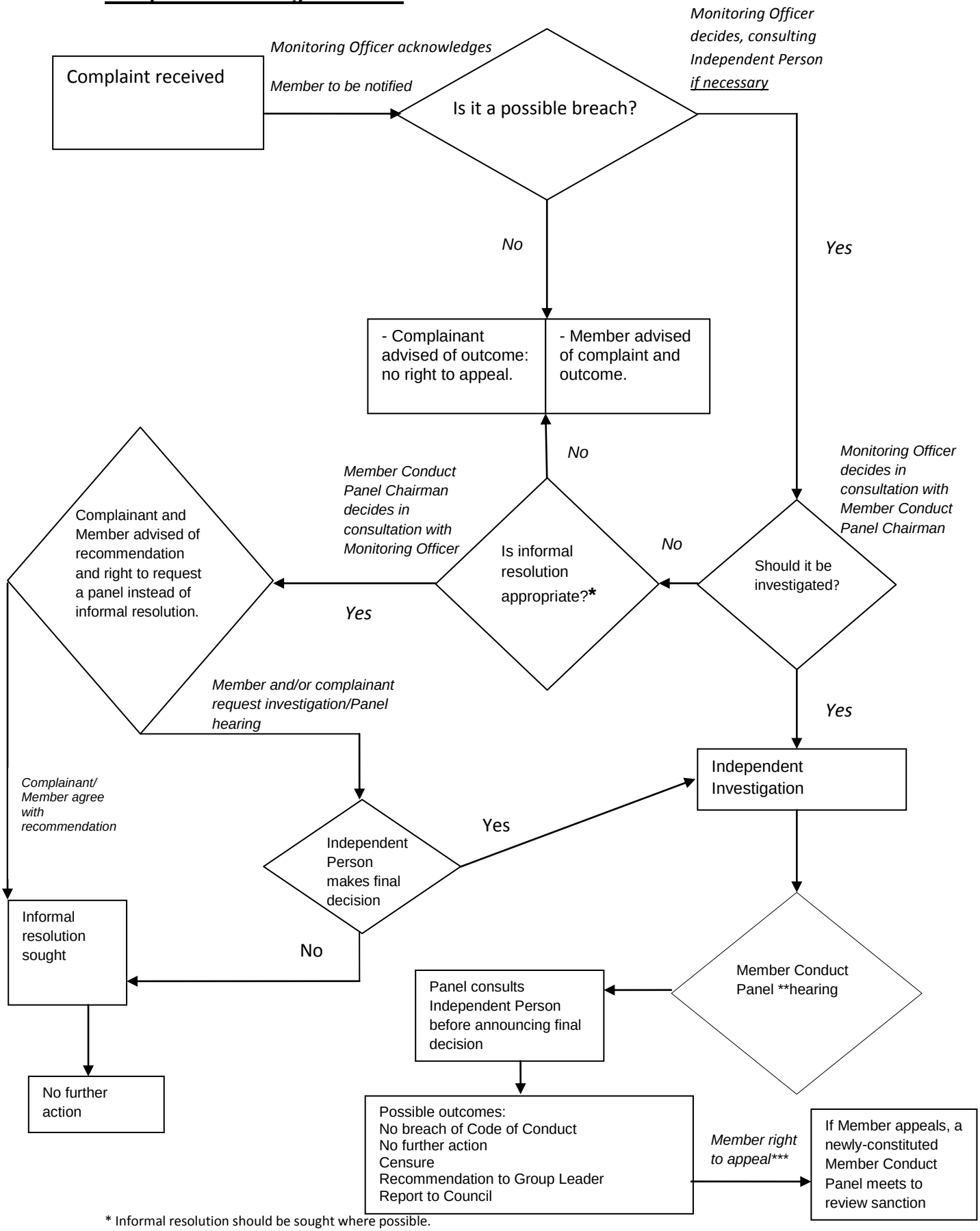
14 Appeals

A Member is expected to comply with the decisions taken through the process and has no right of appeal against a finding of breach of the Code of Conduct. However a Member may require that a further Member Conduct meeting reviews any sanction imposed at a hearing.

15 Local Government Ombudsman

Where a complainant concludes that the authority has failed to deal properly with a complaint they may make a complaint to the Local Government Ombudsman.

Complaints handling flow chart



* Informal resolution should be sought where possible.
** Three Members drawn from standing panel, chaired by Chairman of Council
** *No right to appeal for complainant. Member can appeal to Member Conduct Appeals Panel on Sanction