

## **Protocol relating to Durham County Council's Independent Person**

The statutory role of an Independent Person appointed under Section 28(7) of the Localism Act 2011 is to help the Authority discharge its duty to promote and maintain high standards of conduct amongst Members and Co-opted Members.

This protocol has been established to clarify how the Independent Person (IP) will fulfil this role:

### **Considering allegations**

1. Following notification of a complaint against them a Member of the Council may seek the views of the IP. A Member wishing to contact the IP should do so via the Senior Committee Services Officer who will arrange for the IP to contact them. The IP will then contact the member by telephone or arrange a meeting, if required.
2. The Senior Committee Services Officer will provide the IP with all relevant information concerning the complaint in advance of them discussing the complaint with the subject Member.
3. Where the IP has given views to the subject Member, those views shall be put in writing and made available to both the subject Member and the Monitoring Officer (MO).
4. The IP will need to agree in advance with the subject Member rules of confidentiality but it will be up to the IP to decide whether matters should remain confidential and, when confidential information is disclosed to the IP, there should be a written statement in the note of the meeting that confidential matters were discussed.
5. The IP will make a written note of the meeting which will be made available to the MO and the subject member.

### **Assessment**

6. Once both the complainant and the subject Member have been given an opportunity to respond to the complaint, a file containing all relevant information will be collated for the MO. The MO will seek the views of the IP where appropriate before reaching a decision as to whether the complaint merits local resolution, investigation or should be referred to the Standards Committee.
7. When issuing the decision notice the MO will record when the IP has been consulted and that their views have been taken into account.
8. The MO in consultation with the IP may apply the habitual or vexatious complaints policy to a complaint where appropriate.
9. Where a matter has been referred to the Standards Committee for determination, the Standards Committee should seek the views of the IP before reaching its conclusions. The IP's views should be recorded in any decision notice and,

where those views do not reflect the final outcome, reasons must be given for any differences. However, it must be clear that it is the Standards Committee and not the IP who is the decision-maker in relation to allegations of breach of the Code of Conduct.

10. The IP may be requested by the MO or the Standards Committee to assist in mediation or conciliation in order to resolve complaints where that is considered the most appropriate course of action.

11. The IP may be requested by the MO or the Standards Committee to assist in any training on conduct issues as appropriate.

### **Relationship with the Standards Committee**

12. The IP is not a member of the Standards Committee and therefore is not part of the formal business of the meeting and cannot vote on any matters put to the meeting. They may be invited to observe confidential matters with the agreement of the Chair.

13. The IP shall be entitled to request items to be added to the agenda with the agreement of the Chair.

### **Other Matters**

14. The IP has the right to raise any concerns about standards issues or implementation of the local assessment process with the Council's MO.

15. The Authority, through its Standards Committee and MO, is responsible for ensuring that the Authority meets its duty to promote and maintain high standards. However, the IP has the right to be consulted on any proposed changes to the Code of Conduct or procedures for handling allegations.

16. The IP has the right of access to any confidential information required to carry out their role. Access to such information and its storage shall be agreed with the MO.

17. The MO will meet with the IP to review relevant matters, as required.