

PROTOCOL

ETHICAL FRAMEWORK - MEMBERS' CODE OF CONDUCT – ALLEGED BREACHES

LEGAL ADVICE

1. (a) This Protocol is endorsed by each of the following Local Authorities ("the Tees Valley Authorities") who will use all reasonable endeavours to ensure that its provisions are honoured:-

Darlington Borough Council ("Darlington")
Hartlepool Borough Council ("Hartlepool")
Middlesbrough Borough Council ("Middlesbrough")
Redcar and Cleveland Borough Council ("Redcar")
Stockton-on-Tees Borough Council ("Stockton")
- (b) References in this Protocol to a Chief Legal Officer of one of the Tees Valley Authorities means the following:-

Darlington's Borough Solicitor;
Hartlepool's Chief Solicitor;
Middlesbrough's Director of Legal and Democratic Services
Redcar's Director of Corporate Resources; and
Stockton's Director of Law and Democracy
2. The Protocol is intended to be applied in relation to a complaint about the conduct of any elected or co-opted Member ("member") of the Tees Valley Authorities, where:-
 - (i) the complainant alleges that a member has failed, or may have failed, to comply with the code of conduct adopted by the member's local authority under the Local Government Act 2000 ("the Act");
 - (ii) the complaint has been submitted in writing to the relevant Tees Valley Authority's standards committee pursuant to Section 57A(1) of the Act and the Standards Committee (England) Regulations 2008 ("the Regulations") and;
 - (iii) either the standards committee in question or the Standards Board for England (through one of its Ethical Standards Officers) has determined that the matter should be referred to the relevant Tees Valley Authority's Monitoring Officer for investigation under sections 57A(2)(a), 57A(3), 60(2) or (3) of the Act

3. Where, in such circumstances, the member who is the subject of the written allegation or complaint expresses the wish to discuss the matter with a legal officer of one of the Tees Valley Authorities, and the Chief Legal Officer of the member's own local authority considers that none of his/her legal officers is able to do so, due to a conflict of interests, that chief legal officer may, with the member's consent, contact the Chief Legal Officer of the authority specified next in the list of Tees Valley Authorities shown at clause 1(a), in order to facilitate a discussion between the member concerned and a legal officer of the local authority so named ("the first authority").
4.
 - (a) In the event that, for whatever reason, the first authority is unable to assist the member referred to it by the Chief Legal Officer of the member's own local authority, that Chief Legal Officer will, on his/her member's behalf, then contact the Chief Legal Officer of the authority next in the list of Tees Valley Authorities after the first authority, and so on until, where it is possible to do so, arrangements are made for a legal officer to discuss the written allegation or complaint with the member concerned.
 - (b) Each Chief Legal Officer will have complete discretion to determine if a request made on behalf of a member under this Protocol should be acceded to and, if so, which legal officer should be given instructions to respond to the request.
 - (c) Each Chief Legal Officer will also exercise overall supervision and control of all responses to requests for general advice and support, but may appoint a Deputy or Deputies to exercise that function.
5. Discussions between a legal officer of one of the Tees Valley Authorities and a member of another of those authorities will (subject to the provisions of clause 8) be conducted in strict confidence and will be restricted to general advice and support for the member regarding the alleged breach of his/her authority's code of conduct. Such general advice and support may include an initial, informal and without prejudice view as to whether or not, prima facie, a breach of the member's code of conduct may have occurred. It should not, however, include specific or definitive legal advice. The member should be advised to seek such advice independently of the Tees valley Authorities. If the member's own local authority has taken out the appropriate insurance cover, such independent legal advice and representation may be available from the relevant insurance company's appointed representatives. In that event the legal officer providing general advice and support to the member should, if so required, assist the member to access the legal advice and representation available from his/her authority's insurance company.
6.
 - (a) The general advice and support outlined in the preceding paragraph should not extend to the legal officer entering into correspondence or communication with the standards committee, or any members of the standard committee of the member's own local authority and/or with

the Standards Board or any of the Board's Ethical Standards Officers regarding the allegation or complaint against the member concerned. Nor should it involve the legal officer in any form of contact with the complainant.

- (b) The legal officer may, however, with the member's consent, contact the member's local authority, through its Chief Legal Officer, in order solely to establish basic facts in respect of the allegations or complaint.
- (c) The Chief Legal Officer of the member's local authority will have complete discretion as to whether or not to respond to any contact arising under the previous sub-clause (b) and whether or not to assist the legal officer with his enquiries.

- 7. Subject to the provisions of clause 8, all written documentation (including electronic data) arising from or relating to the discussions referred to in the preceding clause, if retained by the legal officer involved and not released into the safe keeping of the member, will be retained securely and confidentially.
- 8. Notwithstanding the confidentiality of the discussions and documentation referred to in the preceding clauses, the legal officer concerned must comply with any inquiries or requests from an Ethical Standards Officer, or a person authorised by such an Officer, when exercising the powers within section 62 of the Local Government Act 2000.
- 9. This protocol may be amended, varied or extended in writing by agreement of all of the Tees Valley Authorities.
- 10. In the event that any one or more of the Tees Valley Authorities wishes to cease to be a party to the Protocol, the remaining Tees Valley Authorities, if any, must decide whether or not to continue to apply the Protocol as revised.
- 11. General advice and support will be provided to members pursuant to this Protocol at no cost to the member's own local authority.

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Darlington Borough Council	Hartlepool Borough Council
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Middlesbrough Borough Council	Redcar and Cleveland Borough Council
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Stockton on Tees Borough Council
