

## BABERGH DISTRICT COUNCIL and MID SUFFOLK DISTRICT COUNCIL

<b>From: Monitoring Officer</b>	<b>Report Number: M32</b>
<b>To: Joint Standards Committee</b>	<b>Date of meeting: 7 June 2012</b>

### THE LOCALISM ACT 2011 – ARRANGEMENTS FOR THE DISCHARGE OF STANDARDS FUNCTIONS

#### 1. Purpose of Report

- 1.1 To provide an update on developments in preparation for the new standards regime expected from 1 July 2012.
- 1.2 To consider the proposed complaints process at Appendix 2 which has been revised to reflect comments by the Joint Standards Committee at its meeting on 23 April 2012.

#### 2. Recommendations

- 2.1 That the possible arrangements for the discharge of standards functions under the Localism Act 2011 be noted.
- 2.2 That the draft complaints procedure at Appendix 2 be approved in principle and commended for adoption by the relevant Committee following implementation of Chapter 7 of the Localism Act 2011.

The Joint Committee is able to resolve this matter

#### 3. Financial Implications

- 3.1 None directly arising from this report.

#### 4. Risk Management

- 4.1 Key risks are set out below:

Risk Description	Likelihood	Impact	Mitigation Measures
The Councils do not have adequate measures in place to handle complaints under the new standards regime.	Low	Critical	The Councils must determine the arrangements to be put in place at Full Council in June 2012

#### 5. Consultations

- 5.1 The complaints procedure is in a form agreed by Suffolk Chief Executives Group and Suffolk Leaders Group.

## **6. Equality Analysis**

6.1 Not relevant to this report

## **7. Shared Service / Partnership Implications**

7.1 Clearly, the continued discharge of standards functions by a joint committee can only be delivered if both Councils are in agreement.

## **8. Key Information**

8.1 At its meeting on 23 April 2012, the Joint Standards Committee considered report M8 concerning the arrangements to be put in place for the discharge of standards functions once Chapter 7 of the Localism Act 2011 is implemented. The Committee supported the principle of a new Joint Standards Committee between Babergh and Mid Suffolk to include non-voting co-opted members. The report had recommended that the new Joint Committee should comprise 6 elected Members (3 from each Council) plus 4 co-opted members (1 parish representative for each Council and 1 independent member for each Council). The current Joint Committee recommended to Full Council that the number of co-opted members should be increased to 4 for each Council i.e. a total of 8 co-opted members making a committee of 14 members.

8.2 Report M8 was considered by Babergh Full Council on 24 April 2012 and the recommendation from the Joint Standards Committee was reported to the meeting by the Monitoring Officer. Following an amendment being put that the standards function be undertaken by the Joint Scrutiny Committee (instead of a new Joint Standards Committee), Members resolved to defer consideration of the item.

8.3 The same report had been scheduled for consideration by Mid Suffolk Full Council on 26 April. As the report recommended the creation of a new Joint Committee and the required support of one council had not at that time been achieved, the report was withdrawn from the Mid Suffolk Council agenda with the agreement of the Chairman.

8.4 The Monitoring Officer subsequently reported to the Political Leaders Group at Babergh on 17 May 2012 to revisit the various options for the discharge of the standards function i.e. allocated to (1) the Joint Scrutiny Committee (2) the separate Scrutiny Committees (3) a Joint Standards Committee without co-opted members (4) a Joint Standards Committee with co-opted members (5) individual Standards Committees with or without co-opted members. The matter is to be discussed within the political groups at Babergh with a view to a steer being provided to the Monitoring Officer to enable a report to be prepared to Full Council at Babergh on 19 June and Mid Suffolk on 21 June.

8.5 If possible, the Monitoring Officer will provide a verbal update at the Joint Standards Committee meeting on 7 June.

8.6 In the meantime, the Joint Standards Committee is asked to reconsider the proposed complaints procedure to be applied under the Localism Act 2011 as appended to this report. The procedure has been revised to reflect comments made by members at the last Joint Standards Committee meeting. The decision to adopt the new procedure will rest with whichever committee/s is allocated standards functions under the new system. Therefore, the decision sought in this instance is to an agreement in principle.

## **9. Appendices**

9.1 Appendix 1 – Flowchart

Appendix 2 – Draft Updated Complaints Procedure Note and Chart

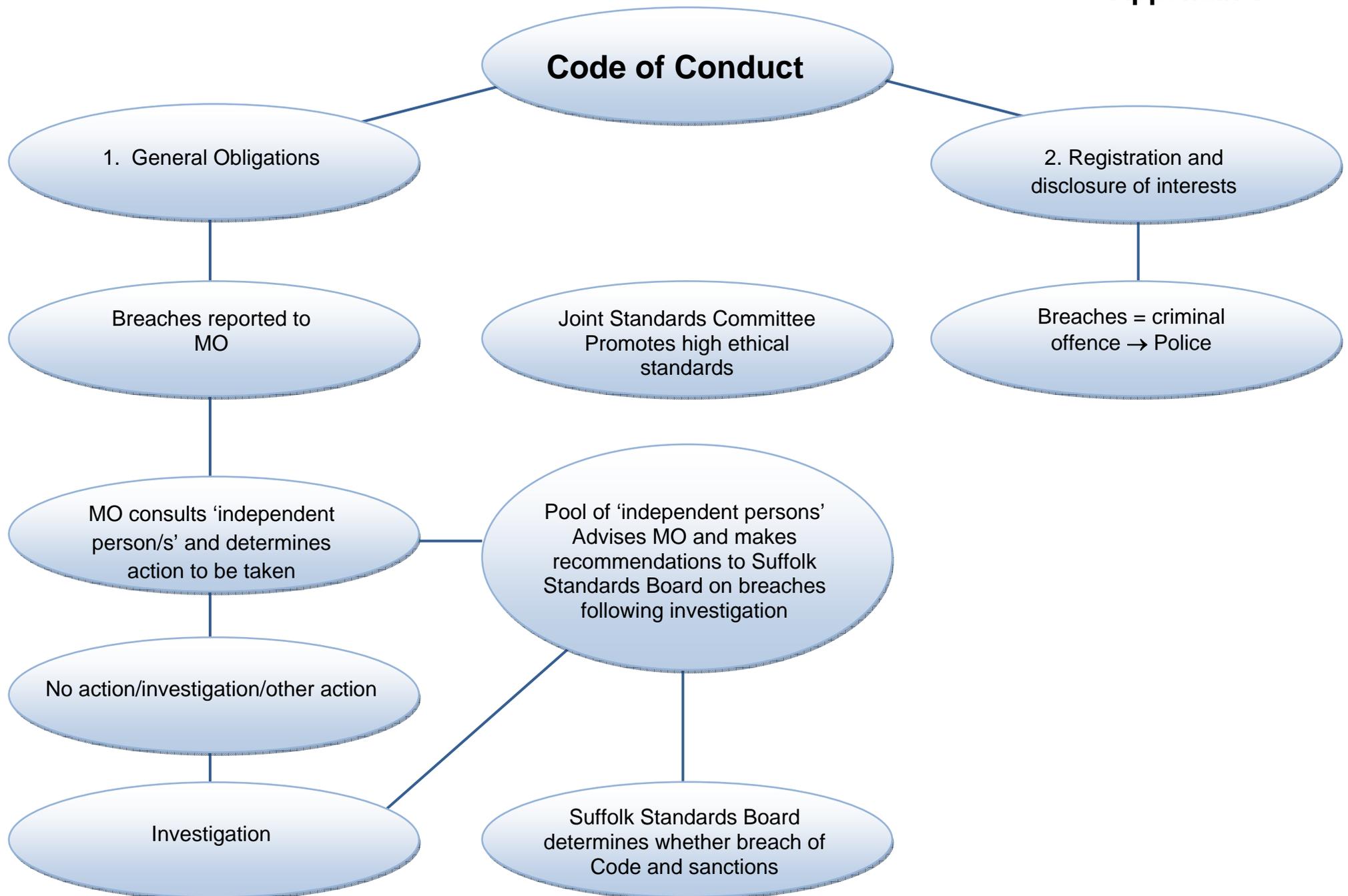
## 10. Background Documents

10.1 None

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## STANDARDS COMPLAINTS PROCEDURE NOTE

### 1. Introduction

This note sets out the procedure to be followed upon receipt by the Monitoring Officer of a complaint under the Council's Code of Conduct for Members or the Code of Conduct for a parish/town council within the Council's administrative area.

### 2. Outline Procedure

2.1 The Monitoring Officer receives the complaint, acknowledges receipt and advises the councillor concerned that a complaint has been received. A copy of the complaint is provided to the councillor concerned (unless disclosure would be likely to unreasonably affect the well-being of the complainant or councillor or otherwise be contrary to the public interest).

2.2 If the complaint concerns a councillor's conduct in their private capacity then the Monitoring Officer rejects the complaint and notifies the complainant and councillor.

2.3 If the alleged conduct could be covered by the Code of Conduct, the Monitoring Officer secures a copy of the relevant Council's Code of Conduct (if not already obtained) & assesses the complaint against criteria adopted by the relevant Committee.

2.4 The Monitoring Officer consults with an appointed 'independent person' from the county wide pool of independent persons and decides:-

- (1) No action is needed, *or*
- (2) To refer the complaint to the Political Group Leader/s for steps to be taken to resolve the complaint, *or*
- (3) To undertake local resolution at the discretion of the Monitoring Officer, *or*
- (4) To investigate the complaint

2.3 The councillor who is the subject of the complaint may consult the 'independent person' to secure their views on the allegation.

### 3. No action

3.1 The Monitoring Officer informs the complainant and councillor that no action is required and the reasons for the decision. The complaint is closed.

**4. Referral to Political Group Leader**

4.1 The Monitoring Officer provides details of the complaint to the Political Group Leader and relays the steps to be taken as agreed with the 'independent person'. The Monitoring Officer and Group Leader agree upon the timescale for both the requested action and for a report back to be made.

4.2. The Leader confirms action has been taken as agreed. The complainant and councillor are informed that the complaint is closed.

4.3 If the Leader does not:

- (i) take the requested action, *or*
- (ii) report back to the Monitoring Officer within the agreed timescale, *or*
- (iii) the councillor does not fully co-operate with the Leader,

the Monitoring Officer re-consults the 'independent person' to consider local resolution or investigation. In exceptional circumstances, an extension of time may be provided. The Monitoring Officer informs the complainant and councillor of the decision taken.

**5. Local resolution**

5.1 This can take any form as agreed with the 'independent persons'. Examples include the issue of an apology by the councillor, the provision of training, conciliation or mediation.

5.2 The Monitoring Officer informs the complainant and councillor of the action required to close the complaint and the timescale in which the action must be taken.

5.3 If the requested action is taken within the prescribed timescale, the complaint is closed and the Monitoring Officer provides written confirmation to the complainant and councillor.

5.4 If the councillor does not take the requested action within the prescribed timescale, the Monitoring Officer re-consults the 'independent person' to consider local resolution or investigation. In exceptional circumstances, an extension of time may be provided to secure compliance. The Monitoring Officer informs the complainant and councillor of the decision taken.

5.5 If the form of local resolution requires the co-operation of the complainant (e.g. mediation) and the complainant declines to co-operate within a prescribed period, then the Monitoring Officer may close the complaint following further consultation with the 'independent person'.

## **6. Investigation**

6.1 The Monitoring Officer offers the councillor opportunity to respond to the complaint within a specified period of time.

6.2 The Monitoring Officer secures copies of any supporting information as s/he considers appropriate. The Monitoring Officer arranges for the interview of the complainant, the councillor and any witnesses as he/she considers is necessary and proportionate.

6.3 The information bundle is submitted to an 'independent person'. In this instance the 'independent person' should be different from the 'independent person' involved in the initial assessment of the complaint. The 'independent person' is invited on each complaint to identify whether he/she considers that the alleged conduct amounts to a breach of the relevant Council's Code of Conduct.

6.4 If the 'independent person' finds that there is no breach of the Code of Conduct, the complaint is closed. The Monitoring Officer informs the complainant and the councillor of the decision with reasons.

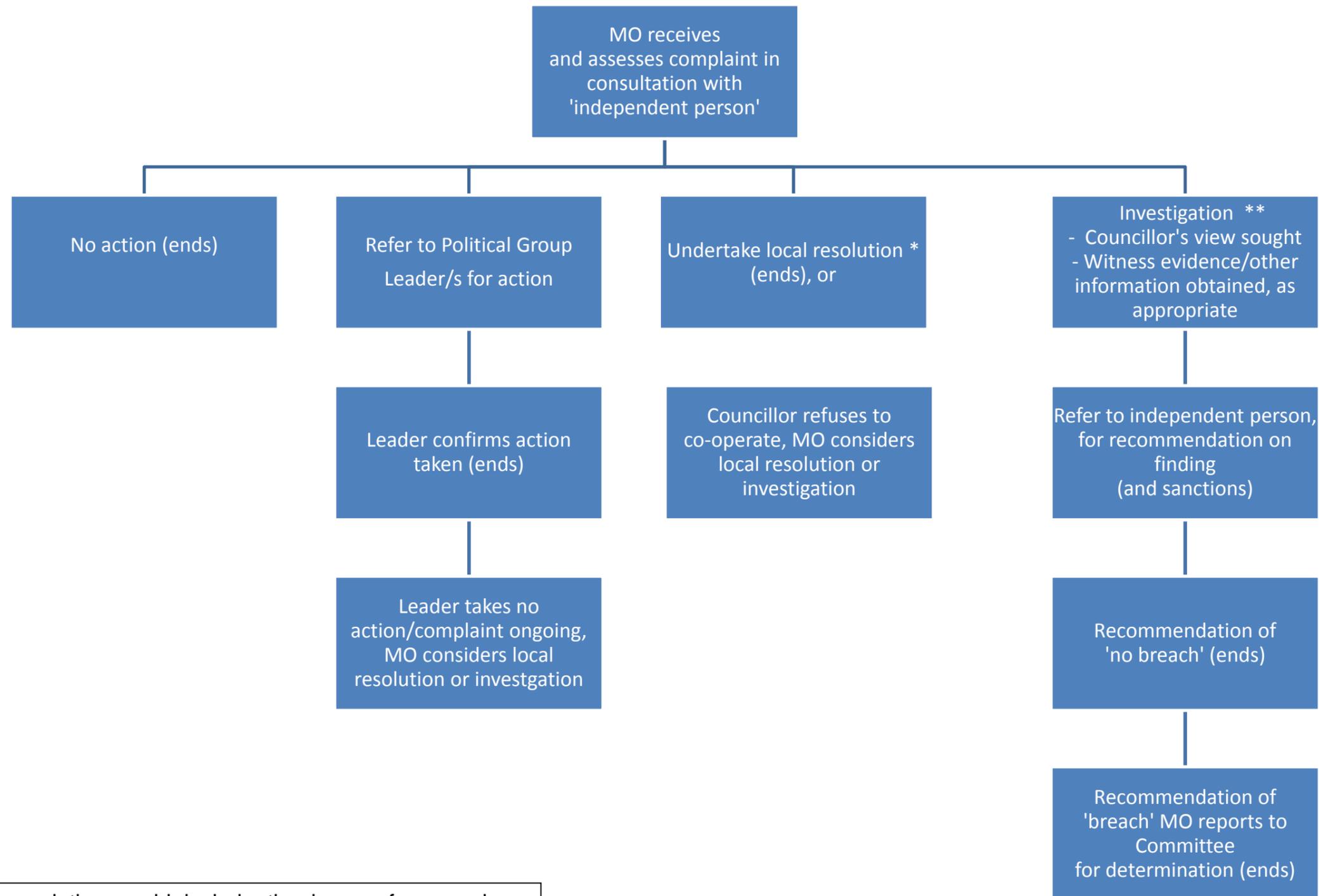
6.5 If the 'independent person' finds that there is a breach of the Code of Conduct, the 'independent person' is invited to recommend the action that should be taken if their finding is upheld. The Monitoring Officer reports the complaint and finding to the designated committee for determination (and sanction, if appropriate). The consideration by the Committee takes place on the written material only.

6.6. The Monitoring Officer informs the complainant and the councillor of the Committee's decision with reasons. The complaint is closed.

*N.B. There is no right of appeal against any stage of the process.*

# STANDARDS COMPLAINTS PROCEDURE

## Appendix 2(b)



\* local resolution could include the issue of an apology, provision of training or other action

\*\* an investigation is a process dealt with by written representations