PART 4-5: STANDARDS PROCEDURES RULES

Arrangements for Dealing with Allegations and Determinations of Complaints Under Section 28(6) Localism Act 2011

1. Context

1.1. These arrangements are made under section 28(6) and (7) of the Localism Act 2011. They set out the process by which a person may make an allegation that a councillor or co-opted member of the East Surrey Shadow Authority has failed to comply with the Authority's Code of Conduct, and the process by which the Authority will deal with any such allegation.

1.2. For the purposes of these arrangements, the councillor who is the subject of an allegation is referred to as "the Subject Member" and the person who makes the allegation is referred to as "the Complainant."

1.3. These arrangements also apply to allegations that a co-opted member of the Authority, or a councillor or co-opted councillor of a parish council within the Authority's area, has failed to comply with the relevant code of conduct.

2. The Code of Conduct

2.1 The Authority has adopted a Code of Conduct for Councillors, which may be found at Part 5-1 of the Constitution, which is published on the Authority's website and is available for inspection at the Authority's main office during normal working hours.

3. The Monitoring Officer

3.1 The Monitoring Officer is responsible for:

- Receiving and acknowledging complaints
- Undertaking an initial assessment of complaints
- Consulting with the Independent Person
- Deciding whether to seek informal resolution, to take no further action, or to arrange a formal investigation
- Advising on cases at the Standards Committee or Sub Committee

4. The Independent Person(s)

4.1 The Authority has appointed at least one Independent Person under section 28(7) of the Localism Act 2011.

4.2 The views of an Independent Person must be sought and taken into account by the Authority before it takes a decision on any allegation that it has decided to investigate.

4.3 The views of an Independent Person may also be sought by the Authority at any other stage during the process of dealing with an allegation, including at the initial assessment stage and during informal resolution.

4.4 A Subject Member against whom an allegation has been made may also seek the views of an Independent Person.

4.5 Where a conflict of interest prevents one Independent Person from acting, the Authority's other appointed Independent Person (s) shall act in that person's place.

5. Making an Allegation

5.1 An allegation must be submitted in writing to the Monitoring Officer. The written allegation may be submitted by post, or by using the allegation form published on the Authority's website.

5.2 Where a person wishes to make an allegation but is unable to do so in writing by reason of a disability, the Monitoring Officer shall make reasonable adjustments to enable the allegation to be recorded.

5.3 The Complainant should provide the following information:

(a) The name and contact details of the Complainant.
(b) The name of the Subject Member and the authority of which they are a councillor.
(c) A description of the conduct complained of, including (so far as is possible) the dates, times and places of the relevant events.
(d) An identification of the provision or provisions of the Code of Conduct that are alleged to have been breached.
(e) The names and contact details of any witnesses.
(f) Copies of any documents or other evidence that support the allegation.

5.4 The Monitoring Officer shall acknowledge receipt of an allegation within five clear working days.

6. Anonymous and Confidential Allegations

6.1 An anonymous allegation is one where the identity of the Complainant is not known. The Authority will not normally accept anonymous allegations, as doing so would be contrary to the principles of transparency and fairness and would make investigation more difficult. However, the Monitoring Officer may accept an anonymous allegation in exceptional circumstances where the conduct alleged is of a sufficiently serious nature and the allegation can be evidenced without reference to the Complainant.

6.2 A confidential allegation is one where the Complainant is known but requests that their identity is not disclosed to the Subject Member. The Monitoring Officer shall consider such a request and may grant it where there are reasonable grounds to believe that disclosure would expose the Complainant to a risk of harm, intimidation or retaliation. Where confidentiality is not granted, the Complainant shall be given the opportunity to withdraw the allegation.

6.3 The Monitoring Officer shall inform the Subject Member of the substance of any allegation but shall not normally disclose the identity of the Complainant until the Subject Member has provided an initial response, unless disclosure is necessary in the interests of natural justice for the Subject Member to respond meaningfully to the allegation.

7 Initial Assessment

7.1 On receipt of an allegation, the Monitoring Officer shall conduct an initial assessment to determine whether the allegation satisfies the following threshold tests:

(a) The allegation relates to a Member who was in office at the time of the conduct complained of.
(b) The Subject Member was acting in their capacity as a councillor, or was holding themselves out as acting in that capacity, at the time of the conduct complained of.
(c) The allegation, if proven, would constitute a breach of the Code of Conduct under which the Subject Member was operating.
(d) The allegation is not substantially the same as a previous allegation that has already been dealt with under these arrangements.
(e) The allegation has been brought within three months of the date on which the conduct complained of is alleged to have taken place, unless the Monitoring Officer is satisfied that there are exceptional reasons for the delay.

7.2 In conducting the initial assessment, the Monitoring Officer shall consult an Independent Person and shall have regard to the following considerations:

(a) Whether the allegation discloses a potential breach of the Code of Conduct that is sufficiently serious to warrant further action.
(b) Whether the conduct complained of has already been the subject of investigation or other action.
(c) Whether the allegation appears to be frivolous, vexatious, politically motivated, or otherwise brought for an improper purpose.
(d) Whether investigation of the allegation is in the public interest, having regard to all the circumstances, including the cost and proportionality of investigation.
(e) Whether other courses of action, including informal resolution, might more appropriately address the matter.

7.3 The Monitoring Officer shall normally complete the initial assessment within 20 working days of receipt of the allegation. Where the assessment takes longer, the Monitoring Officer shall inform the Complainant and the Subject Member of the reasons for the delay and the expected timescale.

7.4 At the conclusion of the initial assessment, the Monitoring Officer shall determine one of the following outcomes:

(a) That no further action should be taken, with reasons given.
(b) That the allegation should be referred for informal resolution.
(c) That the allegation should be referred for formal investigation.
(d) That the allegation should be referred to the police or another regulatory body.

7.5 The Monitoring Officer shall notify the Complainant and the Subject Member of the outcome of the initial assessment within five working days of the decision.

8. Informal Resolution

8.1 Where the Monitoring Officer considers that an allegation may appropriately be resolved without formal investigation, the Monitoring Officer may, after consulting an Independent Person, seek to resolve the allegation informally.

8.2 Informal resolution may take a variety of forms, including (without limitation):

(a) An acknowledgement by the Subject Member that their conduct was inappropriate, together with an apology.
(b) An agreement by the Subject Member to undertake relevant training.
(c) Mediation between the parties facilitated by the Monitoring Officer or a person appointed by the Monitoring Officer.
(d) Other remedial action acceptable to both parties.

8.3 Where the Subject Member agrees to and complies with the terms of an informal resolution, the Monitoring Officer shall report the outcome to the Standards Committee for information and shall take no further action. No finding of breach shall be recorded.

8.4 Where either party does not agree to informal resolution, or where informal resolution is attempted but is not successful, the Monitoring Officer may refer the allegation for formal investigation in accordance with Section 8 of these arrangements.

8.5 Where the Subject Member or the Authority makes a reasonable offer of informal resolution that the Complainant is unwilling to accept, the Monitoring Officer shall take that into account in deciding whether the allegation merits formal investigation.

9. Formal Investigation

9.1 Where the Monitoring Officer decides that a formal investigation is warranted, the Monitoring Officer shall appoint an investigator. The investigator may be an employee of the Authority, an employee of another authority, or an external investigator.

9.2 The investigator shall conduct the investigation in accordance with any guidance issued by the Monitoring Officer or the Standards Committee (or its Sub Committee). The investigation shall include the following steps:

(a) Providing the Subject Member with a copy of the allegation (subject to any confidentiality arrangements under Section 5) and inviting the Subject Member's response.
(b) Interviewing the Complainant (if necessary), the Subject Member, and any relevant witnesses.
(c) Reviewing relevant documents and other evidence.
(d) Preparing a draft report setting out the investigator's findings of fact and conclusion as to whether the Code of Conduct has been breached.
(e) Sending the draft report, in confidence, to the Complainant and the Subject Member for comment.
(f) Having received and taken account of any comments on the draft report, preparing a final report and submitting it to the Monitoring Officer.

9.3 At any stage during the investigation, the Monitoring Officer may, after consulting an Independent Person, determine that the allegation should be resolved by informal resolution under Section 7 of these arrangements.

9.4 In exceptional circumstances, where disclosure of the allegation or of the Complainant's identity might prejudice the investigation, the Monitoring Officer may delay disclosure until the investigation has progressed sufficiently. Any decision to withhold information shall be kept under review.

10. Determination

10.1 Where the investigator concludes that there has been no breach

10.1.1 Where the investigator's report concludes that the Subject Member has not breached the Code of Conduct, the Monitoring Officer shall review the report. If the Monitoring Officer is satisfied that the investigation has been conducted properly and that the conclusion is sound, the Monitoring Officer shall, after consulting an Independent Person, close the allegation and notify the Complainant and the Subject Member accordingly.

10.1.2 If the Monitoring Officer is not satisfied that the investigation has been conducted properly, the Monitoring Officer may require the investigator to reconsider the report or may refer the report to the Sub Committee under Section 9.2.

10.2 Where the investigator concludes that there has been a breach

10.2.1 Where the investigator's report concludes that the Subject Member has breached the Code of Conduct, the Monitoring Officer may, after consulting an Independent Person, seek to resolve the matter by informal resolution under Section 7 of these arrangements.

10.2.2 Where the Monitoring Officer considers that informal resolution is not appropriate or has been unsuccessful, the Monitoring Officer shall refer the investigator's report to the Sub Committee for a hearing.

10.3 The Standards Sub Committee

10.3.1 The procedure rules to be followed by the Standards Sub Committee are set out in Appendix 1.

10.3.2 The Standards Sub Committee shall comprise four councillors drawn from the membership of the Standards Committee. The quorum of the Sub Committee shall be four.

10.3.3 The Independent Person shall be invited to attend all meetings of the Sub Committee. The views of the Independent Person shall be sought and taken into account before the Sub Committee takes any decision.

10.3.4 The Sub Committee shall conduct a hearing at which the investigator shall present the report and may call witnesses. The Subject Member shall be given the opportunity to attend, to be accompanied or represented, to present evidence, to call witnesses, and to make representations to the Sub Committee

10.3.5 The Complainant shall be invited to attend the Sub Committee and may be asked by the investigator to give evidence.

10.3.6 The Sub Committee may conclude that the Subject Member has not breached the Code of Conduct, in which case it shall dismiss the allegation.

10.3.7 Where the Sub Committee concludes that the Subject Member has breached the Code of Conduct, the Chair shall inform the Subject Member of the finding. The Sub Committee shall then hear representations from the Subject Member and shall consult the Independent Person before deciding what sanction, if any, to impose.

11. Sanctions

11.1 Where the Sub Committee finds that a Subject Member has breached the Code of Conduct, the Sub Committee may impose one or more of the sanctions set out in Appendix 1, paragraph 34.

11.2 The Sub Committee has no power under current legislation to suspend or disqualify a councillor or to withdraw allowances.

12. Decision Notice

12.1 The Monitoring Officer shall, as soon as practicable and no later than seven working days of the conclusion of a Sub Committee hearing, prepare a formal decision notice in consultation with the Chair of the Sub Committee.

12.2 The decision notice shall include the following:

(a) The name of the Subject Member.
(b) A summary of the allegation.

(c) The finding of the Standards Sub Committee.
(d) The reasons for the finding.
(e) Any sanction imposed.

13. Right of Review and External Complaint

13.1 Under the current legislative framework, there is no right of appeal against a decision of the Monitoring Officer or the Standards Sub Committee under these arrangements.

13.2 If a Complainant or Subject Member considers that the Authority has failed to deal with an allegation properly, they may refer the matter to the Local Government and Social Care Ombudsman.

14. Reporting and Transparency

14.1 The Monitoring Officer shall report to each meeting of the Standards Committee on the number and nature of allegations received since the previous report, and on the outcomes of those allegations.

14.2 The Authority shall publish annually, in an accessible format on its website, an anonymised summary of the volume and nature of allegations received and the outcomes of those allegations. This is consistent with the best practice recommendations of the Committee on Standards in Public Life (January 2019).

15. Revision of these Arrangements

15.1 The Standards Committee shall keep these arrangements under review and may recommend amendments to the Authority. The Standards Committee may make minor procedural amendments to these arrangements without reference to the Authority, provided that any such amendment is reported to the Authority at the next convenient meeting.

15.2 These arrangements shall in any event be reviewed following the enactment of any legislation that materially affects the standards and conduct framework for local authorities.

16. Discontinuance of Complaints by the Monitoring Officer

16.1 The Monitoring Officer may discontinue a complaint or terminate an investigation if they consider it appropriate to do so, having regard to whether the balance of the public interest lies in continuing to action the complaint, where the Subject Member –

(a) ceases to be a Member of the Council,

(b) has a diagnosed long term and serious illness (e.g. a terminal illness) and is unable to participate in the procedure, or

(c) dies.

Where a complaint is discontinued, the Monitoring Officer will write to the Complainant and the Subject Member setting out the reasons for their decision.

17. Interpretation

“The Authority” means East Surrey Shadow Authority.

“Code of Conduct” means the code of conduct adopted by the Authority under section 27(2) of the Localism Act 2011, or (in the case of a parish council) the code of conduct adopted by or applicable to that parish council.

“Complainant” means the person who makes an allegation under these arrangements.

“Sub Committee” means a sub committee of the Standards Committee constituted in accordance with Section 10.3 of these arrangements.

“Independent Person” means a person appointed by the Authority under section 28(7) of the Localism Act 2011.

“Monitoring Officer” means the employee designated by the Authority under section 5(1) of the Local Government and Housing Act 1989, or any employee acting in that capacity in the Monitoring Officer’s absence.

“Standards Committee” means the Committee of the Authority established to discharge functions relating to the promotion and maintenance of high standards of conduct by councillors.

“Subject Member” means the councillor or co-opted councillor who is the subject of an allegation under these arrangements.

Appendix 1

Sub Committee Hearing Procedure for determination of allegations about the Member Code of Conduct

Introduction

1. The determination of complaints by the Standards Committee (or Sub Committee thereof) following an investigation and referral by the Monitoring Officer, will be governed by this procedure.

2. The person[s] making the complaint will be referred to in this procedure as the Complainant and the person against whom the complaint is made will be referred to as the Member. The allegation will be heard by the Standards Committee or a Sub Committee of the Standards Committee.

Pre Hearing Process

3. Upon receipt of the final report of the Investigating Officer including a finding that the Member failed to comply with the Code of Conduct for Members and where it has not been possible to reach a local resolution or the Monitoring Officer, in consultation with the Independent Person and the Chair of the Standards Committee, finds that the matter should be considered at a formal hearing the Monitoring Officer shall arrange for the Standards Sub Committee to consider the matter.

4. Where the Monitoring Officer is the Investigating Officer they must arrange for a separate legal advisor to the Committee to be appointed in respect of the allegation.

Notifying the Member and Complainant

5. Within five working days of the receipt of the Investigating Officer's report the Monitoring Officer shall send a copy of the report to the Member and, where possible, the Complainant, making the provision of the report conditional upon any appropriate undertaking of confidentiality. The Chair and Members of the Sub Committee shall be informed of the allegation by the Monitoring Officer.

6. The Member shall be asked for a written response, within fifteen working days of the receipt of the report, which response shall set out the reply to the Investigating Officer's report and state whether or not they:

    i. disagree with any of the findings of fact in the Investigating Officer's report, including the reasons for any disagreement;
    ii. wants to be represented, at their own expense, at the Sub Committee by any other person;
    iii. wants to give evidence to the Sub Committee, either verbally or in writing;
    iv. wants to call relevant witnesses to give evidence to the Sub Committee;
    v. wants any part of the Sub Committee to be held in private;

vi. wants any part of the Investigating Officer's report or other relevant documents to be withheld from the public.

7. The Member shall be informed that if, at the meeting of the Sub Committee, they seek to dispute any matter contained in the Investigating Officer's report without having previously notified the Monitoring Officer of the intention to do so the Sub Committee may either [a] adjourn the meeting to enable the Investigating Officer to provide a response, or [b] refuse to allow the disputed matter to be raised.

8. Upon receipt, the Monitoring Officer shall invite the relevant Investigating Officer to comment, within ten working days, on the Member's response, and to say whether or not they:

i. want to be represented or be present at the Sub Committee;
ii. wants to call relevant witnesses to give evidence or submit written or other evidence to the Sub Committee;
iii. wants any part of the Sub Committee to be held in private;
iv. wants any part of the Investigating Officer's report or other relevant documents to be withheld from the public.

9. Upon receipt of the Investigating Officer's response, the Monitoring Officer will consider the responses of the Member and the Investigating Officer and set a date for the Sub Committee in consultation with the Chair.

10. The Member and the Investigating Officer are entitled to request that any witnesses they want should be called. However, the Chair of the Sub Committee may limit the number of witnesses to be called, if they believe the number requested is unreasonable and that some witnesses will simply be repeating the evidence of earlier witnesses, or else not providing evidence that will assist the Sub Committee to reach its decision.

11. Nothing in this procedure shall limit the Chair of the Sub Committee from requesting the attendance of any additional witnesses whose evidence they consider would assist the Sub Committee to reach its decision.

12. The Monitoring Officer, in consultation with the Chair, will:

i. confirm a date, time and place for the Sub Committee, which must be within three months from the date that the Investigating Officer's report was received;
ii. confirm the main facts of the case that are agreed;
iii. confirm the main facts that are not agreed;
iv. provide copies of any written evidence to the relevant parties;
v. confirm which witnesses will be called by the parties;
vi. provide the parties with a copy of the proposed procedure for the Sub Committee Hearing, specifying which parts of the matter, if any, may be considered in private; and

vii. ensure the appropriate information, with the agenda, is provided to everyone involved in the Sub Committee Hearing at least two weeks before the proposed date of the Sub Committee.

The Sub Committee Hearing

13. The Sub Committee shall decide, on a balance of probabilities, whether the complaint[s] is or are upheld upon the evidence presented to it.

14. Each Sub Committee Member shall have one vote, and all matters/issues shall be decided by a simple majority of votes cast. If there are equal numbers of votes for and against, the Chair will have second or casting vote.

15. The meeting of the Sub Committee will be open to the public and press unless confidential information or exempt information is likely to be disclosed.

Procedure at the Sub Committee Hearing

16. The initial order of business at the meeting shall be as follows:-

i. Establishing whether the Sub Committee is quorate;
ii. Declarations of interest;
iii. Introductions
iv. Consideration as to whether to adjourn or to proceed in the absence of the Member, if the Member is not present;
v. Consideration of any procedural issues and, in particular, any representation from the Investigating Officer and/or the Member as to reasons why the Sub Committee should exclude the press and public and determination as to whether to exclude the press and public.

17. The purpose of the Sub Committee Hearing is to determine the facts at issue and what action, if any, should be taken. An inquisitorial approach will be adopted by the Sub Committee members in seeking information and clarifying facts and issues. The Chair will control the procedure and evidence presented at the Sub Committee, including the questioning of witnesses.

18. The Sub Committee members may at any time seek legal advice from their advisor. [Such advice will be notified to the public in the presence of the Investigation Officer and the Member.]

19. The procedure will be as follows, subject to the Chair being able to make changes as they think fit in order to ensure a fair and efficient hearing.

Proceeding in the absence of the Member

20. If the Member is not present at the start of the Sub Committee Hearing:

i. The Chair will ask the Monitoring Officer whether the Member has indicated their intention not to attend the Sub Committee Hearing;

ii. The Sub Committee shall then consider any reasons which the Member has provided for not attending the hearing and shall decide whether it is satisfied that there is sufficient reason for such failure to attend;

iii. If the Sub Committee is satisfied with such reasons, it shall adjourn the hearing to another date;

iv. If the Sub Committee is not satisfied with such reasons, or if the Member has not given any such reasons, the Sub Committee shall decide whether to consider the matter and make a determination in the absence of the Member or to adjourn the hearing to another date.

Presentation by the Investigating Officer

21 The Investigating Officer will present the evidence which is relevant to the matter. The Investigating Officer may introduce any witness required to substantiate any matter contained in the report which has been disputed and present any other relevant evidence.

22 The Member or their representative may ask questions of the Investigating Officer or any witness.

23 The Sub Committee members may ask questions of the Investigating Officer or any witness.

Presentation by the Member

24 The Member or their representative will present the evidence which is relevant to the matter. The Member or their representative may introduce witnesses or present any other relevant evidence.

25 The Investigating Officer may ask questions of the Member, or any witness.

26 The Sub Committee members may ask questions of the Member or any witness.

Summing Up

27 The Investigating Officer and then the Member or their representative will be given the opportunity to sum up.

Power to Adjourn

28 If the Sub Committee at any time prior to determining whether there was a failure to comply with the Code of Conduct are of the opinion that they require additional evidence on any point in order to be able to come to a considered conclusion on the matter the Sub Committee may (on not more than one occasion) adjourn the hearing and make a request to the Monitoring Officer to seek and provide such additional evidence and to undertake further investigation on any point specified by the Sub Committee.

Decision by the Sub Committee

29. The Sub Committee will consider in private all the evidence which it has heard in order to establish its findings of fact.

30. At any stage in the consideration of the matter the Sub Committee may return to ask further questions of the Investigating Officer or the Member or seek further information. The other party will be given an opportunity to comment upon the questions asked or the responses made.
31. The Sub Committee may seek legal advice at any time. Such advice may be given in the presence of the Investigating Officer and the Member if appropriate.
32. At the conclusion of their deliberations, the Chair will advise the Member and the Investigating Officer of the Sub Committee's findings and whether the Code of Conduct has been breached.
33. If the Sub Committee concludes that the Member has acted in breach of the Code representations will be invited from the Investigating Officer and the Member as to what action, if any, it should take. The Sub Committee may ask questions of the Member and the Investigating Officer.

Determining the Matter

34. The Sub Committee, having heard any representations, will consider what actions, if any, to take.

    The findings that the Sub Committee may make are:

    a) That there has been no breach of the Code;
    b) That the Member has failed to comply with the Code of Conduct, but that no action needs to be taken;
    c) That the Member has failed to comply with the Code of Conduct and the Sub Committee may impose one or more of the following sanction(s):
       - A formal censure of the Subject Member;
       - A recommendation to the Authority that the Subject Member should be censured;
       - Publication of the Sub Committee's findings in respect of the Member's conduct on the Authority's website;
       - Report its findings to the Council for information;
       - Recommend to the Member's Group Leader (or in the case of an un grouped Member(s), recommend to Council or Committees) that they be removed from any or all Committees or Sub Committees of the Council;
       - Instruct the Monitoring Officer to arrange training for the Member;
       - A direction to the Member that they submit a written apology in a form approved by the Monitoring Officer;
       - Require that the Member takes part in conciliation or mediation as specified and detailed;
       - Recommend to Council that the Member be removed from all outside appointments to which they have been appointed or nominated by the council;
       - Recommend to Council that it withdraws facilities provided to the Member of the council for a specified period, such as a computer, website and/or email and internet access (save as necessary for democratic duties);
       - Recommend to Council that it excludes the member from the council's offices or other premises for a specified period except for meeting rooms as necessary for attending council, Committee and Sub Committee meetings and/or restricts contact with officers to named officers only;

- If relevant, recommend to the Council that the Member be removed from their role as leader of the council; or
- If relevant recommend to the appropriate official of a political group that the councillor be removed as a group leader or other position of responsibility.
- Any other sanction which in consultation with the Independent Person is considered appropriate.

35. In deciding what penalty to set, the Sub Committee will consider all relevant circumstances.

36. The Chair will announce the decision of the Sub Committee, the action, if any, it will take and the reasons for the decision.

37. The Sub Committee will then consider in open session whether there are any recommendations which should be made to any Authority concerned arising from the consideration of the allegation.

Appeal

38. There is no right of appeal against the decision of the Standards Sub Committee.

39. If a Complainant or Subject Member considers that the Authority has failed to deal with an allegation properly, they may refer the matter to the Local Government and Social Care Ombudsman.

Notice of findings

40. A formal decision notice in draft will be prepared as soon as practicable. The draft decision will be forwarded to the Chair of the Sub Committee for approval.

41. Once approved and as soon as reasonably practicable after the Sub Committee the full written decision will be forwarded to the Subject Member and the Complainant [where possible].

42. If the Standards Sub Committee wishes to publish its finding(s), the Monitoring Officer, subject to paragraph 42, shall arrange for a summary of the findings to be published on the Council website in accordance with paragraphs 43 and 44 or in such other manner as the Sub Committee may determine (for example, by reporting the matter to Council for information).

43. Where the Sub Committee determines that there has not been a beach of the Code of Conduct, the notice shall:

    i. State that the Sub Committee found that the Member had not failed to comply with the Code of Conduct and shall give its reasons for reaching that finding; and
    ii. Not be published in the local newspaper if the Member so requests.

44. Where the Sub Committee determines that there has been a failure to comply with the Code of Code but no action is required, the notice shall:

    i. State that the Sub Committee found that the Member had failed to comply with the Code of Conduct but that no action needs to be taken in respect of that failure;
    ii. Specify the details of the failure;
    iii. Give reasons for the decision reached; and

45. Where the Sub Committee determines that there has been a failure to comply with the Code of Conduct and that a sanction should be imposed, the notice shall include a brief statement of the facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision maker and any sanction applied.

46. Copies of the agenda, reports and minutes of a Sub Committee, as well as any background papers, apart from sections of documents relating to parts of the Sub Committee that were held in private, shall be available for public inspection for six years after the Sub Committee.