

# Governance and Audit Committee Meeting

**Council Chamber, Town Hall, High Street,  
Colchester, CO1 1PJ  
Thursday, 30 March 2023 at 18:00**

**The Governance and Audit Committee** considers and approves the Council's Statement of Accounts and reviews the Council's annual audit letter. The Committee also deals with the Council's governance, risk management and audit arrangements. To make recommendations to the Council on functions such as Elections and bye laws, and determine Community Governance Reviews.

## **Information for Members of the Public**

### **Access to information and meetings**

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda (the list of items to be discussed at a meeting), which is usually published five working days before the meeting, and minutes once they are published. Dates of the meetings are available here:

<https://colchester.cmis.uk.com/colchester/MeetingCalendar.aspx>.

Most meetings take place in public. This only changes when certain issues, for instance, commercially sensitive information or details concerning an individual are considered. At this point you will be told whether there are any issues to be discussed in private, if so, you will be asked to leave the meeting.

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## **Governance and Audit Committee - Terms of Reference (but not limited to)**

### **Accounts and Audit**

To consider and approve the Council's Statement of Accounts and the Council's financial accounts, and review the Council's external auditor's annual audit letter.

### **Governance**

To consider the findings of the annual review of governance including the effectiveness of the system of internal audit and approve the signing of the Annual Governance Statement.

To have an overview of the Council's control arrangements including risk management and in particular with regard to the annual audit plan and work programme, and to approve the policies contained in the Council's Ethical Governance Framework.

### **Other regulatory matters**

To make recommendations to Council on functions such as elections, the name and status of areas and individuals, and byelaws.

To determine and approve Community Governance Reviews.

### **Standards in relation to Member Conduct**

To consider reports from the Monitoring Officer on the effectiveness of the Members' Code of Conduct, and to advise the Council on the adoption or revision of the Code.

To receive referrals from the Monitoring Officer into allegations of misconduct and to create a Hearings Sub-Committee to hear and determine complaints about Members and Co-opted Members referred to it by the Monitoring Officer.

To conduct hearings on behalf of the Parish and Town Councils and to make recommendation to Parish and Town Councils on improving standards or actions following a finding of a failure by a Parish or Town Councillor.

To inform Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints.

To grant dispensations, and to hear and determine appeals against refusal to grant dispensations by the Monitoring Officer.

To make recommendations to Council regarding the appointment of Independent Persons.

### **General**

To review of the Constitution including governance issues around formal meetings, processes and member training and to make recommendations to Council.

**COLCHESTER CITY COUNCIL**  
**Governance and Audit Committee**  
**Thursday, 30 March 2023 at 18:00**

**The Governance and Audit Hearings Sub-Committee Members are:**

Councillor Paul Smith  
Councillor Chris Pearson  
Councillor Rhys Smithson

**The Governance and Audit Hearings Sub-Committee Substitute Members are:**  
All members of the Committee who have been appointed to this Hearings Sub-Committee.

**AGENDA**  
**THE LIST OF ITEMS TO BE DISCUSSED AT THE MEETING**  
**(Part A - open to the public)**

**Please note that Agenda items 1 to 6 are normally dealt with briefly.**

**1 Appointment of Chairman**

To appoint a Chairman for the meeting.

**2 Welcome and Announcements**

The Chairman will welcome members of the public and Councillors and remind everyone to use microphones at all times when they are speaking. The Chairman will also explain action in the event of an emergency, mobile phones switched to silent, audio-recording of the meeting. Councillors who are members of the committee will introduce themselves.

**3 Substitutions**

Councillors will be asked to say if they are attending on behalf of a Committee member who is absent.

**4 Declarations of Interest**

Councillors will be asked to say if there are any items on the agenda about which they have a disclosable pecuniary interest which would prevent them from participating in any discussion of the item or



participating in any vote upon the item, or any other registerable interest or non-registerable interest.

**5 Code of Conduct Complaint**

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The Sub-Committee will consider a report requesting that it determines a code of conduct complaint.

**Exclusion of the Public (not Scrutiny or Executive)**

In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

**Part B  
(not open to the public including the press)**



**30 March 2023**

<b>Report of</b>	<b>Monitoring Officer</b>	<b>Author</b>	<b>Andrew Weavers</b>
			<b>☎ 282213</b>
<b>Title</b>	<b>Code of Conduct Complaint - Councillor Moore</b>		
<b>Wards affected</b>	Not applicable		

## **1. Executive Summary**

- 1.1 The Sub-Committee is responsible for determining complaints in accordance with the Council's Localism Act Arrangements and this report refers a complaint to the Sub-Committee for determination.

## **2. Recommended Decision**

- 2.1 The Sub-Committee is requested to determine whether:
- (a) Councillor Moore has not failed to comply with the Members' Code of Conduct and no further action needs to be taken in respect of the matters considered at the Hearing; or
  - (b) Councillor Moore has failed to comply with the Members' Code of Conduct but that no further action needs to be taken in respect of the matters considered at the Hearing; or
  - (c) Councillor Moore has failed to comply with the Members' Code of Conduct and that a formal resolution should be made to the Full Council.
- 2.2 The Sub-Committee to consider whether to recommend to Full Council any action or combination of actions available to it (contained at Schedule1) or recommend any informal resolution or combination of informal resolutions as are available to it by law or policy.

## **3. Background**

- 3.1 Under the Localism Act 2011 the Council has a statutory duty to promote and maintain high standards of conduct by members and co-opted members of the Authority. In order to discharge this duty, the Full Council adopted a Members' Code of Conduct which sets out the conduct expected of members and co-opted members of the Authority when they are acting in that capacity. The Council has also adopted Arrangements which detail how complaints in relation to Member conduct will be handled.
- 3.2 The Full Council agreed that as part of the terms of reference of this Sub-Committee it is responsible for promoting and maintaining high standards of conduct by Members and Co-opted Members of the Council.
- 3.3 The Governance and Audit Committee has agreed a procedure for the Hearings Sub-Committee and this is included in the Agenda pack.

## **4. The Complaints**

- 4.1 The complaints were brought by Chris Wood ("the Complainant") against Councillor Moore of Colchester Borough Council.

The complaints relate to the following allegations:

- (1) It is alleged that Councillor Moore made comments in an article in the July 2022 Mersea Life magazine which brought the Council into serious disrepute.
- (2) It is alleged that Councillor Moore made comments in an article in the August 2022 Mersea Life magazine and that these additional comments be added to complaint (1).
- (3) It is alleged that Councillor Moore attended a West Mersea Town Council meeting on 1 September 2022 and acted inappropriately in a public meeting towards the Complainant.
- (4) It is alleged that Councillor Moore made comments in an article in the September 2022 Mersea Life magazine which related to complaints made.

NB. The Complainant is also a West Mersea Town Councillor; however, the complaints were made in his private capacity.

- 4.2 Subsequent to the initial assessment stage of consideration of the complaints, the Monitoring Officer following consultation with one of the Council's Independent Persons appointed Mr MacBeath of TIAA auditors (the Council's internal auditors) as an independent Investigating Officer to investigate the complaints. Mr MacBeath's final investigation report which includes details of the complaints together with relevant documentation can be found at Appendix A.
- 4.3 Mr MacBeath's investigation report states that he is of the opinion that Councillor Moore:
  - (a) breached section 3(1) of the Council's code of conduct by not treating others with respect on more than one occasion;
  - (b) breached section 3(3)(c) by attempting to intimidate the Complainant; and
  - (c) breached section 4 (a) by disclosing confidential information relating to the complaints which was known or reasonably ought to have been known to be confidential.

## **5. Colchester Borough Council's Members' Code of Conduct**

- 5.1 As required by the Localism Act 2011, Colchester Borough Council adopted a Members' Code of Conduct which sets out the conduct expected of Councillors when acting in their official capacity. The relevant Members' Code of Conduct for Colchester Borough Council appears at Appendix B. It should be noted that for this complaint, the Code pre December 2022 was the relevant Code of Conduct for Colchester Borough Council and it is this Code which the Investigating Officer has considered.

Particularly relevant to these complaints are the following obligations in the Code:

3(1) – "You must treat others with respect."

3(3) (c) – "You must not

intimidate or attempt to intimidate any person who is or is likely to be: –

- (i) a complainant;
- (ii) a witness; or
- (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a Member (including yourself) has failed to comply with the Authority's code of conduct"

4(a) – “You must not –

disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where –

- (i) you have the consent of a person authorised to give it;
- (ii) you are required by law to do so;
- (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- (iv) the disclosure is –
  - (aa) reasonable and in the public interest; and
  - (bb) made in good faith and in compliance with the reasonable requirements of the Authority.”

5.2 The Council’s Localism Act Arrangements for dealing with Member Code of Conduct complaints are attached at Appendix C.

**6. Further information**

6.1 It has transpired that due to an omission by the Monitoring Officer, Councillor Moore was not made aware of the complaint referred to above at paragraph 4.1 (c) until Councillor Moore met with Mr MacBeath as part of his investigation process. Councillor Moore is of the view that this omission denied her the opportunity to consider her response to this complaint prior to the meeting with Mr MacBeath and should not be considered. Councillor Moore’s responses to this complaint are included in Mr MacBeath’s final report.

6.2 A draft of Mr MacBeath’s investigation report was supplied to both Councillor Moore and the Complainant and their responses are contained at pages 10 and 11 of the final report respectively.

6.3 Councillor Moore sent an email of apology dated 26 November 2022 to all Colchester Borough Council councillors and this can be found in Appendix D.

6.4 Councillor Moore has also supplied advice received in respect of freedom of expression and this is included at Appendix E.

6.5 An extract from the Guidance on Local Government Association’s Model Councillor Code of Conduct whilst published in relation to the new code still provides relevant advice generally regarding the Members’ code of conduct and freedom of expression is also included at Appendix F for the Sub- Committees information.

6.6 Councillor Moore believes that the complaints are politically motivated and should have been rejected at the initial assessment stage and not have proceeded to investigation. However, no substantive evidence of this was provided during the initial stages of consideration of the complaints nor during the investigation.

**7. Issues to be determined**

7.1 Did Councillor Moore breach Colchester Borough Council’s Members’ Code of Conduct?

7.2 In the event that the Sub Committee finds that the Code has been breached, it will need to determine whether any action should be taken and if so, what action from those available to the Sub-Committee contained in Schedule 1.

- 7.3 After making a finding the Sub-Committee will be required to publish a full written decision of its findings within 7 working days following the hearing.

#### **4. Strategic Plan References**

- 4.1 The manner in which the Council governs its business is an underpinning mechanism in the Council's Strategic Plan priorities to set out the direction and future potential for our Borough.

#### **5. Publicity Considerations**

- 5.1 The Sub-Committee's decision will be published.

#### **6. Financial, Equality, Diversity and Human Rights, Consultation, Health, Wellbeing and Community Safety, Health and Safety, Risk Management and Environmental and Sustainability Implications**

- 5.1 None.

**Actions available to the Hearings Sub-Committee where a Councillor has been found to have failed to comply with the Code of Conduct**

1.0 The City Council has delegated to the Hearings Sub-Committee its powers to take action in respect of individual Councillors as may be necessary to promote and maintain high standards of conduct.

Accordingly, the Hearings Sub-Committee may: -

- (a) Report its findings to Council (or to the Parish Council) for information;
- (b) Recommend to Council (or to the Parish Council) that the Councillor be issued with a formal censure or be reprimanded ;
- (c) Recommend to the Councillor's Group Leader (or in the case of un-grouped Councillors, recommend to Council or to Committees) that the Councillor be removed from any or all Committees or Panels of the Council;
- (d) Recommend to the Leader of the Council that the Councillor be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- (e) Instruct the Monitoring Officer to (or recommend that the Parish Council) arrange training for the Councillor;
- (f) Recommend to Council to remove (or recommend to the Parish Council that the Councillor be removed) from all outside appointments to which they have been appointed or nominated by the Council (or by the Parish Council);
- (g) Recommend to Council to withdraw (or recommend to the Parish Council that it withdraws) facilities provided to the Councillor by the Council, such as a computer, website and/or email and internet access; or
- (h) Recommend to Council to exclude (or recommend that the Parish Council exclude) the Councillor from the Council's Offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Panel meetings.

2.0 The Hearings Sub-Committee has no power to suspend or disqualify a Councillor or to withdraw a Councillor's basic allowance or any special responsibility allowances.

3.0 Any actions recommended by the Hearings Sub-Committee should be proportionate and commensurate with the circumstances of the particular case.





## Colchester Borough Council

Complaint Investigation – Code of Conduct

2022/23

In Confidence

Restricted Circulation

November 2022

## Executive Summary

**Note, this report is strictly confidential and must be handled as such and in accordance with our terms of reference. It must not be disclosed to any third party or named individual within the report, without the prior written consent of TIAA.**

1. Colchester Borough Council's (CBC) Monitoring Officer has received a number of complaints in relation to an alleged breach of the Council's Code of Conduct, initially as a result of a news article written by a named Councillor and published in Mersea Life (a monthly publication for which the named Councillor writes a regular article). 'The Mersea LIFE magazine is produced monthly and is delivered door-to-door in West & East Mersea, Peldon, Abberton, Langenhoe, Fingringhoe and Wigborough – and also left for collection in many surrounding villages. Back issues are also available online.'
2. A summarised chronology of the matter is:
  - July 2022 - Article written by named Councillor.
  - 13 July 2022 – original complaint made regarding the content of this article.
  - 16 July 2022 – named Councillor confirms that they would apologise in their next article.
  - August 2022 – second Article written by named Councillor.
  - 7 August 2022 – further complaint made by the same person regarding the language used in the article.
  - 1 September 2022 – West Mersea Town Council meeting attended by the named Councillor leads to a further complaint (by the same complainant, who is also a West Mersea Town Councillor) regarding comments made at the meeting.
  - September 2022 – third Article written by named Councillor.
  - 10 September 2022 – further complaint made by the same person regarding the content of the September 2022 article.
3. The original complaint raises concerns that comments made by the named Councillor in an article, purporting to represent Colchester Borough Council, brings the Council into serious disrepute. Further complaints raised concerns that public comments made following the first complaint could be construed to be dismissive of the complainant, rather than considering whether the original comments were appropriate. This has been compounded by the perception that has been promoted, that these are 'formal' views of Colchester Borough Council. Alleged comments made at the West Mersea Town Council meeting and in the September 2022 article appeared to have compounded the situation.
4. In accordance with the Council's Localism Act - Arrangements for dealing with Councillor complaints (the Arrangements) and following consultation with one of the Council's Independent Persons, it has been decided that these complaints warrant further action. TIAA was subsequently requested to undertake an independent investigation of the complaints and to prepare an investigative report on the merits of the complaints. In accordance with the Council's Arrangements the report is required to conclude whether there has been a failure to comply with the Code of Conduct or not.

## Conclusion

5. This review has concluded that there is evidence to suggest that the named Councillor has breached the Council's Code of Conduct for members.
- Although the named Councillor advised that the articles in question were always written as their personal take on the happenings at CBC, the nature of the named Councillor's position means that such articles could, and will, be perceived as being written in an official capacity, even when the article states that the content and opinions are personal. Furthermore, it was acknowledged by the named Councillor that the first article in question could give the appearance that the article was written in an official capacity and that steps have now been taken to address this.
  - The named Councillor has stated that they believe the comments made in the articles have been misconstrued. However, a key consideration with any code of conduct is how an action or statement is or could be perceived and that an action or comment made could reasonably be regarded, understood, or interpreted in a different context to how it was meant. It is also acknowledged that no individual was mentioned by the named Councillor, however, the implication drawn from the comments has clearly been interpreted as inappropriate by more than one individual. The comments made are, therefore, considered to breach Section 3. (1) of the Council's Code of Conduct which states that you must treat others with respect. Furthermore, it cannot be considered appropriate to comment upon a live/unresolved complaint that has been made in a personal capacity in any public forum or to name the individual who has made a private complaint and to challenge them and question their motives. Although discussing a complaint with a complainant is not specifically precluded by the Code of Conduct, Section 3. (3) (c) does state that you must not intimidate or attempt to intimidate any person who is or is likely to be: (i) a complainant and Section 3. (1) states that you must treat others with respect. Both sections are considered to have been breached in this case.
  - The named Councillor does not appear to appreciate the significance of the matter or that they have breached any section(s) of the Code of Conduct. The named Councillor was clearly made aware that the complaints made were in a private capacity and by challenging them in a public meeting and 'outing' them as being responsible for making a complaint, it is considered that the named Councillor has also breached the Section 4. (a) of the Code of Conduct.
  - The comment made by the named Councillor during the investigatory meeting suggest that there is little recognition of the offence such actions could cause. Furthermore, the named Councillor did not acknowledge that there was any need to apologise for the comments made or how they had been interpreted. As stated earlier in this report, the nature of the named Councillor's position means that such articles could, and will, be perceived as being written in an official capacity, and someone in such a position should be sufficiently aware that such actions could be construed in a way, other than how they were intended. It should not be considered appropriate to rely on a third party to censor such articles.

## Further action required

6. The investigation did not identify any additional matters which did not form part of the original allegations.

## Scope and Limitations of the Investigation

The following scope and limitations were approved by the Council's Monitoring Officer on 28th September 2022.

7. The review will include an independent investigation of the complaints made in relation to the named Councillor between July 2022 and September 2022 and to report on whether or not the evidence supports the allegations that there has been a failure to comply with the Council's Code of Conduct.
8. The review will be carried out in accordance with the Council's Localism Act - Arrangements for dealing with Councillor complaints and will include whether there has been a failure to comply with the Code of Conduct or not.
9. The scope of the review extends to:
  - Interviews will be held with the Monitoring Officer and both the named Councillor and the complainant.
  - Review of, Policy, Code of Conduct, Arrangements and any other relevant correspondence ahead of these interviews.
  - Review / consideration of additional supporting evidence obtained following these interviews.
  - Prior to reporting, a second, update meeting will be held with both the named Councillor and the complainant in order to share the findings of the draft Investigation Report and to provide both with an opportunity to identify any matter(s) in that draft report that require further consideration.
  - Having received and taken account of any comments on the draft Investigation Report, we will report our conclusions and findings to the Monitoring Officer.
10. The following scope limitations will apply:
  - The review will not consider complaints management arrangements, or the appropriateness / timeliness of the action taken by the Council to investigate these complaints.

## Meetings

11. TIAA met with the Monitoring Officer on 7<sup>th</sup> October 2022, with the Complainant on 17<sup>th</sup> October 2022 to obtain a clearer understanding of the context of the complaints and the actions taken since these complaints were received. TIAA met with the named Councillor on 25<sup>th</sup> October 2022 to explore the specifics of the complaints in more detail. The outcomes from all meetings are set out in the body of this report.
12. Annex A sets out both parties' responses to the initial 'discussion draft report', which was provided for feedback and comment on the factual accuracy, or any areas that they felt required further consideration. This was in accordance with the Colchester Borough Council: Councillor Code of Conduct Arrangements for dealing with complaints.

## Code of Conduct

13. The Council's Code of Conduct for members is dated June 2012 (reviewed November 2021). The Councillor in question received awareness training in the form of 'Introduction to the Code of Conduct' on 23rd July 2015.
14. Relevant extracts from the Code of Conduct:

*Part 1 – General Provisions states that:*

*As a Member you are a representative of Colchester Borough Council ("the Authority") and the public will view you as such. Therefore, your actions impact on how the Authority as a whole is viewed and your actions can have both positive and negative impacts on the Authority.*

*This Code is consistent with the “Nolan Principles” which are set out in Appendix 1 and the provisions of S29 (1) Localism Act 2011.*

*Section 1. (1) states that this Code applies to all Members of the Authority and (2) It is your responsibility to comply with the provisions of this Code.*

*Section 2. (1) (b) states that you must comply with this Code whenever you are acting as a representative of the Authority.*

*Section 3. (1) states that you must treat others with respect.*

*Section 3. (3) (c) states that you must not intimidate or attempt to intimidate any person who is or is likely to be: (i) a complainant or (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a Member (including yourself) has failed to comply with the Authority's code of conduct; or*

*Section 4. (a) states that you must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature.*

## Complaints and Key Findings

15. The following matters were noted from a review of each complaint and from the information obtained during the course of this investigation.

### Complaint 1:

- 15.1 The first complaint was dated 13th July 2022 and relates to comments made by the named Councillor in their July 2022 written article in Mersea Life. This complaint was clearly made in a private capacity.
- 15.2 The Complaint alleged that the named Councillor brings the Council into serious disrepute by making the following statements, in an article, purporting to represent Colchester Borough Council.

Complaint	Response from the named Councillor
The named Councillor questions their fellow Councillors integrity by referencing “enough honest and true Councillors to vote it through.”	<p><u>Response to Monitoring Officer:</u></p> <p>Honest and True’ is my shorthand for ‘Responsible’ I will happily point this out in my next article and apologise for any offence caused.</p> <p><u>Response to TIAA:</u></p> <p>There were some councillors that were not behaving appropriately. It was an appalling situation. What was written was a mild and general view of the situation. These comments were intended to be humour, tongue in cheek.</p> <p>This was meant as a gentle rebuke and not criticising individual councillors.</p>

Complaint	Response from the named Councillor
<p>“There are rumours of Green Party members jumping ship – those of you old enough to remember Alan Shearman’s song Hello ‘Momma, Hello Pappa’ (Camp Granada)” – sic – “and the fact that all the characters hated each other, will have some flavour of the goings on at Colchester. Elect Muppets – get a comedy show.”</p>	<p><u>Response to TIAA:</u></p> <p>This has been interpreted wrongly and it could also be taken as a general comment on elected people.</p> <p>I wrote what I wrote and if people choose to interpret that it is aimed at them, I cannot control that. Sorry but that is the way it is.</p> <p>Just after election everybody is hating everyone else because of changes to seats, control etc. There are lots of heated argument over whether plans should go through. That is why I said everyone hated each other. In the next article I said everyone is friends again.</p> <p>The muppets comment is a statement of fact not generally aimed at anyone.</p>

- 15.3 The article in question is titled ‘named Councillor – CBC News’, shows the Council’s website address and is sub-titled as ‘City! Councillor Notes’. There is no mention in the article that the views expressed personal and not of the Borough Council’s. It was acknowledged by the named Councillor that this could give the appearance that the article was written in an official capacity and that steps have now been taken to address this.
- 15.4 However, the nature of the named Councillor’s position means that such articles could be perceived as being written in an official capacity, even when the article states that the content and opinions are personal.
- 15.5 In reply to the Monitoring Officer’s initial request for a response to the complaint, the named Councillor acknowledged that they would point out in their next article that they have always been of the belief that the article is their personal take on the happenings at CBC and that they would happily point this out in their next article and apologise for any offence caused. No apology was noted, and the named Councillor has advised TIAA that they had written in the publication for many years and people know that it’s their personal view. They were given opportunity to apologise but they were not going to apologise in this case. They did not see anything in the article that they needed to apologise for and had no idea who they were supposed to apologise to.

**Conclusion:** Although the named Councillor advised that the article in question was always written as their personal take on the happenings at CBC, the nature of the named Councillor’s position means that such articles could, and will, be perceived as being written in an official capacity, even when the article states that the content and opinions are personal. Furthermore, it was acknowledged by the named Councillor that the first article in question could give the appearance that the article was written in an official capacity and that steps have now been taken to address this.

The subtext of the comments made in the article:

- could be interpreted as suggesting that the named Councillor considers some of their peers to be less than ‘honest and true’ and
- could be interpreted as implying that there are some Councillors that ‘hate each other’ and that the named Councillor considers some of the elected members to be muppets!

Although the named Councillor has stated that this was not the case, a key consideration with any code of conduct is how an action or statement is or could be perceived and that an action or comment made could reasonably be regarded, understood, or interpreted in a different context to how it was meant. It is also acknowledged that no individual was mentioned by the named Councillor, however, the implication drawn from the comments has clearly been interpreted as inappropriate by more than one individual.

The comment made by the named Councillor that “if people choose to interpret that it is aimed at them, I cannot control that. Sorry but that is the way it is” suggest that there is little recognition of the offence such actions could cause. Furthermore, the named Councillor did not acknowledge that there was any need to apologise for the comments made or how they had been interpreted.

These actions are considered to breach Section 3. (1) of the Council's Code of Conduct which states that you must treat others with respect.

## Complaint 2:

- 15.6 The second complaint was dated 7th August 2022 and relates to comments made by the named Councillor in their August 2022 written article in Mersea Life. This complaint was also clearly made in a private capacity and requests that the Council add additional inappropriate material in public forums, to the original complaint. The complaint references the following statements from the publication:

Complaint	Response from the named Councillor
"Some tender-hearted soul has made a formal complaint that I have been less than generous to my fellows and that my sense of humour was unkind."	<p><u>Response to Monitoring Officer:</u></p> <p>I am sorry for the work this matter has caused you but am otherwise confused as to whom and for what I am supposed to apologise. I would much appreciate your guidance on that.</p> <p>I have pointed out as requested that the article is my personal view on various matters and hoped that would close the matter.</p> <p><u>Response to TIAA:</u></p> <p>Asked if anything was wrong with this and does not think that tender hearted soul is an insult. When asked about the issue of mentioning a complaint that was still live, it was advised that they did not see anything wrong with that.</p> <p>It was stated that they were explaining to readers why they needed to tone down their humour and that they did not know how else they could explain that they would need to change their style of writing.</p>
"I reserve the right to have an opinion and shed light on some of the murkier goings on."	<p><u>Response to Monitoring Officer:</u></p> <p>As above.</p> <p><u>Response to TIAA:</u></p> <p>Are you suggesting there is not any murky goings on?</p> <p>This article is a personal relationship with the residents of Mersea. I have been doing it for eight years.</p>
Whist referencing a recent Special Full Council meeting, commenting: "well full-ish - some of the more squeamish councillors did not attend."	<p><u>Response to Monitoring Officer:</u></p> <p>As above.</p> <p><u>Response to TIAA:</u></p> <p>As councillors, we are required to attend meetings and if you don't turn up that is squeamish</p> <p>Should I not have said it at all? It is my duty to say what has happened at the council. How would I cover the fact that certain councillors went against the code of conduct. It is compulsory to attend meetings. My response was a kindly one I suppose. I tried all along to take a light gentle approach to this.</p>

- 15.7 The article in question is still titled 'named Councillor – CBC News', shows the Council's website address. The article does, however, include the statement that "it is suggested that I point out that my monthly article is my own personal take on some activities of CBC and its Councillors". It was acknowledged by the named Councillor that this could give the appearance that the article was written in an official capacity and that steps have now been taken to mitigate this.



**Conclusion:** It cannot be considered appropriate to comment upon a live/unresolved complaint that has been made in a personal capacity in any public forum. Although mentioning that a complaint has been made is not specifically precluded by the Code of Conduct, Section 3. (3) (c) does state that you must not intimidate or attempt to intimidate any person who is or is likely to be: (i) a complainant. There does not appear to be any recognition of wrongdoing by the named Councillor in regards this matter.

As with the earlier comments considered in this report, a key consideration with any code of conduct is how an action or statement is or could be perceived. It can clearly be perceived from the comments made in the article, that the named Councillor is disclosing that there are murky ('obscure or morally questionable') actions being undertaken by Council members. This is not considered to be an appropriate assertion for an elected councillor to be making about their peers.

Furthermore, the comment that some members of the Council opted not to attend a Special Full Council meeting because of they were "squeamish" appears to show a lack of respect for the named Councillor's peers and by raising this in a written publication, breaches Section 3. (1), which states that "you must treat others with respect".

### Complaint 3:

15.8 The third complaint was dated 1st September 2022 and relates to an alleged act of inappropriate behaviour from named Councillor at the 1st September 2022 West Mersea Town Council meeting, which was attended by the named Councillor and the complainant (who is also a West Mersea Town Councillor).

15.9 This complaint was also clearly made in a private capacity and makes the following allegations:

Complaint	Response from the named Councillor
<p>"At tonight's (01/09/22) West Mersea Town Council's meeting, named Councillor represented CBC in their report to West Mersea Town Council Councillors (of which I am one) and to members of the public in attendance commented that they had three items to bring to their report. These were two items of CBC business, and then an unbridled attack on me personally, and the motives and conduct of my (private) complaint".</p> <p>"In this they made a number of unsubstantiated accusations against me in a public domain. Following their questioning me as to whether my complaint was in my capacity as a Councillor, as a representative of Stop 350 or part of a personal and sustained series of attacks on named Councillor".</p>	<p><u>Response to TIAA:</u></p> <p>I confronted the Complainant at West Mersea Town Council to ask if they were complaining on behalf of WMTC, it transpires they are acting on behalf of a political party who have convinced them that my article contains things that are simply not there - for example that I accused a member of CBC cabinet of being a Muppet. Simply not true but it gave me insight into the source of this complaint.</p> <p>The Complainant says that he will put in another complaint about me, this is getting into the "when did you stop beating your wife" category!</p> <p>The political party in question has now turned its fire on the Editor of Mersea life, again misquoting my article. The Complainant is well able to defend themselves, but this is getting like a witch hunt and I for one am being harassed and may have to take action myself.</p> <p>I did question the Complainant in a public forum. The recording is irrefutable. I was afraid to speak to them privately. I didn't believe that the complaint was made in a private capacity. We are told as councillors not to put ourselves in danger. I did need to confront them as I needed to know where it was all coming from I'm afraid.</p> <p>I did not want to do this in private. They are a bully. If they spoke to me like that in a public space imagine what they would be like in a private space.</p>

15.10 It is clear that the nature of the complaint(s) is and always has been in a personal/private capacity and there has been no mention of the complainant representing or implying to represent WMTC (or any other party) in their complaints. This has been made clear in any correspondence with the named Councillor from the Monitoring Officer. In fact, it is only when the third complaint is made does the Complainant mention that they are a Town Councillor.



**Conclusion:** At 25:40 seconds into the Town Council meeting (01/09/22) – whilst acting in their capacity as a representative of the Borough Council, and when presenting Council matters, the named Councillor commented that:

*“On a personal matter – I would like to thank Councillor (Complainant’s surname) for their extensive and lengthy explanation to the Legal Department at Colchester Borough Council of all my failings. What I would like to know is whether they were acting on behalf of the Town Council – they mention that they are a Town Councillor, or Stop 350 or whether it’s on behalf of borough councillors who, by their actions were endangering local plans and thereby endangering the whole of the borough and in particular Mersea. I would be very interested to know who they were complaining on behalf of.”*

Is it clearly not appropriate or professional to mention a live, unresolved complaint in a public forum, to name the individual who has made a private complaint and to challenge them and question their motives.

Although discussing a complaint with a complainant is not specifically precluded by the Code of Conduct, Section 3. (3) (c) does state that you must not intimidate or attempt to intimidate any person who is or is likely to be: (i) a complainant and Section 3. (1) states that you must treat others with respect. Both sections have clearly been breached in this case. The named Councillor has acknowledged that they did question the Complainant in a public forum, stating that they felt this was necessary as they needed to understand the basis of the complaint and that they did not feel safe doing this in private. By their admission, the named Councillor has failed to appreciate the significance of the matter or that they have breached any section of the Code of Conduct.

There is also the matter of confidentiality to consider. The Code of Conduct: Section 4. (a) states that you must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature. The named Councillor was clearly made aware that the complaints made were in a private capacity. Despite the fact they were aware of the role the complainant holds, it is clear from reviewing the correspondence provided that the complainant does not, at any point, mention that they are acting in any capacity other than private. By challenging them in a public meeting and ‘outing’ them as being responsible for making a complaint, it is considered that the named Councillor has also breached the Section 4. (a) of the Code of Conduct.

#### Complaint 4:

15.11 The fourth complaint was dated 10th September 2022 and relates to comments made by the named Councillor in their September 2022 written article in Mersea Life. This complaint was made in a private capacity and references the following statements from the publication:

Complaint	Response from the named Councillor
<i>“I am still contemplating the complaint made by to CBC by a member of WMTC that I am trying to emulate an investigative journalist!”</i>	<p><u>Response to TIAA:</u></p> <p>My article is written to the residents of Mersea and intended to give an idea as to what goes on in town hall and what it’s like to be a councillor. This sets out how vulnerable we are to complaints etc. I carefully did not name the Complainant and I have not compromised anonymity. I was not aware that this needed to stay a secret.</p> <p>I wasn’t told not to mention it and I still don’t understand which code of conduct I have broken. I have emailed the Monitoring Officer but received no reply. It’s all very nebulous.</p> <p>The named Councillor reiterated that they will not apologise overall. They might apologise for sense of humour but that is all. When writing articles they spend time trying to soften the article with humour whilst allowing people enough information to make up their minds. It was further claimed that the named Councillor relies on the Mersea Life editor to bring to their attention if there is anything inappropriate, but this has not happened so there cannot be anything inappropriate.</p>

**Conclusion:** As with the complaint above, it is not considered to be appropriate or professional to have attributed this live complaint to a WMTC Councillor (particularly as the complaints were made in a private capacity). Although not specifically precluded by the Code of Conduct, Section 3. (3) (c) does state that you must not intimidate or attempt to intimidate any person who is or is likely to be: (i) a complainant and Section 3. (1) states that you must treat others with respect. Both sections are considered to have been breached in this case.

The comments made by the named Councillor that they were not specifically told that they should not mention the live complaint demonstrates that they have failed to appreciate the significance of the matter or that they may have breached any section of the Code of Conduct.

As stated earlier in this report, the nature of the named Councillor's position means that such articles could, and will, be perceived as being written in an official capacity, and someone in such a position should be sufficiently aware that such actions could be construed in a way, other than how they were intended. It should not be considered appropriate to rely on a third party to censor such articles.

### Acknowledgement

16. We acknowledge the co-operation and assistance of Colchester Borough Council staff during the course of our investigation. The opinions expressed in this report have been based on the information provided to us. Should further information become available, we reserve the right to amend our opinions where necessary. The report should not be construed as expressing opinions or matters of law, although naturally it reflects our understanding of such matters presented.
17. This report has been prepared for Colchester Borough Council and is solely for use in this matter. It must not be used, reproduced or circulated for any other purpose, in whole or part, without the written consent of TIAA. TIAA accepts no responsibility to any third parties for breaches of this requirement in connection to information included within this report.

### Disclaimer

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This report is strictly confidential and must be handled as such and in accordance with our contract. The opinions expressed within this report have been based on the documents and explanations provided to us. Should further information become available, we reserve the right to modify our opinions where necessary. This report or our work should not be taken as a substitute for management's responsibilities of its practices. Our work should not be relied upon to identify all strengths or weaknesses that may exist.

This report has been prepared on an exception basis and is solely for Colchester Borough Council's use and must not be reproduced, recited or referred to in whole or in part to third parties without our prior written consent. No responsibility to any third party is accepted as the report has not been prepared, and is not intended, for any other purpose. TIAA neither owes nor accepts any duty of care to any other party who may receive this report and specifically disclaims any liability for loss, damage or expense of whatsoever nature, which is caused by their reliance on our report.

We have no responsibility to update this report for any events or circumstances occurring after the date of this report.

## Annex A – Draft Report Feedback

In accordance with the Colchester Borough Council: Councillor Code of Conduct Arrangements for dealing with complaints, which states that:

*At the end of their investigation, the Investigating Officer or Monitoring Officer will produce a draft report (“the Investigation Report”) and will send copies of that draft report, in confidence, to you and to the Councillor concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.*

*Having received and taken account of any comments which you may make on the draft Investigation Report. Where an Investigating Officer has been appointed the Investigating Officer will send their final report to the Monitoring Officer.*

An initial ‘discussion draft report’ was provided to both the named Councillor and the Complainant for feedback and comment on the factual accuracy, or any areas that they felt required further consideration.

For completeness, responses from both parties are shown below.

Response received from Named Councillor	24th November 2022 – 09:07am
<p><i>Thank you for sharing your draft findings with me.</i></p> <p><i>My response comes in a series of questions to which I would like answers before you make a final report.</i></p> <ol style="list-style-type: none"> <li><i>1. If anyone is allowed to misinterpret a statement should the speaker be punished? e.g., if I say that someone has gone away for a while should I be punished for falsely inferring that they are going to prison when in fact they were going on holiday?</i></li> <li><i>2. Why am I, a councillor unable to have a personal opinion but the complainant who is a councillor is allowed to make a personal complaint. Is there one rule for Borough Councillors and another for Town Councillors?</i></li> <li><i>3. Squeamish - I heard fellow Councillors say they could not stomach voting for the Local Plan, is this not the definition of squeamish?</i></li> <li><i>4. How can it be perceived that I, a 76-year-old woman, have intimidated a much younger fit man by asking a question? It is agreed that discussion is not against the code. It is clear from the rude and abusive response that he was not intimidated.</i></li> <li><i>5. If I had said that there are 10 honest and true councillors that would infer that the others were not, however by saying there were enough could easily mean all of them. This suggestion that I have insulted some unnamed councillors does not bear scrutiny.</i></li> <li><i>6. If you take the time to look at the words of the song “Camp Grenada aka Hello Mother, Hello Father” you will see it is about a small boy sent to summer camp and because it is raining everyone is bickering, however by then end of the letter he is writing to his parents the rain has stopped and everyone is going to have fun. If this is sufficiently upsetting to my fellow Councillors then rough and tumble of politics is not for them.</i></li> </ol> <p><i>There is nothing in any of my articles which is untrue or aimed at any individual. If I may only report on the good things that happen at the Council and not the reverse, then we truly are in a repressive State. It is my opinion there is no basis for apology. I have not insulted the complainant therefore he needs no apology and those I am accused of insulting have not asked for my apology.</i></p> <p><i>The complainant is in fact harassing me with a string of complaints starting with a tirade of hate followed by fury that I did not bow to his demands. I hope to hear that my complaint against him is taken equally seriously.</i></p> <p><i>I shall be sharing all correspondence with my legal advisor.</i></p>	

*Thank you for the attached document.*

*I would like to go on record that I am hugely respectful of the work and the resulting report and conclusions.*

*As you know I had expressed concerns, but the efficacy of the report is now clear, upholds your defence of the methodology, and I'd like formally to acknowledge sincere thanks for that!*

*Once small final additional comment in respect of the Scoping document, is that there are in fact 4 separate complaints made, not 3 as stated.*

*For my part, my concerns going-forward are around my view that the other party appears to continue (difficult to define conclusively given the redaction of her responses) to challenge the legitimacy of the complaint process and indeed the code of conduct policy itself. This is extremely disheartening!*

*Will the redaction be removed from the final report, and will I see that report in full?*

*Also, still to be defined, is the proposed sanction now to be applied for these confirmed breaches of adherence to the code of conduct (on all 4 points of my complaint).*

*My position in this respect is to reiterate my calls for the following:*

- 1. Written apology in Mersea Life for the offending articles - unreserved, without qualification/excuse for that conduct*
- 2. Formal apology to WMTC in public session for her inappropriate conduct at the meeting of 1st September - unreserved, without qualification/excuse for that conduct*
- 3. Formal apology to myself for her comments and conduct around this complaint*
- 4. Formal confirmation (from the other party) that no further vexatious allegations as to my conduct in respect of my private complaint are made or repeated.*



## Andrew Weavers

**From:** Chris Wood [REDACTED]  
**Sent:** 10 September 2022 23:15  
**To:** Andrew Weavers  
**Subject:** RE: Member Code of Conduct Complaint  
**Attachments:** Pat Moore Mersea Life Sept 2022.JPG

This message originated Externally. Do not click links or open attachments unless you recognise the sender, were expecting it and know that the content is safe.

Dear Andrew,

I'm incredulous - yet more fuel is thrown onto the fire!

Attached is the latest and increasingly bizarre copy Cllr Moore in today's issue of Mersea Life.

The article now attributes this live complaint to a WMTC Councillor (as you well-know, and I reiterate, my complaint was in a private capacity)... I presume in the next issue of Mersea Life I can expect to be 'outed' by Cllr. Moore as the complainant?

I'll ignore the strange - and somewhat erroneous - historical references, since once again the point of issue here is that we have a live/current complaint being - wrongly - discussed in public, with implied/thinly-veiled criticism of the complainant. I have not and will not respond to Cllr. Moore's provocations whilst the complaint is live - I understand due process even if Ms. Moore does not... reality and caution both seem to be increasingly strangers to her!

Cllr. Moore is trying to portray herself as the victim of the piece - categorically she is not! It is her outrageous and disrespectful treatment of Council Colleagues that were the start of my complaint, compounded by suggestions of 'murky goings on' at CBC which I - and I'm sure you - dislike intensely, and then there's her disregard for due process in commenting upon a live complaint in any public forum!

Again Cllr. Moore completely misses my point! I was not accusing her of emulating let alone delivering investigative journalism - she flatters herself! My complaint is about fake/faux journalism, inaccurate and inappropriate comments! My reference to the idiosyncrasy, inappropriateness and inaccuracy of Stephen Yaxley (aka Tommy Robinson) was certainly not a commendation, it was drawing parallels to his disproven content and my criticism of her editorial (sic) failures in accuracy and appropriateness.

My complaint is not one of political correctness - it is much further-reaching than that - my criticisms are not of inappropriate humour - since her comments were not in the least bit humorous - instead they are my abhorrence to Cllr. Moore's scathing, vindictive, bitter, vengeful and most of all inaccurate attacks on the integrity of Colchester Borough Council, and Colchester Borough Councillors.

Andrew, I must now call for immediate action in this regard.

Respectfully - and I do understand the difficulty in dealing with such matters - further delay cannot be tolerated - far, far too long has been taken in resolving my complaint, and this delay seems to embolden Cllr. Moore in her disregard for protocol, and has allowed further inappropriate behaviour and comments to be made!

Rather than taking this appropriate complaint on the chin, and apologising, we have increasingly surreal and bitter public attacks and inappropriate defence of her actions.

Please advise by return the action that CBC now plans to take to resolve my complaint.

Sincerely,

Chris Wood.  
Chris Wood.

E: [REDACTED]

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----- Original Message -----

From: "Andrew Weavers" <Andrew.Weavers@colchester.gov.uk>  
To: "Chris Wood" [REDACTED]  
Sent: Monday, 5 Sep, 22 At 16:53  
Subject: RE: Member Code of Conduct Complaint

Dear Mr Wood

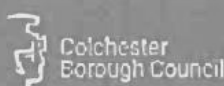
Thank you for your email. I will add this to your complaint.

I am currently assessing the next steps and will be in touch again with you asap.

Regards

Andrew

**Andrew Weavers** • Strategic Governance Manager • Corporate and Improvement • Colchester Borough Council • Tel 01206 282213 • [www.colchester.gov.uk](http://www.colchester.gov.uk)



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From: Chris Wood [REDACTED]  
Sent: 01 September 2022 23:19  
To: Andrew Weavers <Andrew.Weavers@colchester.gov.uk>  
Subject: RE: Member Code of Conduct Complaint

This message originated Externally. Do not click links or open attachments unless you recognise the sender, were expecting it and know that the content is safe.

Calibri;mso-bidi-theme-font:minor-latin;mso-fareast-language:EN-GB">Dear Mr. Weavers,

Further to my original complaint of 13th July (still outstanding), and subsequent incremental complaint and further information provided to you on 7th August, I am very sorry to report another -and far more heinous - act of inappropriate (no outrageous and out-of-control) behaviour from Cllr. Moore and request that this is also urgently added to my complaint.

I really must now insist that her disgraceful ongoing conduct is sanctioned immediately!

Calibri;mso-bidi-theme-font:minor-latin;mso-fareast-language:EN-GB">

At tonight's (01/09/22) West Mersea Town Council's meeting, Cllr. Moore represented CBC in her 'report' to West Mersea Town Council Councillors (of which I am one) and to members of the public in attendance.

Cllr. Moore commented that she had 3 items to bring to her report. These were 2 items of CBC business, and then an unbridled attack on me personally, and the motives and conduct of my (private) complaint.

In this she made a number of unsubstantiated accusations against me in a public domain. Following her questioning me as to whether my complaint was in my capacity as a Councillor, as a representative (sic) of Stop 350 or part of a personal and (she claims) sustained series of attacks on her. (I refute such an allegation - frankly ridiculous persecution complex - and were it to be repeated in any public environment I will instigate immediate proceedings against her for defamation). The nature of my complaint is and always has been in a personal/private capacity. I do not represent or imply to represent WMTC in my complaint, nor any other third party and I am confident that this would have been made clear to Cllr. Moore by you in your ongoing investigation of my complaint.

I explained in response to her 'rant' that this was a WMTC meeting, and that my only comment would be to confirm that my complaint was made in a private capacity, as I consider that her actions have brought CBC into disrepute. Further I commented that I considered her latest outburst in such a public forum confused as to what is appropriate behaviour... every bit as confused as her poor judgement in making previous comments about members of the CBC cabinet and fellow councillors, and subsequently the Borough Council itself

Mr. Weavers, I reiterate my point of 7th August, that in my view it is wholly inappropriate, and contrary to policy, to comment upon a live/unresolved complaint in any public forum. I consider Ms. Moore's conduct further evidence that she can no longer be trusted to represent CBC in any forum and serious action must now immediately follow.

Cllr. Moore went on to accuse me of misrepresenting what she had written - somewhat difficult since I have provided to you verbatim transcript and PDF copies of her narrative - and of misunderstanding her 'humour' (sic). My comment in response was that since I possess an English degree, I have no issue with understanding or interpreting what was written, and that it was a great shame that I should have to explain to her how her conduct was inappropriate, and demeaning to fellow councillors.

Cllr Moore went on to accuse me of acting maliciously, and causing her and her friends and family distress. It is a great shame that Cllr. Moore does not consider the offence or distress when being so critical of her fellow Councillors describing them as 'muppets' or in defaming CBC by describing its operating as 'murky.'

As you will be aware, all WMTC meetings are recorded, and the Town Clerk will be able to furnish you with access to the recording of Cllr. Moore's comments and my responses - which I tried to keep calm and appropriate.

Mr. Weavers, enough is enough surely? This conduct cannot be allowed to continue, and if further left unsanctioned, would suggest that CBC in some way condones such behaviour.

Please respond by return, since if not actioned promptly, I will be forced to escalate my complaint.

Sincerely,

C.P. Wood  
Chris Wood.

E: [REDACTED]

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system. It is the recipient's responsibility to ensure that appropriate measures are in place to check for software viruses.

----- Original Message -----

From: "Andrew Weavers" <[Andrew.Weavers@colchester.gov.uk](mailto:Andrew.Weavers@colchester.gov.uk)>  
To: "Chris Wood" [REDACTED]  
Sent: Tuesday, 9 Aug, 22 At 09:11  
Subject: RE: Member Code of Conduct Complaint

Dear Mr Wood

Thank you for your email, the contents of which I note.

I will be reverting back to Cllr Moore regarding this and will be contact with you again asap.

Thank you for drawing this to my attention.

Yours sincerely

**Andrew Weavers** • Strategic Governance Manager • Corporate and Improvement • Colchester Borough Council • Tel 01206 282213 • [www.colchester.gov.uk](http://www.colchester.gov.uk)



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From: Chris Wood [REDACTED]  
Sent: 07 August 2022 08:57  
To: Andrew Weavers <[Andrew.Weavers@colchester.gov.uk](mailto:Andrew.Weavers@colchester.gov.uk)>  
Subject: RE: Member Code of Conduct Complaint

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Dear Mr. Weavers,

Further to my complaint in respect of a CBC Member, 13th July 2022, and your acknowledgement below, I am sorry - no furious - to have to add additional inappropriate material in public forums, to my original complaint.

I refer to the latest (August) edition of Mersea Life, which began distribution today and I attach for your reference.

If Councillor Moore has already received sanction or advice as to the need for appropriate behaviour or filters to her comments - as her copy in the August edition of Mersea Life suggests - then she has taken little heed of this counsel, or has not understood or respected the need for modified behaviour/s.

Accordingly please add to my outstanding complaint the following points:

1. Cllr. Moore's August article In Mersea Life, once again purports to reflect the views of Colchester Borough Council, since it is again titled "CBC News" and footnoted "[www.colchester.gov.uk](http://www.colchester.gov.uk)." I consider this totally inappropriate for what is clearly personal and - I allege - misguided opinion. It is not a CBC news piece and should not be titled as such.
2. In my view, it is also inappropriate, and contrary to policy, to comment upon a live/unresolved complaint in any public forum. I consider Ms. Moore's comment: *"Some tender hearted soul has made a formal complaint that I have been less than generous to my fellows and that my sense of humour was unkind."* This comment is disgraceful and lacks grasp of the scale of the damage and offence caused by her original comments.

I did not accuse Cllr. Moore of being *"less than generous"* to her peers, my accusation stands (as yet unresolved) that her comments were little short of character assassination, highly disrespectful and that such comments brought the Council into disrepute. That's a little stronger than accusing her of being *"less than generous."*

Further, for the avoidance of any/all doubt, I didn't consider her *"sense of humour"* (sic) *"unkind"* since this was, in my view, by no definition humour, but in point of fact an attack, not even veiled attack. Ms. Moore needs bringing to account, and urgently please!

3. In her article of the August Issue, Cllr. Moore adds further insult to, well frankly, insult. She comments: *"I reserve the right to have an opinion and shed light on some of the murkier goings on."*

Cllr. Moore, I think, flatters herself here, I think she considers herself some kind of investigative journalist, exposing deep conspiracies in the public interest (Tommy Robinson suffers similar delusions of grandeur), whereas in fact, she is repeating outrageous and inappropriate allegations in respect of CBC, by claiming that something murky is going on.

I'm confident that her Councillor peers and senior officers would dismiss such suggestions of 'murky' conduct as ridiculous, unfounded and quite inappropriate!

4. Ms. Moore goes on - again - to be inappropriately critical of councillor colleagues at the recent Special Full Council meeting, commenting: *"well full-ish -some of the more squeamish councillors did not attend."* It is not for Councillor Moore to comment upon other Councillors attendance record or to brand them as *"squeamish"* or to make other defamatory comments about Councillors in public or forums, as she now does freely and repeatedly.

Mr. Weavers, this latest editorial (I'm being very kind) piece, repeats inappropriate (that word has to be repeated continuously it seems when commenting upon Cllr. Moore's conduct) behaviour, and I really must now insist that appropriate action is taken to uphold my complaint (*"cold hearted"* or otherwise).

Sincerely,

C.P.Wood  
Chris Wood.

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----- Original Message -----

From: "Andrew Weavers" <[Andrew.Weavers@colchester.gov.uk](mailto:Andrew.Weavers@colchester.gov.uk)>

To: "Chris Wood" [REDACTED]

Sent: Tuesday, 26 Jul, 22 At 14:58

Subject: RE: Member Code of Conduct Complaint

Dear Mr Wood

Thank you for your email. I did send an email on 15 July acknowledging receipt of your complaint. I attach a further copy for you.

Due to annual leave it will probably be next week when I can formally respond to you.

Yours sincerely,

**Andrew Weavers** • Strategic Governance Manager • Corporate and Improvement • Colchester Borough Council • Tel 01206 282213 • [www.colchester.gov.uk](http://www.colchester.gov.uk)

From: Chris Wood [REDACTED]

Sent: 26 July 2022 14:53

To: Andrew Weavers <[Andrew.Weavers@colchester.gov.uk](mailto:Andrew.Weavers@colchester.gov.uk)>

Subject: Fwd: Member Code of Conduct Complaint

This message originated Externally. Do not click links or open attachments unless you recognise the sender, were expecting it and know that the content is safe.

Dear Mr. Weavers,

Further to my mail below, I have not received an acknowledgement of my complaint - sent 13th July.

Could you confirm receipt please?

Many thanks!

Sincerely,

Chris Wood  
Chris Wood.

E: [REDACTED]

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system. It is the recipient's responsibility to ensure that appropriate measures are in place to check for software viruses.

----- Original Message -----

From: "Chris Wood" [REDACTED]

To: [andrew.weavers@colchester.gov.uk](mailto:andrew.weavers@colchester.gov.uk)

Sent: Wednesday, 13 Jul, 22 At 18:25

Subject: Member Code of Conduct Complaint

Dear Mr. Weavers,

Please find attached my completed Member Code Of Conduct complaint form in respect of Cllr. P Moore, CBC.

I look forward to your earliest advice in this regard.

Sincerely,

C.P. Wood

Chris Wood.  
[REDACTED]

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represent those of Colchester Borough Council. Although the Council has taken reasonable precautions to ensure there are no viruses in this email, the Council cannot accept responsibility for any loss or damage arising from this email or attachments. The Council takes the management of personal data seriously and it does this in compliance with data protection legislation. For information about how personal data is used and stored, please go to [www.colchester.gov.uk/privacy](http://www.colchester.gov.uk/privacy).

# CLLR. PAT MOORE CBC NEWS

www.colchester.gov.uk

## City! Councillor Notes for July

**Local Plan:** July 4th is set for the debate in full council over whether to approve and adopt the new Local Plan. It had a stormy passage through the Local Plan Committee. Planning is supposed to be non political but always provides the opportunity for virtue signalling like nothing else. The real centre of discord came around the inclusion of 1,000 dwellings on Middlewick ranges. In truth no wants any building on the ranges but the Plan, after much adjustment and deliberation by the Planning Inspector, comes as a whole, one cannot pick and choose as in a sweetie shop - you pass it or reject it. The coalition is already under strain - the plan is their creation. Middlewick was included to take up the slack after two of the Garden Communities were found undeliverable and now half of the alliance don't want to be seen to approve. To make matters worse some of the young Turks in the opposition cannot stand it either. This article is written before the vote but I can assure you it will pass. The safety from speculative building in the villages demands that there are enough honest and true Councillors to vote it through.

There are rumours of Green Party members jumping ship - those of you old enough to remember Alan Sherman's song "Hello Momma, Hello Poppa" (camp Grenada) and the fact that all the characters hated each other, will have some flavour of the goings on at Colchester. Elect Muppets - get a comedy show.

There are some controversial street signs over the entrances to Long and Short Wyre Streets. You need to make up your own minds as to whether they are appropriate to an historic city or not.

I report with mixed feelings the impending departure of Dan Gascoyne from CBC. He was a strong contender for the position of Chief Executive at CBC but was pipped at the post and has been snapped up by Braintree. We wish him well in the new job.

CBC and Mersea Town Council have failed to convene a Waterside Committee meeting for at least 2 years. The upshot of this is that plenty of issues that are their joint responsibility are not being dealt with. The breakwaters are falling into disrepair, the swimming platforms have not

been deployed and the decaying dragon's teeth to the north of the Monkey Steps are now a real danger to small craft and swimmers. I have made several attempts to get the committee to reconvene but to no effect.

The sad saga of the Ukrainian refugees continues. There is no shortage of volunteers to give them shelter but the DBS checks are glacially slow, I do hope that those responsible are not part of the civil service still working from home - only 13% of the checks have been completed.

The Holiday Inn asylum hostel has now been closed and all the men relocated outside Colchester.

On an up note, the planning committee rejected a planning application that went against the Wivenhoe Neighbourhood Plan in that it wanted to place 30 of the properties in the scheme outside the zone dedicated for housing. It will almost certainly go to appeal but hopefully not succeed. It is so important that Neighbourhood Plans are respected.

There is a discretionary fund of £150 for housing in band F to H, only applicants with less than £6,000 capital will be considered. This is not the same as the Government rebate which is not means tested.

Castle Park will be host for Colourscape Music Festival on 16/17th July at a cost of £3 per person

The Womens Grand Depart Cycle tour started off from Colchester Sports Park

Armed forces flag raising day was Monday 20th June at Town Hall

There has, regrettably, been a further reduction of funding from CBC to Citizens Advice Colchester. It seems that the really worthwhile organisations get the short end of the stick while there always seems enough money swilling around for personal hobbyhorses.

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It is suggested that I point out that my monthly article for Mersea life is my own personal take on the activities of CBC and its councillors. Some tender hearted soul has made a formal complaint that I have been less than generous to my fellows and that my sense of humour was unkind. I reserve the right to have an opinion and shed light on some of the murkier going's on. Apropos of Camp Grenada, the sun has come out and they are all friends again - well sort of.

As predicted the local plan (I won't bore everyone by explaining what that is again) was passed comfortably by the special full council (well full-ish - some of the more squeamish councillors did not attend). The villages are safe from speculative development - at least until someone changes the rules again. Middlewick is so tied up in regulations and policies that it will be difficult for anyone to put houses on it and there could well be an excellent county park or nature reserve on the site.

I have secured, at Full Council, the agreement of the coalition that there must be a second opinion whenever a listed tree is threatened with destruction. Hopefully it will take away any doubt over whether a tree really is dangerous or not. Some of these giants are several hundred years old and decisions on their future should not be taken lightly.

The new housing (social housing) strategy has been agreed, sadly it lacks the adjustments to the weighting that we all feel is necessary. This would give more priority to local

connections or employment when adding up the points that decide who gets to be offered what accommodation. There has been a promise made that work will be done, in the not too distant future, to sort this out. Colchester is part of Gateway to Home Choice, a consortium of councils, so sadly, one size has to fit all.

Karen Syrett, CBC's lead planning officer, has been awarded 'head planner of the year' for the East of England and will go forward for the National finals. The public may not like or understand all the planning decisions made but we are in good hands.

CBC is giving £25,000 to 4 food agencies, such as the food bank. Coinciding with a rise in the cost of living there has been a fall in donations so the council is helping to fill the gap.

It has been necessary to write off over £150,000 in unrecoverable debts, mostly unpaid council and business tax. This happens every year but COVID has made it worse with more businesses falling.

Michael Palin is coming to Charter Hall on 1st October to talk about his new book 'From North Korea Into Iraq'. It should be a fascinating evening. Tickets available Colchester-events.co.uk/event/Michael-palin/



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# BOROUGH COUNCILLOR NOTES FOR SEPTEMBER

From Cllr Pat Moore

The following report is the personal view of Cllr Pat Moore of CBC activities.

You may find my humour somewhat toned down this month but I am still contemplating the complaint made to CBC by a member of WMTC that I am trying to emulate an investigative journalist! I had thought that my job as a councillor was to question what happens in your name, but there are elements who don't agree. Who am I to interfere?

I have found that watching the behaviour of mankind (am I allowed to use that word?) can only be borne by finding the humour in it, some of it is so sad and wicked that if I didn't 'see the funny side' I would die of despair. But at least for this month I will try.

That sad period of 17th Century British history known as the Commonwealth seems to be creeping back. There was a religious fervour at that time that decreed that all pleasure and frivolity was sinful and should be punished and that they, the masters of morality, should decide - Political Correctness of the day.

What an amazing summer we have had, hot and dry. Too hot for some I expect and too dry for the gardens - I have lost several shrubs - but very good for the sailors and very good for tourism. D and I went and sampled the bar at the White Hart recently and although we would have loved an old fashioned pub we will certainly be going back. This is not to advertise but to point out the success that positive collaboration between

private enterprise and a good planning department can achieve. On that note I gather that Karen Syms won the top National award for planning officer.

On the 12th September at 7.30pm HM Lord L. Essex, Mrs Jennifer Tollhurst, will award the 1 confirming city status on Colchester. Hopefully it will be recorded and shown on YouTube for those who witness this unique event.

The 'Fear of Crime' survey runs until 19th September. Find the survey on the CBC website.

CBC is joining up with fast food companies such as McDonald's to promote an anti littering campaign. The logo 'driving on, not littering on' is my personal opinion, not a very catchy slogan but with the PC wows just about anything one says is open to misinterpretation and condemnation. What a sad world we live in.

Colchester has submitted a bid to access £20m for improvements and the £18.2m Town Deal fund confirmed, sadly none of that is destined for Mersea. It is heading to E Colchester.

One Colchester has £242,500 to distribute to go towards the 'feel well' initiative. People or groups who apply should contact Community 360 on 01206 360360 or email [funding@community360.org.uk](mailto:funding@community360.org.uk)

CBC has declared itself Dementia Friendly. When I went to seek advice on the subject from a cabinet member, very forthcoming but I did, on my own initiative, contact Community 360 who were wonderful and pointed me in the right direction to speak to experts who were able to give me real help. I'm beginning to think, when in doubt

The annual opening of the oyster fisheries takes place on the sailing barge Hydrogen on 2nd September in the town. A curious and wonderful feature of this time honoured tradition is the sending of a letter to Her Majesty the Queen on the loyalty of the Borough - she always replies with a letter.

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SEPTEMBER 2022



## Andrew Weavers

---

**From:** Cllr Patricia Moore  
**Sent:** 10 August 2022 07:34  
**To:** Andrew Weavers  
**Subject:** Re: Code of Conduct Complaint

Dear Andrew,

I am sorry for the work this matter has caused you but am otherwise confused as to whom and for what I am supposed to apologise. I would much appreciate your guidance on that.

I have pointed out as requested that the article is my personal view on various matters and hoped that would close the matter.

With regards

Pat

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---

**From:** Andrew Weavers <Andrew.Weavers@colchester.gov.uk>  
**Sent:** Tuesday, August 9, 2022 9:20:33 AM  
**To:** Cllr Patricia Moore <Patricia.Moore@colchester.gov.uk>  
**Cc:** Cllr Darius Laws <Darius.Laws@colchester.gov.uk>  
**Subject:** Code of Conduct Complaint

Dear Councillor Moore

Further to your email below, I assumed that you were going to apologise for any offence caused by the language used in the article. I assumed that if you did this then the complainant would have been satisfied.

However, Mr Wood having seen your article in the August edition of Mersea Life is now furious with the language used. He has now added the following to his complaint-

1. Cllr. Moore's August article in Mersea Life, once again purports to reflect the views of Colchester Borough Council, since it is again titled "CBC News" and footnoted "[www.colchester.gov.uk](http://www.colchester.gov.uk)." I consider this totally inappropriate for what is clearly personal and - I allege - misguided opinion. It is not a CBC news piece and should not be titled as such.
2. In my view, it is also inappropriate, and contrary to policy, to comment upon a live/unresolved complaint in any public forum. I consider Ms. Moore's comment: *"Some tender hearted soul has made a formal complaint that I have been less than generous to my fellows and that my sense of humour was unkind."* This comment is disgraceful and lacks grasp of the scale of the damage and offence caused by her original comments.

I did not accuse Cllr. Moore of being *'less than generous'* to her peers, my accusation stands (as yet unresolved) that her comments were little short of character assassination, highly disrespectful and that such comments brought the Council into disrepute. That's a little stronger than accusing her of being *'less than generous.'*

Further, for the avoidance of any/all doubt, I didn't consider her *"sense of humour"* (sic) *"unkind"* since this was, in my view, by no definition humour, but in point of fact an attack, not even veiled attack. Ms. Moore needs bringing to account, and urgently please!

3. In her article of the August Issue, Cllr. Moore adds further insult to, well frankly, insult. She comments: *"I reserve the right to have an opinion and shed light on some of the murkier goings on."*

Cllr. Moore, I think, flatters herself here, I think she considers herself some kind of investigative journalist, exposing deep conspiracies in the public interest (Tommy Robinson suffers similar delusions of grandeur), whereas in fact, she is repeating outrageous and inappropriate allegations in respect of CBC, by claiming that something murky is going on.

I'm confident that her Councillor peers and senior officers would dismiss such suggestions of 'murky' conduct as ridiculous, unfounded and quite inappropriate!

4. Ms. Moore goes on - again - to be inappropriately critical of councillor colleagues at the recent Special Full Council meeting, commenting: *"well full-ish - some of the more squeamish councillors did not attend."* It is not for Councillor Moore to comment upon other Councillors attendance record or to brand them as *"squeamish"* or to make other defamatory comments about Councillors in public or forums, as she now does freely and repeatedly.

Mr. Weavers, this latest editorial (I'm being very kind) piece, repeats inappropriate (that word has to be repeated continuously it seems when commenting upon Cllr. Moore's conduct) behaviour, and I really must now insist that appropriate action is taken to uphold my complaint (*"cold hearted"* or otherwise).

I should be grateful if you would consider the points raised above and let me have your comments. I have copied in Cllr Laws as your Group Leader in order that he is aware of this matter.

Once I have your comments, I will consider what the appropriate next steps are.

Regards

Andrew

**Andrew Weavers** • Strategic Governance Manager • Corporate and Improvement • Colchester Borough Council • Tel 01206 282213 • [www.colchester.gov.uk](http://www.colchester.gov.uk)



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**From:** Cllr Patricia Moore <Patricia.Moore@colchester.gov.uk>

**Sent:** 16 July 2022 08:11

**To:** Andrew Weavers <Andrew.Weavers@colchester.gov.uk>

**Subject:** Re: Code of Conduct Complaint

Dear Andrew,

I have always been of the belief that the article is my take on the happenings at CBC. 'Honest and True' is my shorthand for 'Responsible' I will happily point this out in my next article, and apologise for any offence caused.

I was not aware that being described as a 'life long socialist' was considered defamatory during the run up to an election, when describing someone who had been a trade union employee.

With regards

Pat

---

**From:** Andrew Weavers <[Andrew.Weavers@colchester.gov.uk](mailto:Andrew.Weavers@colchester.gov.uk)>  
**Sent:** Friday, July 15, 2022 4:53:16 PM  
**To:** Cllr Patricia Moore <[Patricia.Moore@colchester.gov.uk](mailto:Patricia.Moore@colchester.gov.uk)>  
**Subject:** Code of Conduct Complaint

Dear Councillor Moore

I have received a Code of Conduct complaint from Chris Woods regarding the contents of an article you wrote in the July 2022 edition of Mersea Life Magazine (extract attached). I am dealing with the complaint in accordance with the Council's Localism Act Arrangements for dealing with Member complaints.

Mr Woods complaint is as follows:

*"In her article, purporting to represent Colchester Borough Council as a 'News' item, Mersea Life Magazine, July '22 edition, Ms. Moore brings CBC into serious disrepute. Cllr. Moore first questions her fellow Councillors integrity by referencing "enough honest and true Councillors to vote it through." The subtext of this comment suggests that she considers some of her peers less than honest and true. This is against policy, not to mention wholly inappropriate. She then goes on to wade into her Green colleagues: "There are rumours of Green Party members jumping ship – those of you old enough to remember Alan Shearman's song Hello 'Mamma, Hello Pappa' (Camp Granada)" – sic – "and the fact that all the characters hated each other, will have some flavour of the goings on at Colchester. Elect Muppets – get a comedy show."*

*Whilst I am not personally a Green or a Green supporter, I do consider such comments, especially when in print and purporting to appear as a news piece, outrageously inappropriate and should be sanctioned. Moreover Cllr Moore 'has form' in this defamatory context. In 2019, again in the context of being a Councillor, Ms. Moore wrote a hugely inappropriate letter to the County Standard (which the editor repudiated) attacking Cllr John Akker of WMTC as "a lifelong socialist" in a bizarre tirade of true McCarthyite proportions. These behaviours need to be curbed, with nothing less than a written apology in Mersea Life satisfying my complaint"*

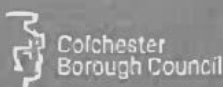
I note that your article includes the Borough Council's website address which supports Mr Woods assertion that your views are those of the Borough Council. I also note that there is no mention in the article that the views expressed are yours and not of the Borough Council's?

I should be grateful if you would consider the points made above and let me have your response including Mr Woods request for a written apology in Mersea Life.

Regards.

Andrew

**Andrew Weavers** • Strategic Governance Manager • Corporate and Improvement • Colchester Borough Council • Tel 01206 282213 • [www.colchester.gov.uk](http://www.colchester.gov.uk)



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## Andrew Weavers

---

**From:** Cllr Patricia Moore  
**Sent:** 12 September 2022 14:38  
**To:** Andrew Weavers  
**Cc:** Cllr Darius Laws  
**Subject:** Re: Code of Conduct complaints

Dea Andrew,

What I wrote is there in black and white. I know what I meant but it seems others read a different meaning into it. There is nothing that I can say to make this different. I have been told that the leader of one party thinks it was aimed at her, not so- It was strictly non partisan, merely my personal view of the chaos at the time of getting the Local Plan passed by full council.

With regards

Pat Moore

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**From:** Andrew Weavers <[Andrew.Weavers@colchester.gov.uk](mailto:Andrew.Weavers@colchester.gov.uk)>  
**Sent:** Monday, September 12, 2022 1:50:05 PM  
**To:** Cllr Patricia Moore <[Patricia.Moore@colchester.gov.uk](mailto:Patricia.Moore@colchester.gov.uk)>  
**Cc:** Cllr Darius Laws <[Darius.Laws@colchester.gov.uk](mailto:Darius.Laws@colchester.gov.uk)>  
**Subject:** Code of Conduct complaints

Dear Pat

With reference to the code of conduct complaints received from Chris Wood and regarding which we have been in correspondence, I am writing to inform you that following consultation with one of the Council's Independent Persons and in accordance with the Council's Localism Act Arrangements, it is my decision that the complaints merit further action.

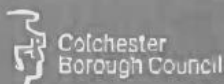
Accordingly, I shall be appointing an independent investigator to consider the complaints and to prepare a formal report for myself. I will let you know the name and contact details of the investigator shortly who will be contacting both yourself and Chris Wood.

I will be in touch again asap.

Regards

Andrew

**Andrew Weavers** • Monitoring Officer • Corporate and Improvement • Colchester Borough Council • Tel 01206 282213 • [www.colchester.gov.uk](http://www.colchester.gov.uk)



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## Andrew Weavers

---

**From:** Cllr Patricia Moore  
**Sent:** 22 August 2022 23:12  
**To:** Andrew Weavers  
**Cc:** Cllr Darius Laws  
**Subject:** Re: Code of Conduct Complaint

Dear Andrew,

I have always attempted to make my article for Mersae Life humorous I order that residents read it and are engaged with CBC and its activities. This has been successful and people often tell me how much they enjoy my jottings. I cannot change my style because one person seems to have no sense of humour and has chosen to be offended on behalf of third parties. Cllr Woods is a leading member of Stop 350 and has a political agenda, his complaint about me is part of this.

The article that seemed to offend Cllr Woods was nonpartisan and covered the temporary chaos following a particularly bumpy election and the desperate need to get the Local Plan passed. As I pointed out in the following article this unsteady period has passed for now.

I have also clearly reminded the readers that the article is my personal view.

With regards

Pat

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---

**From:** Andrew Weavers <Andrew.Weavers@colchester.gov.uk>  
**Sent:** Monday, August 22, 2022 3:43:24 PM  
**To:** Cllr Patricia Moore <Patricia.Moore@colchester.gov.uk>  
**Cc:** Cllr Darius Laws <Darius.Laws@colchester.gov.uk>  
**Subject:** Code of Conduct Complaint

Dear Pat,

Further to my email , I should be grateful to hear from you.

Regards,

Andrew

**Andrew Weavers** • Strategic Governance Manager • Corporate and Improvement • Colchester Borough Council • Tel 01206 282213 • [www.colchester.gov.uk](http://www.colchester.gov.uk)

**From:** Andrew Weavers  
**Sent:** 11 August 2022 09:40  
**To:** Cllr Patricia Moore <[Patricia.Moore@colchester.gov.uk](mailto:Patricia.Moore@colchester.gov.uk)>  
**Subject:** RE: Code of Conduct Complaint

Dear Pat,

Thank you for your email. I think it would be helpful if you could initially respond to the points made by Mr Wood in the email below.

Regards,

Andrew

**Andrew Weavers** • Strategic Governance Manager • Corporate and Improvement • Colchester Borough Council • Tel 01206 282213 • [www.colchester.gov.uk](http://www.colchester.gov.uk)

**From:** Cllr Patricia Moore <[Patricia.Moore@colchester.gov.uk](mailto:Patricia.Moore@colchester.gov.uk)>  
**Sent:** 10 August 2022 07:34  
**To:** Andrew Weavers <[Andrew.Weavers@colchester.gov.uk](mailto:Andrew.Weavers@colchester.gov.uk)>  
**Subject:** Re: Code of Conduct Complaint

Dear Andrew,

I am sorry for the work this matter has caused you but am otherwise confused as to whom and for what I am supposed to apologise. I would much appreciate your guidance on that.

I have pointed out as requested that the article is my personal view on various matters and hoped that would close the matter.

With regards

Pat

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**From:** Andrew Weavers <[Andrew.Weavers@colchester.gov.uk](mailto:Andrew.Weavers@colchester.gov.uk)>  
**Sent:** Tuesday, August 9, 2022 9:20:33 AM  
**To:** Cllr Patricia Moore <[Patricia.Moore@colchester.gov.uk](mailto:Patricia.Moore@colchester.gov.uk)>  
**Cc:** Cllr Darius Laws <[Darius.Laws@colchester.gov.uk](mailto:Darius.Laws@colchester.gov.uk)>  
**Subject:** Code of Conduct Complaint

Dear Councillor Moore



Further to your email below, I assumed that you were going to apologise for any offence caused by the language used in the article. I assumed that if you did this then the complainant would have been satisfied.

However, Mr Wood having seen your article in the August edition of Mersea Life is now furious with the language used. He has now added the following to his complaint-

1. Cllr. Moore's August article in Mersea Life, once again purports to reflect the views of Colchester Borough Council, since it is again titled "CBC News" and footnoted "[www.colchester.gov.uk](http://www.colchester.gov.uk)." I consider this totally inappropriate for what is clearly personal and - I allege - misguided opinion. It is not a CBC news piece and should not be titled as such.
2. In my view, it is also inappropriate, and contrary to policy, to comment upon a live/unresolved complaint in any public forum. I consider Ms. Moore's comment: *"Some tender hearted soul has made a formal complaint that I have been less than generous to my fellows and that my sense of humour was unkind."* This comment is disgraceful and lacks grasp of the scale of the damage and offence caused by her original comments.

I did not accuse Cllr. Moore of being *"less than generous"* to her peers, my accusation stands (as yet unresolved) that her comments were little short of character assassination, highly disrespectful and that such comments brought the Council into disrepute. That's a little stronger than accusing her of being *"less than generous."*

Further, for the avoidance of any/all doubt, I didn't consider her *"sense of humour"* (sic) *"unkind"* since this was, in my view, by no definition humour, but in point of fact an attack, not even veiled attack. Ms. Moore needs bringing to account, and urgently please!

3. In her article of the August Issue, Cllr. Moore adds further Insult to, well frankly, insult. She comments: *"I reserve the right to have an opinion and shed light on some of the murkier goings on."*

Cllr. Moore, I think, flatters herself here, I think she considers herself some kind of Investigative journalist, exposing deep conspiracies in the public interest (Tommy Robinson suffers similar delusions of grandeur), whereas in fact, she is repeating outrageous and inappropriate allegations in respect of CBC, by claiming that something murky is going on.

I'm confident that her Councillor peers and senior officers would dismiss such suggestions of 'murky' conduct as ridiculous, unfounded and quite inappropriate!

4. Ms. Moore goes on - again - to be inappropriately critical of councillor colleagues at the recent Special Full Council meeting, commenting: *"well full-ish -some of the more squeamish councillors did not attend."* It is not for Councillor Moore to comment upon other Councillors attendance record or to brand them as *"squeamish"* or to make other defamatory comments about Councillors in public or forums, as she now does freely and repeatedly.

Mr. Weavers, this latest editorial (I'm being very kind) piece, repeats inappropriate (that word has to be repeated continuously it seems when commenting upon Cllr. Moore's conduct) behaviour, and I really must now insist that appropriate action is taken to uphold my complaint (*"cold hearted"* or otherwise).

I should be grateful if you would consider the points raised above and let me have your comments. I have copied in Cllr Laws as your Group Leader in order that he is aware of this matter.

Once I have your comments, I will consider what the appropriate next steps are.

Regards

Andrew



Colchester  
Borough Council

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**From:** Cllr Patricia Moore <[Patricia.Moore@colchester.gov.uk](mailto:Patricia.Moore@colchester.gov.uk)>  
**Sent:** 16 July 2022 08:11  
**To:** Andrew Weavers <[Andrew.Weavers@colchester.gov.uk](mailto:Andrew.Weavers@colchester.gov.uk)>  
**Subject:** Re: Code of Conduct Complaint

Dear Andrew,

I have always been of the belief that the article is my take on the happenings at CBC. 'Honest and True' is my shorthand for 'Responsible' I will happily point this out in my next article, and apologise for any offence caused.

I was not aware that being described as a 'life long socialist' was considered defamatory during the run up to an election, when describing someone who had been a trade union employee.

With regards

Pat

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**From:** Andrew Weavers <[Andrew.Weavers@colchester.gov.uk](mailto:Andrew.Weavers@colchester.gov.uk)>  
**Sent:** Friday, July 15, 2022 4:53:16 PM  
**To:** Cllr Patricia Moore <[Patricia.Moore@colchester.gov.uk](mailto:Patricia.Moore@colchester.gov.uk)>  
**Subject:** Code of Conduct Complaint

Dear Councillor Moore

I have received a Code of Conduct complaint from Chris Woods regarding the contents of an article you wrote in the July 2022 edition of Mersea Life Magazine ( extract attached). I am dealing with the complaint in accordance with the Council's Localism Act Arrangements for dealing with Member complaints.

Mr Woods complaint is as follows:

*"In her article, purporting to represent Colchester Borough Council as a 'News' item, Mersea Life Magazine, July '22 edition, Ms. Moore brings CBC into serious disrepute. Cllr. Moore first questions her fellow Councillors integrity by referencing "enough honest and true Councillors to vote it through." The subtext of this comment suggests that she considers some of her peers less than honest and true. This is against policy, not to mention wholly inappropriate. She then goes on to wade into her Green colleagues: "There are rumours of Green Party members jumping ship – those of you old enough to remember Alan Shearman's song Hello 'Mamma, Hello Pappa' (Camp Granada)" – sic – "and the fact that all the characters hated each other, will have some flavour of the goings on at Colchester. Elect Muppets – get a comedy show."*

*Whilst I am not personally a Green or a Green supporter, I do consider such comments, especially when in print and purporting to appear as a news piece, outrageously inappropriate and should be sanctioned. Moreover Cllr Moore 'has form' in this defamatory context. In 2019, again in the context of being a Councillor, Ms. Moore wrote a hugely inappropriate letter to the County Standard (which the editor*



*repudiated) attacking Cllr John Akker of WMTC as "a lifelong socialist" in a bizarre tirade of true McCarthyite proportions. These behaviours need to be curbed, with nothing less than a written apology in Mersea Life satisfying my complaint"*

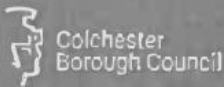
I note that your article includes the Borough Council's website address which supports Mr Woods assertion that your views are those of the Borough Council. I also note that there is no mention in the article that the views expressed are yours and not of the Borough Council's?

I should be grateful if you would consider the points made above and let me have your response including Mr Woods request for a written apology in Mersea Life.

Regards.

Andrew

**Andrew Weavers** • Strategic Governance Manager • Corporate and Improvement • Colchester Borough Council • Tel 01206 282213 • [www.colchester.gov.uk](http://www.colchester.gov.uk)



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## **Localism Act 2011**

### **Promoting and Maintaining High Standards of Conduct in Local Government**

#### **CODE OF CONDUCT FOR MEMBERS**

June 2012  
Reviewed November 2021

1 of 11

# **Colchester Borough Council**

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## **Code of Conduct for Members**

### **PART 1 GENERAL PROVISIONS**

#### **Introduction and Interpretation**

This Code of Conduct was adopted by the full council at its meeting on 25 June 2012 and is effective from 1 July 2012.

As a Member you are a representative of Colchester Borough Council ("the Authority") and the public will view you as such. Therefore, your actions impact on how the Authority as a whole is viewed and your actions can have both positive and negative impacts on the Authority.

This Code is consistent with the "Nolan Principles" which are set out in Appendix 1 and the provisions of S29 (1) Localism Act 2011.

In this Code-

"meeting" means any meeting of:

- (a) the Authority
- (b) the Executive of the Authority
- (c) any of the Authority's or its Executive's committees, sub-committees, joint committees, joint sub-committees or areas committees whether or not the press and public are excluded from the meeting in question by virtue of a resolution of Members
- (d) any briefings by officers and site visits organised by the Authority "relevant period" means the period of 12 months ending with the day on which you give notification to the Authority's monitoring officer of any disclosable pecuniary interests you had at the time of the notification.

"profit or gain" includes any payments or benefits in kind which are subject to Income Tax.

"beneficial interest" means having an economic benefit as a legal owner or holding it on trust for the beneficial owner, having a right to the income from the land or securities or a share in it or the right to the proceeds of sale or share of part of the proceeds of sale.

"Member" includes a co-opted member.

June 2012

2 of 11

Reviewed November 2021

**1. Who does the Code apply to?**

- (1) This Code applies to all Members of the Authority including co-opted members.
- (2) It is your responsibility to comply with the provisions of this Code.

**2. What does the Code apply to?**

- (1) You must comply with this Code whenever you -
  - (a) conduct the business of the Authority, or
  - (b) you are acting as a representative of the Authority.
- (2) This Code has effect in relation to your conduct in your official capacity.
- (3) Where you act as a representative of the Authority –
  - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
  - (b) on any other body, you must, when acting for that other body, comply with the Authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

**3. General obligations**

- (1) You must treat others with respect.
- (2) You must uphold the law.
- (3) You must not –
  - (a) do anything which may cause the Authority to breach any of the equality enactments;
  - (b) bully any person;
  - (c) intimidate or attempt to intimidate any person who is or is likely to be: –
    - (i) a complainant;
    - (ii) a witness; or
    - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a Member

(including yourself) has failed to comply with the Authority's code of conduct; or

- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.

#### **4. Confidential Information**

You must not –

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where –
  - (i) you have the consent of a person authorised to give it;
  - (ii) you are required by law to do so;
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is –
    - (aa) reasonable and in the public interest; and
    - (bb) made in good faith and in compliance with the reasonable requirements of the Authority;
- (b) prevent another person from gaining access to information to which that person is entitled by law.

#### **5. Conferring an advantage or disadvantage**

You must –

- (a) not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;
- (b) when using or authorising the use by others of the resources of the Authority –
  - (i) act in accordance with the Authority's reasonable requirements;
  - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes);
- (c) have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

## **PART 2 MEMBERS INTERESTS**

### **6. Disclosable Pecuniary Interests<sup>1</sup>**

**6.1** You have a Disclosable Pecuniary Interest in any business of the Authority if it is of a description set out in 6.2 below and is either:

- (a)** An interest of yours; or
- (b)** An interest (of which you are aware) of a spouse, civil partner or a person you are living with as a spouse or civil partner ("known as Relevant Persons").

**6.2** A Pecuniary Interest is an interest which relates to or is likely to affect:

- (a)** Any employment, office, trade, profession or vocation carried on by you or a Relevant Person for profit or gain;
- (b)** Any payment or provision of any other financial benefit (other than from the Authority) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a Member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992;
- (c)** Any contract for goods, services or works which has not been fully discharged between you or a Relevant Person and the Authority or a body in which you or they have a beneficial interest;
- (d)** A beneficial interest in any land in the Authority's area
- (e)** A licence of any land in the Authority's area (alone or jointly with others) that you or a Relevant Person occupy for a month or longer
- (f)** any tenancy where to your knowledge (i) the landlord is the Authority and (ii) the tenant is a body in which you or a Relevant Person has a beneficial interest
- (g)** Any beneficial interest in securities of a body where –
  - (i)** that body (to your knowledge) has a place of business or land in the area of the Authority and
  - (ii)** either:

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<sup>1</sup> The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 set out the pecuniary interests specified for the purposes of Chapter 7 of Part 1 Section 30(3) of the Localism Act 2011  
June 2012  
Reviewed November 2021



- (aa) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
- (bb) the beneficial interest exceeds one hundredth of the total issued share capital of the share capital of that body, if of more than one class, the total nominal value of the shares of any one class.

## **7. Other Pecuniary Interests**

You have a pecuniary interest in any business of the Authority where it relates to or is likely to affect:

- (a) any person or body who employs or has appointed you;
- (b) any contract for goods, services or works made between the Authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specific in paragraph 6.2.(g) which has been fully discharged within the last 12 months;

## **8. Non-Pecuniary Interests**

**8.1** You have a non-pecuniary interest in any business of the Authority where it relates to or is likely to affect -

- (a) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Authority;
- (b) any body –
  - (i) exercising functions of a public nature;
  - (ii) directed to charitable purposes; or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union); of which you are a member or in a position of general control or management;
- (c) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50;
- (d) a decision in relation to that business which might reasonably be regarded as affecting your wellbeing or the wellbeing of a relevant person to a greater extent than the majority of:-

- (i) (in the case of authorities with electoral divisions or wards) other council taxpayers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
- (ii) (in all other cases) other council taxpayers, ratepayers or inhabitants of the Authority's area.

## **9. Disclosure of Interests (Disclosable Pecuniary Interests, Other Pecuniary Interests and Non-Pecuniary Interests)**

- 9.1 Subject to sub-paragraphs 9.2 to 9.3, where you have a Disclosable Pecuniary Interest, other Pecuniary Interest or Non-Pecuniary Interest in any business of the Authority and you are present at a meeting of the Authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your Register of Interests or for which you have made a pending notification.
- 9.2 Sub-paragraph 9.1 only applies where you are aware or ought reasonably to be aware of the existence of the Relevant Person's Interest.
- 9.3 Where you have an interest in any business of the Authority which would be disclosable by virtue of paragraph 9.1 but by virtue of paragraph 12 (Sensitive Information) details of the interest are not registered in the Authority's published Register of Members' Interests and the interest is a Disclosable Pecuniary Interest you need not disclose the nature of the interest to the meeting.
- 9.4 Where you have a Pecuniary Interest in any business of the Authority and a function of the Authority may be discharged by you acting alone in relation to that business, you must ensure you notify the Authority's monitoring officer of the existence and nature of that interest within 28 days of becoming aware that you will be dealing with the matter even if more than 28 days before you will actually deal with the business.
- 9.5 Where you have an interest in any business of the Authority which would be disclosable by virtue of paragraph 9.1 and you have made an executive decision in relation to that business you must ensure that any written statement of that decision records the existence and nature of that interest. In this paragraph "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

## **10. Effect of Interests on participation**

### **10.1 Disclosable Pecuniary Interests**

- (a) If you are present at a meeting of the Authority or of any committee, sub-committee, joint committee or joint sub-committee of the Authority and you have a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at the meeting and you are aware of that Interest:
  - (i) You must not participate, or participate further, in any discussion of the matter at the meeting, or participate in any vote, or further vote, taken on the matter at the meeting.
  - (ii) You must withdraw from the room or chamber where the meeting considering the business is being held unless you have received a dispensation from the Authority's proper officer.
- (b) If you have a Disclosable Pecuniary Interest in any business of the Authority you must not:
  - (i) exercise executive functions in relation to that business; and
  - (ii) seek improperly to influence a decision about that business
- (c) If a function of the Authority may be discharged by a Member acting alone and you have a Disclosable Pecuniary Interest in any matter to be dealt with or being dealt with in the course of discharging that function you may not take any steps or any further steps in relation to the matter (except for the purpose of enable the matter to be dealt with otherwise than by yourself).

## **10.2 Other Pecuniary Interests**

If you have another Pecuniary Interest in any business of the Authority which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement in the public interest and you are present at a meeting of the Authority at which such business is to be considered or is being considered you must:

- (a) disclose the existence and nature of the interest in accordance with paragraph 9.1 (but subject to paragraph 9.3 ) and;
- (b) withdraw from the room or chamber where the meeting considering the business is being held unless you have obtained a dispensation from the Authority's proper officer.

### **PART 3 REGISTER OF MEMBERS INTERESTS**

#### **11. Registration of Members' Interests**

Subject to paragraph 12, you must, within 28 days of –

- (a) this Code being adopted by or applied to the Authority; or
- (b) your election, re-election or appointment or re-appointment to office (where that is later), or co-opted onto the Authority

register in the Authority's Register of Members' Interests (maintained by the Monitoring Officer under Section 29(1) of the Localism Act 2011) details of:

- (i) Disclosable Pecuniary Interests as referred to in paragraph 6 that you, your spouse, civil partner or person with whom you live as if they were your spouse or civil partner in so far as you are aware of their interests at that time.
- (ii) Pecuniary Interests referred to in paragraph 7 that you have.

Subject to paragraph 12, you must within 28 days of becoming aware of any new Disclosable Pecuniary Interest as referred to in paragraph 6 that you, your spouse, civil partner or person with whom you live as if they were your spouse or civil partner or change to any Disclosable Pecuniary Interest registered under paragraphs 11.(a) (i) or (ii) above by providing written notification to your authority's Monitoring Officer.

#### **12. Sensitive Information**

**12.1** Where you have a Disclosable Pecuniary Interest referred to in paragraph 6 or pecuniary interest referred to in paragraph 7 and the nature of the interest is such that you and the Authority's monitoring officer consider that disclosure of details of the Interest could lead to you or a person connected with you being subject to violence or intimidation If the interest is entered in the Authority's Register then copies of the register available for inspection and any published version of the Register should not include details of the interest but may state that you have an interest details of which are withheld under s32(2) of the Localism Act 2011 and/or this paragraph.

**12.2** You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 12.1 is no longer sensitive information, notify the Authority's monitoring officer.

- 12.3** In this Code "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subject to violence or intimidation.

**13. Register of Gifts and Hospitality**

- 13.1** You must within 28 days of receipt, notify the Authority's monitoring officer in writing of any gift, benefit or hospitality with a value in excess of £50 which you have accepted as a member from any person or body other than the Authority.
- 13.2** The Monitoring Officer will place your notification on a public register of gifts and hospitality.
- 13.3** This duty to notify the monitoring officer does not apply where the gift, benefit or hospitality comes within any description approved by the Authority for this purpose.

**14. Review of Code**

- 14.1** This Code will be kept under annual review.

**THE NOLAN PRINCIPLES  
and Section 28(1) of The Localism Act 2011**

**Selflessness**

To serve only the public interest and never improperly confer an advantage or disadvantage on any person

**Integrity**

Not to place themselves in situations where their integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour

**Objectivity**

Make decisions on merit, including when making appointments, awarding Contracts or recommending individuals for rewards or benefits.

**Accountability**

To be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their Office.

**Openness**

To be as open as possible about their actions and those of the Council and should be prepared to give reasons for those actions.

**Honesty**

Not to place themselves in situations where their honesty may be questioned, should not behave improperly and should, on all occasions, avoid the appearance of such behaviour.

**Leadership**

Should promote and support these principles by leadership and by example and should always act in a way that secures or preserves public confidence.



**Colchester Borough Council**  
**Governance and Audit Committee**  
**Councillor Code of Conduct**

**Arrangements for dealing with complaints**

**1. Introduction**

- 1.1 These "Arrangements" came into effect on 1 July 2012 detail the process for making a complaint that an elected or co-opted member of Colchester Borough Council or of a parish council, town council or community council (referred to as a parish council in this document) within the Borough of Colchester has failed to comply with the Councillors' Code of Conduct. It also sets out how the Borough Council will deal with allegations of a failure to comply with the Councillors' Code of Conduct.
- 1.2 Under Section 28(6) and (7) of the Localism Act 2011, the Borough Council must have in place "Arrangements" under which allegations that a member or co-opted member of the Borough Council or of a parish council within the Borough of Colchester, has failed to comply with Councillors' Code of Conduct can be investigated and decisions made on such allegations.
- 1.3 Such Arrangements must provide for the Borough Council to appoint at least 1 Independent Person, whose views must be sought by the Borough Council before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Borough Council at any other stage, or by a member or a co-opted member of a parish council against whom an allegation has been made. Both members and co-opted members are referred to as Councillors in this document for ease of reference.

**2. The Code of Conduct**

- 2.1 The Borough Council has adopted a Code of Conduct for Councillors, which is published on the Borough Council's website.  
[www.colchester.gov.uk/standards](http://www.colchester.gov.uk/standards)
- 2.2 Each Parish Council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council's Code of Conduct, you should inspect



any website operated by the Parish Council or request the parish clerk to allow you to inspect the Parish Council's Code of Conduct.

### **3. Making a complaint**

- 3.1** If you wish to make a complaint, please email:  
[andrew.weavers@colchester.gov.uk](mailto:andrew.weavers@colchester.gov.uk) or write to:

The Monitoring Officer  
Colchester Borough Council  
Rowan House, 33 Sheepen Road  
Colchester, CO3 3WG.

- 3.2** The Monitoring Officer is a senior officer of the Borough Council who has statutory responsibility for maintaining the register of Councillors' interests and who is responsible for administering the system in respect of complaints of Councillor misconduct.
- 3.3** In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the complaint form, which can be downloaded from the Borough Council's website, next to the Code of Conduct.
- 3.4** Please provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form. The Monitoring Officer will consider your request and if granted we will not disclose your name and address to the Councillor against whom you make the complaint, without your prior consent.
- 3.5** The Borough Council does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.
- 3.6** The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it and will keep you informed of the progress of your complaint.
- 3.7** The Complaints Procedure Flowchart is attached at Appendix 1.
- 3.8** The Borough Council has agreed a Press Policy in relation to complaints made against Councillors and this is attached at Appendix 2.



#### **4. Will your complaint be investigated?**

- (1) The Monitoring Officer will review every complaint received and, may consult with the Independent Person before taking a decision as to whether it:

  - (a) merits no further investigation; or
  - (b) merits further investigation; or
  - (c) should be referred to the Governance and Audit Committee,
- (2) This decision will normally be taken within 28 working days of receipt of your complaint. Your complaint will be considered in accordance with the Borough Council's Assessment Criteria contained at Appendix 3. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision. Where the Monitoring Officer requires additional information in order to come to a decision, he/she may come back to you for such information and may request information from the Councillor against whom your complaint is directed.
- (3) Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation.
- (4) In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the Councillor accepting that their conduct was unacceptable and offering an apology, or other remedial action by the Authority. Where the Councillor or the Authority make a reasonable offer of informal resolution, but you are not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint merits further investigation.
- (5) If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police or other regulatory agencies.

#### **5. How is the investigation conducted?**

- (1) The Borough Council has adopted a procedure for the investigation of allegations, which is attached as Appendix 4 to these Arrangements.

- (2) If the Monitoring Officer decides that a complaint merits further investigation, they may appoint an Investigating Officer, who may be another senior officer of the Borough Council, an officer of another Authority or an external investigator. The Investigating Officer or Monitoring Officer will decide whether they need to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents need to be seen, and who needs to be interviewed.
  - (3) The Investigating Officer or Monitoring Officer will normally write to the Councillor against whom you have complained and provide them with a copy of your complaint and ask the Councillor to provide their explanation of events, and to identify what documents are required and who needs to be interviewed. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the Councillor might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the Councillor, or delay notifying the Councillor until the investigation has progressed sufficiently.
  - (4) At the end of their investigation, the Investigating Officer or Monitoring Officer will produce a draft report ("the Investigation Report") and will send copies of that draft report, in confidence, to you and to the Councillor concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.
  - (5) Having received and taken account of any comments which you may make on the draft Investigation Report. Where an Investigating Officer has been appointed the Investigating Officer will send their final report to the Monitoring Officer.
- 6. What happens if the Investigating Officer or Monitoring Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**
- (1) If an Investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer's report and, if satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the Councillor concerned and to the Parish Council, where your complaint relates to a Parish Councillor, notifying you that no further action is required, and give you both a copy of the Investigation Final Report.

- (2) If an Investigating Officer has been appointed and if the Monitoring Officer is not satisfied that the investigation has been conducted properly, they may ask the Investigating Officer to reconsider their report.

**7. What happens if the Investigating Officer or Monitoring Officer concludes that there is evidence of a failure to comply with the Code of Conduct?**

- (1) If an Investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer's report and will then either send the matter for a hearing before the Hearings Sub-Committee or in consultation with the Independent Person seek an informal resolution.

(a) Informal Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, they will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Councillor accepting that their conduct was unacceptable and offering an apology, and/or other remedial action by the Council. If the Councillor complies with the suggested resolution, the Monitoring Officer will report the matter to the Borough Council's Governance and Audit Committee (and the Parish Council) for information but will take no further action.

(b) Hearing

If the Monitoring Officer considers that informal resolution is not appropriate, or the Councillor concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigation Report to the Hearings Sub-Committee which will conduct a hearing before deciding whether the Councillor has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Councillor.

The Borough Council has agreed a procedure for hearing allegations, which is attached as Appendix 5 to these Arrangements.

At the hearing, the Investigating Officer or the Monitoring 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. For this purpose, the Investigating Officer or Monitoring Officer may ask you as the complainant to attend and give evidence to the Hearings Sub-Committee. The Councillor will then have an opportunity to give their evidence, to call witnesses and to make representations to the Hearings Sub-Committee as to why they consider that they did not fail to comply with the Code of Conduct.

The Hearings Sub-Committee, with the benefit of any advice from the Independent Person, may conclude that the Councillor did not fail to comply with the Code of Conduct, and dismiss the complaint. If the Hearings Sub-Committee concludes that the Councillor did fail to comply with the Code of Conduct, the Chair will inform the Councillor of this finding and the Hearings Sub-Committee will then consider what action, if any, the Sub-Committee should take as a result of the Councillor's failure to comply with the Code of Conduct. In doing this, the Hearings Sub-Committee will give the Councillor an opportunity to make representations to the Hearings Sub-Committee and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

**8. What action can the Hearings Sub-Committee take where a Councillor has been found to have failed to comply with the Code of Conduct?**

- 8.1** The Borough Council has delegated to the Hearings Sub-Committee its powers to take action in respect of individual Councillors as may be necessary to promote and maintain high standards of conduct.

Accordingly, the Hearings Sub-Committee may: -

- (a) Report its findings to Council (or to the Parish Council) for information;
- (b) Recommend to Council (or to the Parish Council) that the Councillor be issued with a formal censure or be reprimanded
- (c) Recommend to the Councillor's Group Leader (or in the case of ungrouped Councillors, recommend to Council or to Committees) that

**the Councillor be removed from any or all Committees or Panels of the Council;**

- (d) Recommend to the Leader of the Council that the Councillor be removed from the Cabinet, or removed from particular Portfolio responsibilities;**
- (e) Instruct the Monitoring Officer to (or recommend that the Parish Council) arrange training for the Councillor;**
- (f) Recommend to Council to remove (or recommend to the Parish Council that the Councillor be removed) from all outside appointments to which they have been appointed or nominated by the Council (or by the Parish Council);**
- (g) Recommend to Council to withdraw (or recommend to the Parish Council that it withdraws) facilities provided to the Councillor by the Council, such as a computer, website and/or email and internet access; or**
- (h) Recommend to Council to exclude (or recommend that the Parish Council exclude) the Councillor from the Council's Offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Panel meetings.**

**8.2 The Hearings Sub-Committee has no power to suspend or disqualify a Councillor or to withdraw a Councillor's basic allowance or any special responsibility allowances.**

**8.3 Any actions recommended by the Hearings Sub-Committee should be proportionate and commensurate with the circumstances of the particular case.**

## **9 What happens at the end of the hearing?**

**9.1 At the end of the hearing, the Chair will state the decision of the Hearings Sub-Committee as to whether the Councillor failed to comply with the Code of Conduct and as to any actions which the Hearings Sub-Committee resolves to take.**

**9.2 As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Sub-Committee, and send a copy to you, to the Councillor (and to the Parish Council), make that decision notice available for public**

inspection and report the decision to the next convenient meeting of the Council.

## **10 Who are the Hearings Sub-Committee?**

- 10.1** The Sub-Committee comprises Councillors who are members of the Governance and Audit Committee.
- 10.2** The Governance and Audit Committee has decided that it will comprise a maximum of five Councillors and will comprise Councillors drawn from all political groups. Subject to those requirements, it is appointed on the nomination of party group leaders in proportion to the strengths of each party group on the Council. If the Councillor complained about is a member of a Parish Council a parish Councillor who is a co-opted member of the Governance and Audit Committee will also be invited to attend the Sub-Committee.
- 10.3** An Independent Person will also be invited to attend all meetings of the Hearings Sub-Committee and their views are sought and taken into consideration before the Sub-Committee takes any decision on whether the Councillor's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

## **11 Who are the Independent Persons?**

- 11.1** The Independent Persons are persons 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 the Borough Council.
- 11.2** A person cannot be "independent" if they:
- (a)** are, or have been within the past 5 years, a member, co-opted member or officer of the Borough Council;
  - (b)** (are or have been within the past 5 years, a member, co-opted member or officer of a parish council within the Borough of Colchester), or
  - (c)** are a relative or close friend, of a person within paragraph (a) or (b) above. For this purpose, a "relative" means:
    - (i)** spouse or civil partner;

- (ii) living with the other person as husband and wife or as if they were civil partners;
- (iii) grandparent of the other person;
- (iv) a lineal descendent of a grandparent of the other person;
- (v) a parent, sibling or child of a person within paragraphs (a) or (b); above or
- (vi) a spouse or civil partner of a person within paragraphs (iii), (iv) or (v) above; or
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## **12. Revision of these Arrangements**

The Borough Council may by resolution agree to amend these Arrangements, and has delegated to the Chair of the Hearings Sub-Committee 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.

## **13. Appeals**

**13.1** There is no right of appeal for you as complainant or for the Councillor against a decision of the Monitoring Officer or of the Hearings Sub-Committee.

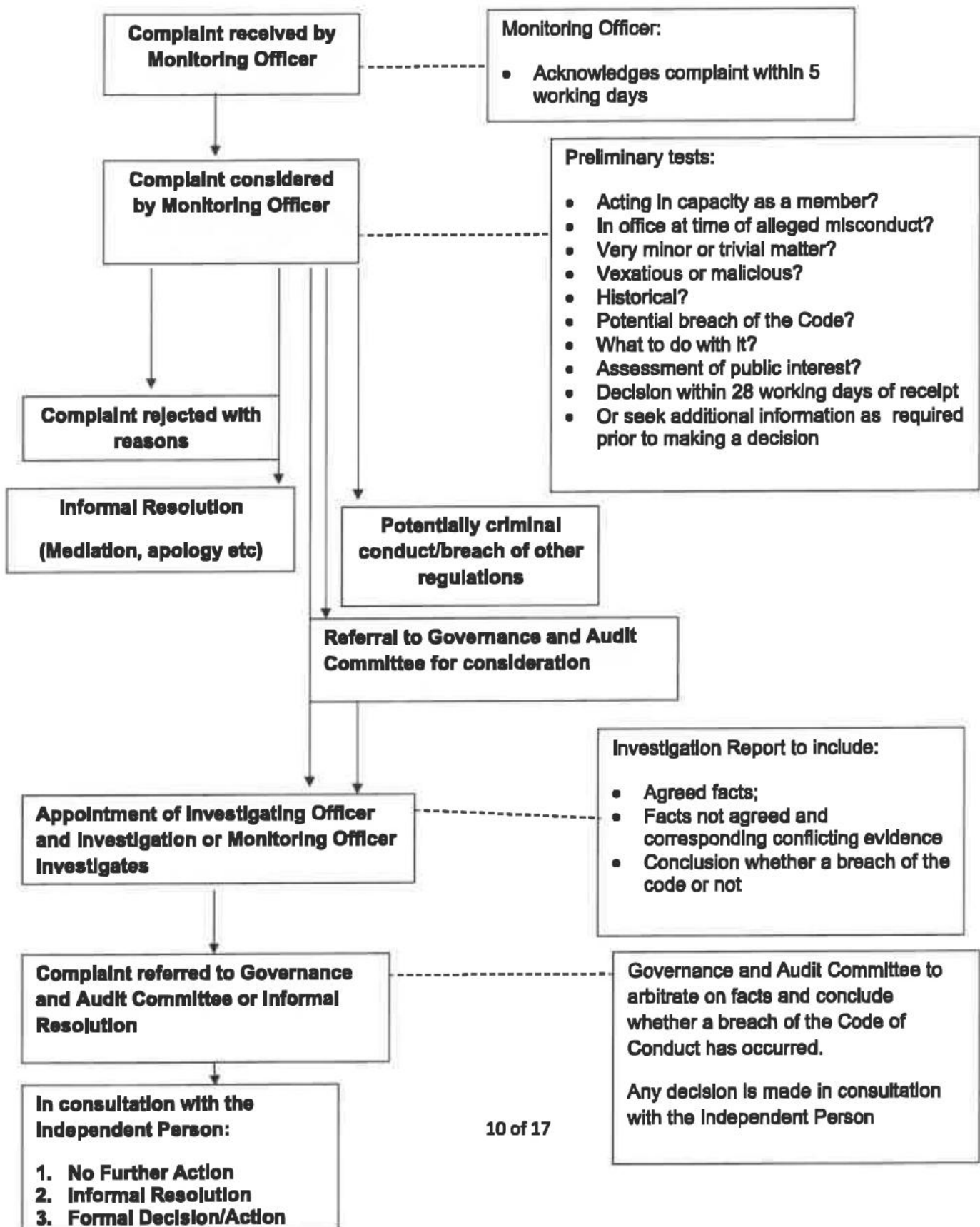
**13.1.1** If you feel that the Borough Council has failed to deal with your complaint properly, you may make a complaint to the Local Government and Social Care Ombudsman.

## **14. Review**

These Arrangements will be kept under annual review by the Governance and Audit Committee.



## Complaints Procedure Flowchart





**Colchester Borough Council**

**Press Policy**

**Complaints against Members**

This Policy sets out how the Borough Council will respond to press enquiries into a complaint made against Councillor(s). This includes Borough Councillors, Parish, Town and Community Councillors.

We like to be as helpful as possible to the press and we will confirm, when requested by a journalist:

- the name of a Councillor(s) involved in an ongoing or past investigation
- the type of person who made the allegation – whether they are a member or Officer of the Authority, or a member of the public
- part of the Code of Conduct potentially breached
- whether the case was referred for investigation and, if not, the reason it was not referred
- approximate dates of when the allegation was received and the date of when a decision was made on whether or not to investigate
- the outcome of any investigation, on issue of the final report

Please note that we will only respond to queries about specific Councillors.

We will not comment on complaints received until a decision has been made on whether a complaint will be investigated; we allow three working days from the date of that decision before confirming it to the press.

We will confirm the outcome of an investigation three working days after the final report has been issued. This policy ensures that the relevant parties involved in the complaint and investigation are notified before the press.

We will always stress that a complaint is just that: while an investigation is ongoing, no decision is made regarding a Councillor's guilt or otherwise.

**Colchester Borough Council**

**STANDARDS COMPLAINTS ASSESSMENT CRITERIA**

**Complaints which would not normally be referred for investigation**

1. The complaint is not considered sufficiently serious to warrant investigation; or
2. The complaint appears to be simply motivated by malice or is "tit-for-tat"; or
3. The complaint appears to be politically motivated; or
4. It appears that there can be no breach of the Code of Conduct; e.g. that it relates to the Councillor's private life or is about dissatisfaction with a Council decision; or
5. It is about someone who is no longer a Councillor; or
6. There is insufficient information available for a referral; or
7. The complaint has not been received within 3 months of the alleged misconduct unless there are exceptional circumstances e.g. allegation of bullying, harassment etc; or
8. The matter occurred so long ago that it would be difficult for a fair investigation to be carried out; or
9. The same, or similar, complaint has already been investigated and there is nothing further to be gained by seeking the sanctions available to the Governance and Audit Committee; or
10. It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct; or
11. Where the Councillor complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction.

**Complaints which may be referred to the Governance and Audit Committee**

1. It is serious enough, if proven, to justify the range of actions available to the Governance and Audit Committee; or
2. There are individual acts of minor misconduct which appear to be a part of a continuing pattern of behaviour that is unreasonably disrupting the business of the Council and there is no other avenue left to deal with it other than by way of an investigation; or

3. When the complaint comes from a senior officer of the Council, such as the Chief Executive or the Monitoring Officer and it would be difficult for the Monitoring Officer to investigate; or
4. The complaint is about a high-profile Councillor such as the Leader of the Council and it would be difficult for the Monitoring Officer to investigate; or
5. Such other complaints as the Monitoring Officer considers it would not be appropriate for him to investigate.

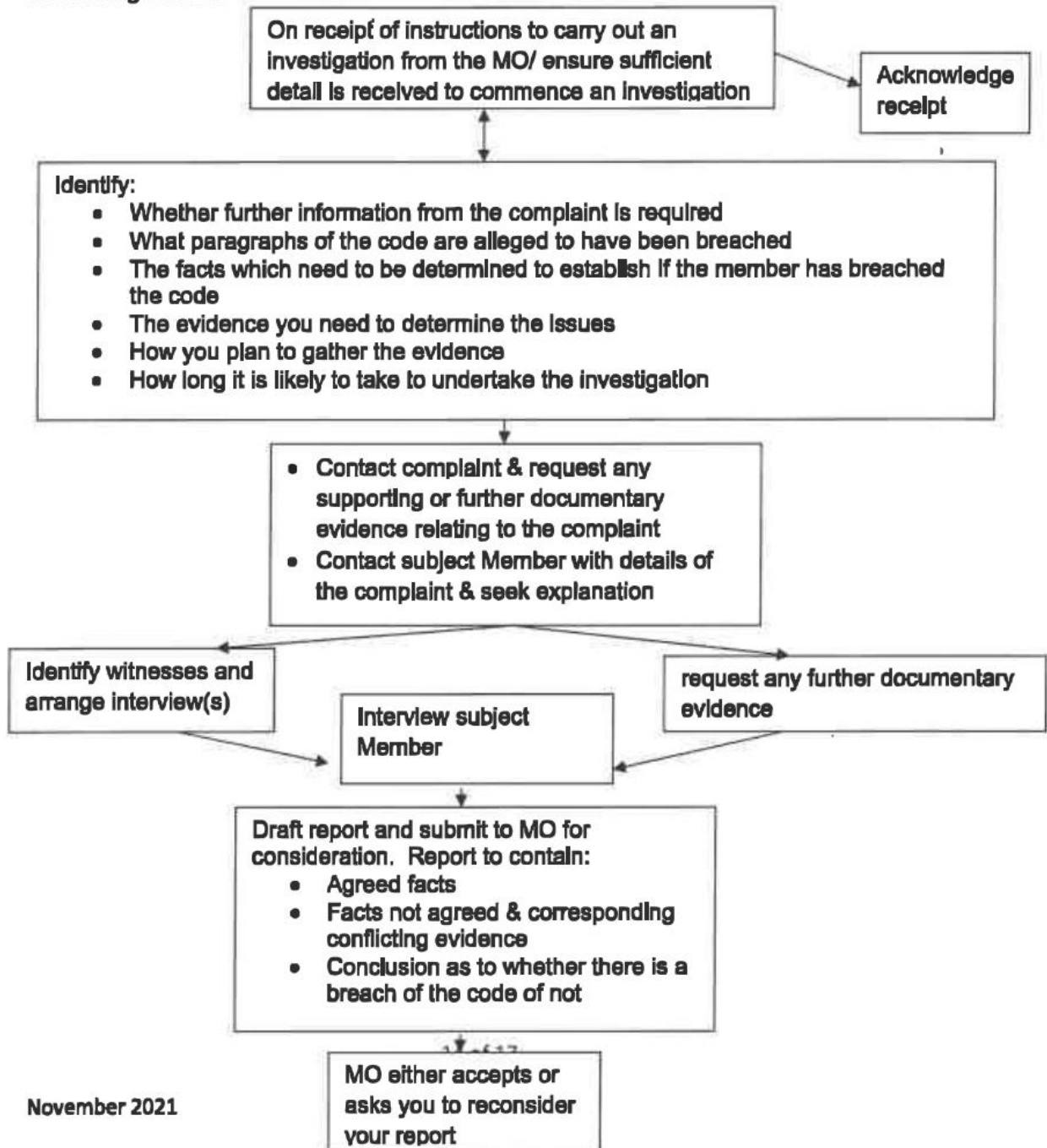
**Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, deciding to investigate a complaint or to take further action will cost both public money and officers' and Councillors' time. This is an important consideration where the complaint is relatively minor.**

## STANDARDS COMPLAINTS INVESTIGATION PROCEDURE

### Investigation Procedure

You should maintain a written record to demonstrate what was considered at the start of each investigation and plan how you intend to carry out the investigation, the paragraphs of the Code that may have been breached, the facts you need to determine to establish, the evidence you will need, how you plan to gather the evidence and how long it will take to conclude your investigation. Remember there is no provision in the Localism Act 2011 compelling Members or witnesses to co-operate with your investigation.

A written Investigation Report will need to be prepared for consideration by the Council's Monitoring Officer.



November 2021



**Colchester City Council**  
**Governance and Audit Committee**  
**Councillor Code of Conduct**

**Arrangements for dealing with complaints**

**1. Introduction**

- 1.1 The City Council adopted the Local Government Associations Model Code of Conduct on 1 December 2022. These "Arrangements" came into effect on that date and detail the process for making a complaint that an elected or co-opted member of Colchester City Council or of a parish council, town council or community council (referred to as a parish council in this document) within the City of Colchester has failed to comply with their respective Councillors' Code of Conduct. It also sets out how the City Council will deal with allegations of a failure to comply with the Councillors' Code of Conduct.
- 1.2 Under Section 28(6) and (7) of the Localism Act 2011, the City Council must have in place "Arrangements" under which allegations that a member or co-opted member of the City Council or of a parish council within the City of Colchester, has failed to comply with their respective Councillors' Code of Conduct can be investigated and decisions made on such allegations.
- 1.3 Such Arrangements must provide for the City Council to appoint at least 1 Independent Person, whose views must be sought by the City Council before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the City Council at any other stage, or by a member or a co-opted member of a parish council against whom an allegation has been made. Both members and co-opted members are referred to as Councillors in this document for ease of reference.

**2. The Code of Conduct**

- 2.1 The City Council has adopted a Code of Conduct for Councillors, which is published on the City Council's website. [www.colchester.gov.uk/standards](http://www.colchester.gov.uk/standards)

- 2.2 Each Parish Council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council's Code of Conduct, you should inspect any website operated by the Parish Council or request the parish clerk to allow you to inspect the Parish Council's Code of Conduct.

### **3. Making a complaint**

- 3.1 If you wish to make a complaint, please email:  
[andrew.weavers@colchester.gov.uk](mailto:andrew.weavers@colchester.gov.uk) or write to:

The Monitoring Officer  
Colchester City Council  
Rowan House, 33 Sheepen Road  
Colchester, CO3 3WG.

- 3.2 The Monitoring Officer is a senior officer of the City Council who has statutory responsibility for maintaining the register of Councillors' interests and who is responsible for administering the system in respect of complaints of Councillor misconduct.
- 3.3 In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the complaint form, which can be downloaded from the City Council's website, next to the Code of Conduct.
- 3.4 Please provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form. The Monitoring Officer will consider your request and if granted we will not disclose your name and address to the Councillor against whom you make the complaint, without your prior consent.
- 3.5 The City Council does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.
- 3.6 The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it and will keep you informed of the progress of your complaint.
- 3.7 The Complaints Procedure Flowchart is attached at Appendix 1.
- 3.8 The City Council has agreed a Press Policy in relation to complaints made against Councillors and this is attached at Appendix 2.

**4. Will your complaint be investigated?**

- (1) The Monitoring Officer will review every complaint received and, may consult with the Independent Person before taking a decision as to whether it:
  - (a) merits no further investigation; or
  - (b) merits further investigation; or
  - (c) should be referred to the Governance and Audit Committee,
- (2) This decision will normally be taken within 28 working days of receipt of your complaint. Your complaint will be considered in accordance with the City Council's Assessment Criteria contained at Appendix 3. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision. Where the Monitoring Officer requires additional information in order to come to a decision, he/she may come back to you for such information and may request information from the Councillor against whom your complaint is directed.
- (3) Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation.
- (4) In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the Councillor accepting that their conduct was unacceptable and offering an apology, or other remedial action by the Authority. Where the Councillor or the Authority make a reasonable offer of informal resolution, but you are not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint merits further investigation.
- (5) If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police or other regulatory agencies.

**5. How is the investigation conducted?**



- (1) The City Council has adopted a procedure for the investigation of allegations, which is attached as Appendix 4 to these Arrangements.
- (2) If the Monitoring Officer decides that a complaint merits further investigation, they may appoint an Investigating Officer, who may be another senior officer of the City Council, an officer of another Authority or an external investigator. The Investigating Officer or Monitoring Officer will decide whether they need to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents need to be seen, and who needs to be interviewed.
- (3) The Investigating Officer or Monitoring Officer will normally write to the Councillor against whom you have complained and provide them with a copy of your complaint and ask the Councillor to provide their explanation of events, and to identify what documents are required and who needs to be interviewed. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the Councillor might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the Councillor, or delay notifying the Councillor until the investigation has progressed sufficiently.
- (4) At the end of their investigation, the Investigating Officer or Monitoring Officer will produce a draft report ("the Investigation Report") and will send copies of that draft report, in confidence, to you and to the Councillor concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.
- (5) Having received and taken account of any comments which you may make on the draft Investigation Report. Where an Investigating Officer has been appointed the Investigating Officer will send their final report to the Monitoring Officer.
- 6. What happens if the Investigating Officer or Monitoring Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**
- (1) If an Investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer's report and, if satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to

you and to the Councillor concerned and to the Parish Council, where your complaint relates to a Parish Councillor, notifying you that no further action is required, and give you both a copy of the Investigation Final Report.

- (2) If an Investigating Officer has been appointed and if the Monitoring Officer is not satisfied that the Investigation has been conducted properly, they may ask the Investigating Officer to reconsider their report.

**7. What happens if the Investigating Officer or Monitoring Officer concludes that there is evidence of a failure to comply with the Code of Conduct?**

- (1) If an Investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer's report and will then either send the matter for a hearing before the Hearings Sub-Committee or in consultation with the Independent Person seek an informal resolution.

**(a) Informal Resolution**

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, they will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Councillor accepting that their conduct was unacceptable and offering an apology, and/or other remedial action by the Council. If the Councillor complies with the suggested resolution, the Monitoring Officer will report the matter to the City Council's Governance and Audit Committee (and the Parish Council) for information but will take no further action.

**(b) Hearing**

If the Monitoring Officer considers that informal resolution is not appropriate, or the Councillor concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigation Report to the Hearings Sub-Committee which will conduct a hearing before deciding whether the Councillor has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Councillor.

The City Council has agreed a procedure for hearing allegations, which is attached as Appendix 5 to these Arrangements.

At the hearing, the Investigating Officer or the Monitoring 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. For this purpose, the Investigating Officer or Monitoring Officer may ask you as the complainant to attend and give evidence to the Hearings Sub-Committee. The Councillor will then have an opportunity to give their evidence, to call witnesses and to make representations to the Hearings Sub-Committee as to why they consider that they did not fail to comply with the Code of Conduct.

The Hearings Sub-Committee, with the benefit of any advice from the Independent Person, may conclude that the Councillor did not fail to comply with the Code of Conduct, and dismiss the complaint. If the Hearings Sub-Committee concludes that the Councillor did fail to comply with the Code of Conduct, the Chair will inform the Councillor of this finding and the Hearings Sub-Committee will then consider what action, if any, the Sub-Committee should take as a result of the Councillor's failure to comply with the Code of Conduct. In doing this, the Hearings Sub-Committee will give the Councillor an opportunity to make representations to the Hearings Sub-Committee and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

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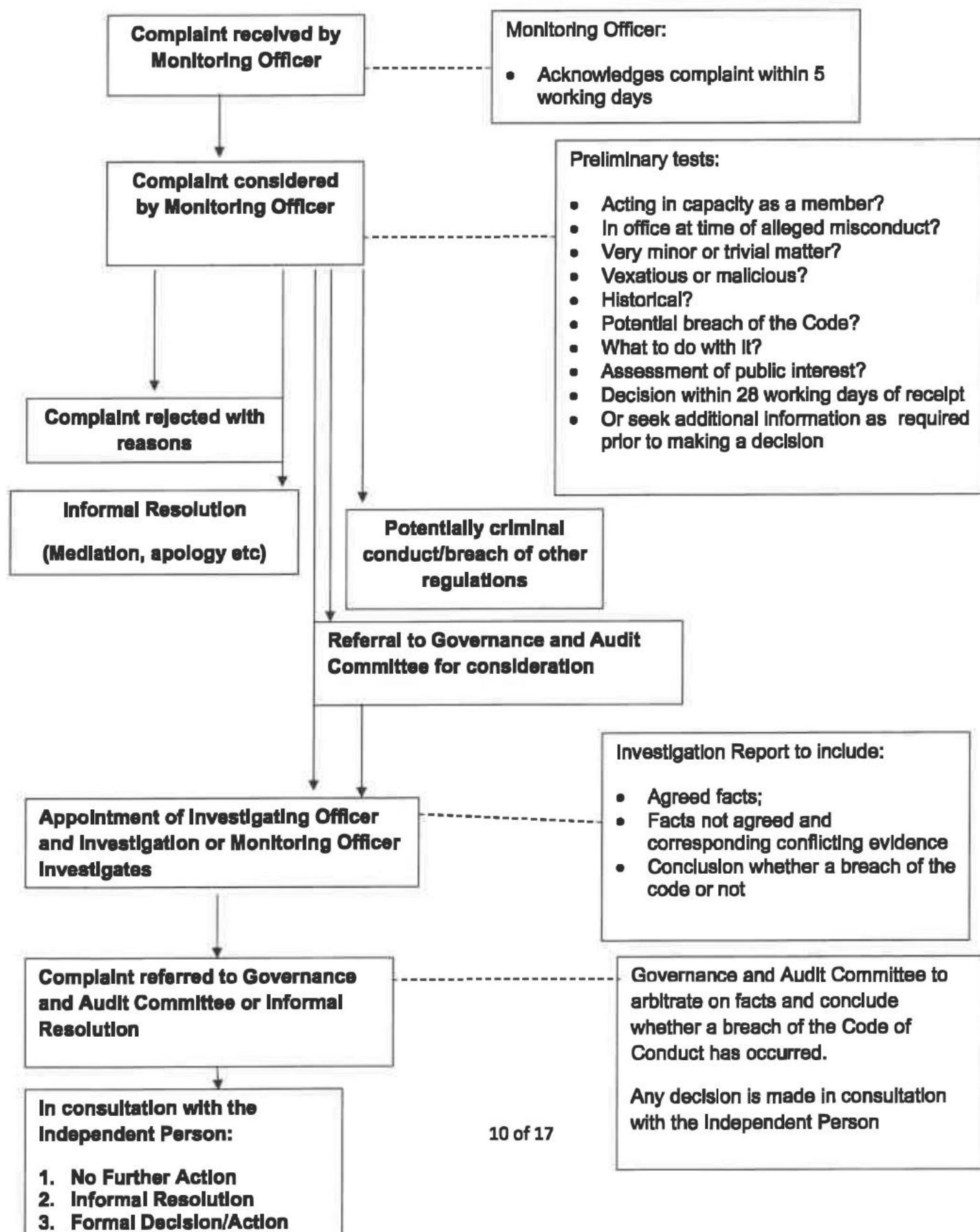
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## Complaints Procedure Flowchart



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2. There are individual acts of minor misconduct which appear to be a part of a continuing pattern of behaviour that is unreasonably disrupting the business of the Council and there is no other avenue left to deal with it other than by way of an investigation; or

3. When the complaint comes from a senior officer of the Council, such as the Chief Executive or the Monitoring Officer and it would be difficult for the Monitoring Officer to investigate; or
4. The complaint is about a high-profile Councillor such as the Leader of the Council and it would be difficult for the Monitoring Officer to investigate; or
5. Such other complaints as the Monitoring Officer considers it would not be appropriate for him to investigate.

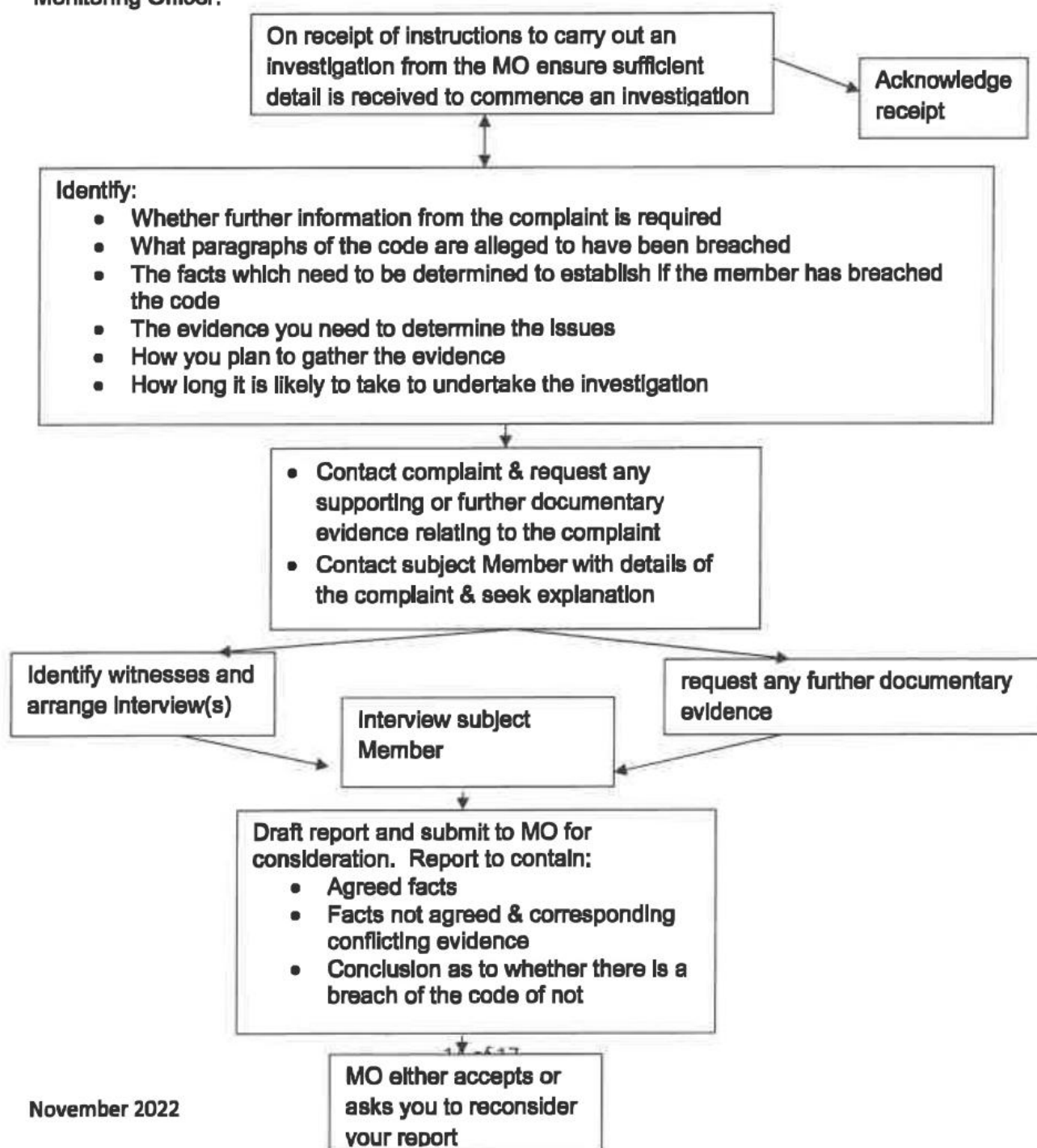
**Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, deciding to investigate a complaint or to take further action will cost both public money and officers' and Councillors' time. This is an important consideration where the complaint is relatively minor.**

## STANDARDS COMPLAINTS INVESTIGATION PROCEDURE

### Investigation Procedure

You should maintain a written record to demonstrate what was considered at the start of each investigation and plan how you intend to carry out the investigation, the paragraphs of the Code that may have been breached, the facts you need to determine to establish, the evidence you will need, how you plan to gather the evidence and how long it will take to conclude your investigation. Remember there is no provision in the Localism Act 2011 compelling Councillors or witnesses to co-operate with your investigation.

A written Investigation Report will need to be prepared for consideration by the Council's Monitoring Officer.



November 2022

**Colchester City Council**  
**GOVERNANCE AND AUDIT COMMITTEE**  
**HEARINGS SUB-COMMITTEE PROCEDURE**

<b><u>Item No.</u></b>	<b><u>Procedure</u></b>
	<b><u>Quorum</u></b>
1.	<p>1.1. Three members must be present throughout the hearing to form a quorum.</p> <p>1.2. Where the complaint refers to a Parish Councillor a non-voting Parish member of the Governance and Audit Committee may be present.</p> <p>1.3. An Independent Person shall also be invited to attend.</p> <p>1.4. The Sub-Committee shall nominate a Chair for the meeting</p>
2.	<b><u>Opening</u></b>
	<p>2.1 The Chair explains the procedure for the hearing and reminds all parties to turn off mobile phones etc.</p> <p>2.2 The Chair asks all present to introduce themselves.</p> <p>2.3 The Councillor will be asked whether they wish to briefly outline their position.</p>
3.	<b><u>The Complaint</u></b>
	<p>3.1 The Investigating Officer shall be invited to present their report including any documentary evidence or other material (and to call witnesses as required by the Investigating Officer). This report and documentary evidence must be based on the complaint made to the Council – no new points will be allowed.</p> <p>3.2 The Councillor against whom the complaint has been made (or their representative) may question the Investigating Officer upon the content of their report and any witnesses called by the Investigating Officer. (This is the Councillor's opportunity to ask questions rising from the Investigators report and not to make a statement).</p>

	3.3	Members of the Sub-Committee may question the Investigating Officer upon the content of their report and/or any witnesses called by the Investigating Officer
		<b><u>The Councillor's case</u></b>
4.	4.1	The Councillor against whom the complaint has been made (or their representative) may present their case (and call any witnesses as required by the Councillor or their representative).
	4.2	The Investigating Officer may question the Councillor and/or any witnesses.
	4.3	Members of the Sub-Committee may question the Councillor and /or any witnesses.
		<b><u>Summing Up</u></b>
5.	5.1	The Investigating Officer may sum up the Complaint.
	5.2	The Councillor (or their representative) may sum up their case.
		<b><u>Decision</u></b>
6.	6.1	Members of the Sub-Committee will deliberate in private to consider the complaint in consultation with the Independent Person prior to reaching a decision.
	6.2	Upon the Sub-Committee's return the Chair will announce the Sub-Committee's decision in the following terms: -
	6.2.1	The Sub-Committee decides that the Councillor has failed to follow the Code of Conduct; or
	6.2.2	The Sub-Committee decides that the Councillor has not failed to follow the Code of Conduct
	6.3	The Sub-Committee will give reasons for their decision
	6.4	If the Sub-Committee decides that the Councillor has failed to follow the Code of Conduct the Sub-Committee will consider any representations from the Investigator and/or the Councillor as to:
	6.4.1	Whether any action should be taken and
	6.4.2	What form any action should take

	<p><b>6.5 The Sub-Committee will then deliberate in private to consider what action if any should be taken in consultation with the Independent Person.</b></p> <p><b>6.6 On the Sub-Committee's return the Chair will announce the Sub-Committee's decision (in relation to a Parish Councillor a recommendation to the Parish Council).</b></p> <p><b>6.7 The Sub-Committee will consider whether it should make any recommendations to the Full Council of the City Council (or in relation to a Parish Councillor to the Parish Council) with a view to promoting high standards of conduct among Councillors.</b></p> <p><b>6.8 The Chair will confirm that a full written decision shall be issued within 7 working days following the hearing and that the Sub-Committee's findings to be published.</b></p>

## Appendix D

## Andrew Weavers

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**From:** Cllr Patricia Moore  
**Sent:** 26 November 2022 10:11  
**To:** Andrew Weavers  
**Subject:** Fwd: Apology

Sent from Outlook for iOS

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**From:** Cllr Patricia Moore <Patricia.Moore@colchester.gov.uk>  
**Sent:** Saturday, November 26, 2022 10:09 am  
**To:** ~Councillors - All members <Councillors-All\_Members@colchester.gov.uk>  
**Subject:** Apology

It transpires that an article I wrote in Mersea Life had the potential to give offence to councillors. This was not my intention but I apologise for any offence caused.

Cllr Pat Moore

Sent from Outlook for iOS





## Andrew Weavers

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**From:** PAMoore [REDACTED]  
**Sent:** 17 December 2022 15:50  
**To:** Andrew Weavers  
**Cc:** Pamela Donnelly  
**Subject:** Fwd: Freedom of speech protections  
**Attachments:** Human Rights Act 1998.pdf; ATT00001.htm

This message originated Externally. Do not click links or open attachments unless you recognise the sender, were expecting it and know that the content is safe.

Dear Andrew,

As well as this, I can call upon the the Mayor of Colchester to say that my article was in no way offensive and the Mayor of Mersea who witnessed the altercation at the Town Council meeting to say that I was in no way intimidating or attempting to intimidate Cllr Woods and moreover that Cllr Woods' language to me was both insulting and offensive and probably illegal in that it was both ageist and sexist.

The amount of time that this issue has run on unresolved reflect badly on Colchester City Council.

With regards

Pat  
Sent from my iPad

Begin forwarded message:

**From:** [REDACTED]  
**Date:** 16 December 2022 at 21:14:09 GMT  
**To:** [REDACTED]  
**Subject:** Freedom of speech protections

Dear Pat

A pleasure to speak to you today.

I am not a lawyer but I do work in the legal system as an expert witness on freedom of religion or belief and freedom of speech cases, where I am typically asked to demonstrate that what someone has been penalised for saying constitutes a widely held religious or philosophical belief – as these are both “protected characteristics” provided they are not simply an individual opinion, but are more widely held.

In your case, I'm not sure they could reasonably be described as a philosophical belief, but any attempt to penalise them would - and this is an issue for lawyers – almost certainly be unlawful. The following may be helpful – although that only a lawyer specialising in this area would give you a proper legal opinion

### 1. The rule of law

There are two basic principles here.

First, in English law – you can do (or say) anything provided there is not a law against it (it is in the opposite in many European countries where you are only allowed to do what the law expressly

permits you to do). In this context it is worth noting that contrary to popular belief there is NO right not to be offended in English law.

Secondly, there is the wider principle of the rule of law. In his book *The Rule of Law*, Tom Bingham who was previously Lord Chief Justice and the senior law lord – sets out a number of basic tests that must be met for the rule of law to function. One of these is that “the law must be predictable” in other at the point at which someone breaks the law – they should be able to predict at least in a general sense that what they are doing is wrong.

As I understand it – and please do correct me if I am wrong – you referred to the situation as “comical” where some councillors insisted on voting against a planning policy setting a limit on the number of houses which could be built on the Wick – on the grounds that they didn’t want any houses. However, if the policy was not approved the council would have little in terms of planning grounds for refusing an application for a far larger number of houses. The Monitoring officer refused to rule on this, and an Independent person appointed by the council said you should apologise for the comments.

However, both the monitoring officer and the appointed person – MUST act in line with the rule of law. That means I) in general terms – any comments they judge to be inappropriate should be predictable to the extent that a reasonable ordinary person would judge them in advance to be insulting if they were to be said. II) The council or those acting on its behalf (i.e. the monitoring officer and the appointed person) can ONLY restrict free speech on grounds that the law expressly allows them to do so – and they should state in any judgement what these grounds are (see section 3 below).

## **2. Freedom of speech in English law**

The classic statement of what freedom of speech in England encompasses was that by Lord Justice Sedley in the appeal court in *Redmond-Bate v DPP* – where in ruling in favour of Miss Redmond-Bate’s appeal against conviction he observed that in English law

*Free speech includes not only the inoffensive but the irritating, the contentious, the eccentric, the heretical, the unwelcome and the provocative provided it does not tend to provoke violence. Freedom only to speak inoffensively is not worth having. What Speakers’ Corner (where the law applies as fully as anywhere else) demonstrates is the tolerance which is both extended by the law to opinion of every kind and expected by the law in the conduct of those who disagree, even strongly, with what they hear. From the condemnation of Socrates to the persecution of modern writers and journalists, our world has seen too many examples of state control of unofficial ideas. A central purpose of the European Convention on Human Rights has been to set close limits to any such assumed power. We in this country continue to owe a debt to the jury which in 1670 refused to convict the Quakers William Penn and William Mead for preaching ideas which offended against state orthodoxy.*

This is what is termed a ‘legal precedent’ in other words, because it has been made by a higher court other courts and tribunals have to follow this judgement. That includes any disciplinary process established by any public authority including a local council. The full case reference is *Redmond-Bate v Director of Public Prosecutions* [1999] EWHC Admin 733. The monitoring officer should be able to access the full judgement from that, but let me know if you would like me to send you a copy of the full judgement.

## **3. UK Human rights law**

The right to freedom of expression is also expressly set out in the Human Rights Act 1997 - which incorporates the European Convention on Human Rights (ECHR) as its first schedule. S 10 of the ECHR states

### **FREEDOM OF EXPRESSION**

**10(1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.**

**10 (2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.**

It is perfectly clear that the restrictions a public authority may in some circumstances be allowed to make to freedom of expression do NOT extend to normal political debate as the ONLY legal restrictions on freedom of expression are those which are either:

1. Necessary in a democratic society
2. In the interests of national security, territorial integrity or public safety or prevention of disorder
3. For the protection of health or morals
4. for the protection of the reputation or rights of others
5. For preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Whilst, someone might be tempted to argue that the requirement for you to apologise was necessary "for the protection of the reputation or rights of others" it is not clear how your comments illegitimately damaged the reputation of someone else, particularly as the comment is one that a court is likely to regard as 'trivial'.

There is actually recent case law (DPP v Zeigler [2019] EWHC (Admin) 71) which requires any public authority seeking to restrict a human right – including freedom of speech – additionally to undertake a proportionality exercise before doing so. I.e. the public authority – or those acting on its behalf such as the monitoring officer or appointed person should have

1. Set out clearly the legal grounds in terms of the Human Rights Act /ECHR on which they are seeking to restrict your freedom of speech (i.e. one of the specific grounds in ECHR s.10(2) which allow a public authority to restrict freedom of religion
2. If they believe there are legal grounds to restrict your freedom of speech as set out in ECHR s.10(2) then (as per DPP v Zeigler 2019) additionally they must also carry out a specific proportionality assessment as to whether it was proportionate to restrict your freedom of speech in this way i.e. did the benefits of doing so outweigh the significance of restricting a human rights set out in both the Human Rights Act 1997

I would therefore be inclined to write to the Council's CEO and ask a) what legal grounds the council believes it had to seek to restrict your right to freedom of expression which is set out in the Human Rights Act 1997 and ECHR article 10 b) to disclose any proportionality assessment was undertaken at the time in this respect as required by DPP v Zeigler [2019] EWHC (Admin) 71. If they don't produce both of those - I would then ask for i) an immediate setting aside of the appointed person's verdict; ii) a public admission that it was unlawful; and iii) a public apology by the council to you.

Happy to discuss further if it helps!

Kind regards

[Redacted signature]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
Mob. [REDACTED]  
Email: [REDACTED]  
[REDACTED]  
Academy of Experts profile



# Human Rights Act 1998

## 1998 CHAPTER 42

An Act to give further effect to rights and freedoms guaranteed under the European Convention on Human Rights; to make provision with respect to holders of certain judicial offices who become judges of the European Court of Human Rights; and for connected purposes. [9th November 1998]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### Extent Information

**E1** For the extent of this Act outside the U.K., see s. 22(6)(7)

### Modifications etc. (not altering text)

- C1** Act: certain functions of the Secretary of State transferred to the Lord Chancellor (26.11.2001) by S.I. 2001/3500, arts. 3, 4, Sch. 1 para. 5
- C2** Act (except ss. 5, 10, 18, 19 and Sch. 4): functions of the Lord Chancellor transferred to the Secretary of State, and all property, rights and liabilities to which the Lord Chancellor is entitled or subject to in connection with any such function transferred to the Secretary of State for Constitutional Affairs (19.8.2003) by S.I. 2003/1887, art. 4, Sch. 1
- C3** Act modified (30.1.2020) by Direct Payments to Farmers (Legislative Continuity) Act 2020 (c. 2), ss. 2(8), 9(3)
- C4** Act modified (31.12.2020) by European Union (Withdrawal) Act 2018 (c. 16), s. 25(4), Sch. 8 para. 30 (with s. 19, Sch. 8 para. 37); S.I. 2020/1622, reg. 3(n)

### Introduction

## 1 The Convention Rights.

- (1) In this Act “the Convention rights” means the rights and fundamental freedoms set out in—

*Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998. (See end of Document for details)*

- (a) Articles 2 to 12 and 14 of the Convention,
  - (b) Articles 1 to 3 of the First Protocol, and
  - (c) [<sup>F1</sup>Article 1 of the Thirteenth Protocol],
- as read with Articles 16 to 18 of the Convention.
- (2) Those Articles are to have effect for the purposes of this Act subject to any designated derogation or reservation (as to which see sections 14 and 15).
  - (3) The Articles are set out in Schedule 1.
  - (4) The [<sup>F2</sup>Secretary of State] may by order make such amendments to this Act as he considers appropriate to reflect the effect, in relation to the United Kingdom, of a protocol.
  - (5) In subsection (4) “protocol” means a protocol to the Convention—
    - (a) which the United Kingdom has ratified; or
    - (b) which the United Kingdom has signed with a view to ratification.
  - (6) No amendment may be made by an order under subsection (4) so as to come into force before the protocol concerned is in force in relation to the United Kingdom.

#### Textual Amendments

- F1** Words in s. 1(1)(c) substituted (22.6.2004) by The Human Rights Act 1998 (Amendment) Order 2004 (S. I. 2004/1574), art. 2(1)
- F2** Words in s. 1 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S. I. 2003/1887), art. 9, Sch. 2 para. 10(1)

## 2 Interpretation of Convention rights.

- (1) A court or tribunal determining a question which has arisen in connection with a Convention right must take into account any—
  - (a) judgment, decision, declaration or advisory opinion of the European Court of Human Rights,
  - (b) opinion of the Commission given in a report adopted under Article 31 of the Convention,
  - (c) decision of the Commission in connection with Article 26 or 27(2) of the Convention, or
  - (d) decision of the Committee of Ministers taken under Article 46 of the Convention,

whenever made or given, so far as, in the opinion of the court or tribunal, it is relevant to the proceedings in which that question has arisen.
- (2) Evidence of any judgment, decision, declaration or opinion of which account may have to be taken under this section is to be given in proceedings before any court or tribunal in such manner as may be provided by rules.
- (3) In this section “rules” means rules of court or, in the case of proceedings before a tribunal, rules made for the purposes of this section—
  - (a) by <sup>F3</sup> . . . [<sup>F4</sup>the Lord Chancellor or] the Secretary of State, in relation to any proceedings outside Scotland;
  - (b) by the Secretary of State, in relation to proceedings in Scotland; or

*Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998. (See end of Document for details)*

- (c) by a Northern Ireland department, in relation to proceedings before a tribunal in Northern Ireland—
  - (i) which deals with transferred matters; and
  - (ii) for which no rules made under paragraph (a) are in force.

#### **Textual Amendments**

- F3** Words in s. 2(3)(a) repealed (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S. I. 2003/1887), art. 9, Sch. 2 para. 10(2)
- F4** Words in s. 2(3)(a) inserted (12.1.2006) by The Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429), art. 8, Sch. para. 3

#### **Modifications etc. (not altering text)**

- C5** S. 2(3)(a): functions of the Secretary of State to be exercisable concurrently with the Lord Chancellor (12.1.2006) by The Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429), art. 3(2) (with arts. 4, 5)

### *Legislation*

#### **3 Interpretation of legislation.**

- (1) So far as it is possible to do so, primary legislation and subordinate legislation must be read and given effect in a way which is compatible with the Convention rights.
- (2) This section—
  - (a) applies to primary legislation and subordinate legislation whenever enacted;
  - (b) does not affect the validity, continuing operation or enforcement of any incompatible primary legislation; and
  - (c) does not affect the validity, continuing operation or enforcement of any incompatible subordinate legislation if (disregarding any possibility of revocation) primary legislation prevents removal of the incompatibility.

#### **4 Declaration of incompatibility.**

- (1) Subsection (2) applies in any proceedings in which a court determines whether a provision of primary legislation is compatible with a Convention right.
- (2) If the court is satisfied that the provision is incompatible with a Convention right, it may make a declaration of that incompatibility.
- (3) Subsection (4) applies in any proceedings in which a court determines whether a provision of subordinate legislation, made in the exercise of a power conferred by primary legislation, is compatible with a Convention right.
- (4) If the court is satisfied—
  - (a) that the provision is incompatible with a Convention right, and
  - (b) that (disregarding any possibility of revocation) the primary legislation concerned prevents removal of the incompatibility,it may make a declaration of that incompatibility.
- (5) In this section “court” means—



*Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998. (See end of Document for details)*

- [<sup>F5</sup>(a) the Supreme Court;
  - (b) the Judicial Committee of the Privy Council;
  - (c) the [<sup>F6</sup>Court Martial Appeal Court] ;
  - (d) in Scotland, the High Court of Justiciary sitting otherwise than as a trial court or the Court of Session;
  - (e) in England and Wales or Northern Ireland, the High Court or the Court of Appeal.
  - [<sup>F7</sup>(f) the Court of Protection, in any matter being dealt with by the President of the Family Division, the [<sup>F8</sup>Chancellor of the High Court] or a puisne judge of the High Court.]
- (6) A declaration under this section (“a declaration of incompatibility”)—
- (a) does not affect the validity, continuing operation or enforcement of the provision in respect of which it is given; and
  - (b) is not binding on the parties to the proceedings in which it is made.

#### Textual Amendments

- F5** S. 4(5)(a) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, Sch. 9 para. 66(2); S.I. 2009/1604, art. 2(d)
- F6** Words in s. 4(5)(c) substituted (28.3.2009 for certain purposes and 31.10.2009 otherwise) by Armed Forces Act 2006 (c. 52), ss. 378, 383, Sch. 16 para. 156; S.I. 2009/812, art. 3 (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F7** S. 4(5)(f) inserted (1.10.2007) by Mental Capacity Act 2005 (c. 9), ss. 67(1), 68(1)–(3), Sch. 6 para. 43 (with ss. 27, 28, 29, 62); S.I. 2007/1897, art. 2(1)(c)(d)
- F8** Words in s. 4(5)(f) substituted (1.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 14 para. 5(5); S.I. 2013/2200, art. 3(g)

## 5 Right of Crown to Intervene.

- (1) Where a court is considering whether to make a declaration of incompatibility, the Crown is entitled to notice in accordance with rules of court.
- (2) In any case to which subsection (1) applies—
- (a) a Minister of the Crown (or a person nominated by him),
  - (b) a member of the Scottish Executive,
  - (c) a Northern Ireland Minister,
  - (d) a Northern Ireland department,
- is entitled, on giving notice in accordance with rules of court, to be joined as a party to the proceedings.
- (3) Notice under subsection (2) may be given at any time during the proceedings.
- (4) A person who has been made a party to criminal proceedings (other than in Scotland) as the result of a notice under subsection (2) may, with leave, appeal to the [<sup>F9</sup>Supreme Court] against any declaration of incompatibility made in the proceedings.
- (5) In subsection (4)—
- “criminal proceedings” includes all proceedings before the [<sup>F10</sup>Court Martial Appeal Court]; and

*Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998. (See end of Document for details)*

“leave” means leave granted by the court making the declaration of incompatibility or by the [<sup>F11</sup>Supreme Court]

#### Textual Amendments

- F9** Words in s. 5(4) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, Sch. 9 para. 66(3); S.I. 2009/1604, art. 2(d)
- F10** Words in s. 5(5) substituted (28.3.2009 for certain purposes and 31.10.2009 otherwise) by Armed Forces Act 2006 (c. 52), ss. 378, 383, Sch. 16 para. 157; S.I. 2009/812, art. 3 (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F11** Words in s. 5(5) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, Sch. 9 para. 66(3); S.I. 2009/1604, art. 2(d)

#### Modifications etc. (not altering text)

- C6** S. 5(2) functions made exercisable concurrently or jointly with the Welsh Ministers by 2006 c. 32, Sch. 3A para. 1 (as inserted (1.4.2018) by Wales Act 2017 (c. 4), s. 71(4), Sch. 4 para. 1 (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(p))

#### Public authorities

### 6 Acts of public authorities.

- (1) It is unlawful for a public authority to act in a way which is incompatible with a Convention right.
- (2) Subsection (1) does not apply to an act if—
  - (a) as the result of one or more provisions of primary legislation, the authority could not have acted differently; or
  - (b) in the case of one or more provisions of, or made under, primary legislation which cannot be read or given effect in a way which is compatible with the Convention rights, the authority was acting so as to give effect to or enforce those provisions.
- (3) In this section “public authority” includes—
  - (a) a court or tribunal, and
  - (b) any person certain of whose functions are functions of a public nature, but does not include either House of Parliament or a person exercising functions in connection with proceedings in Parliament.
- (4) <sup>F12</sup>.....
- (5) In relation to a particular act, a person is not a public authority by virtue only of subsection (3)(b) if the nature of the act is private.
- (6) “An act” includes a failure to act but does not include a failure to—
  - (a) introduce in, or lay before, Parliament a proposal for legislation; or
  - (b) make any primary legislation or remedial order.

*Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998. (See end of Document for details)*

### Textual Amendments

- F12** S. 6(4) repealed (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 146, 148, Sch. 9 para. 66(4), Sch. 18 Pt. 5; S.I. 2009/1604, art. 2(d)(f)

### Modifications etc. (not altering text)

- C7** S. 6 excluded (5.3.2015) by Infrastructure Act 2015 (c. 7), ss. 8(3)(b), 57(1); S.I. 2015/481, reg. 2(a)  
**C8** S. 6(1) applied (2.10.2000) by 1999 c. 33, ss. 65(2), 170(4); S.I. 2000/2444, art. 2, Sch. 1 (subject to transitional provisions in arts. 3, 4, Sch. 2)  
**C9** S. 6(3)(b) modified (1.12.2008 with exception in art. 2(2) of commencing S.I.) by Health and Social Care Act 2008 (c. 14), ss. 145(1)–(4), 170 (with s. 145(5)); S.I. 2008/2994, art. 2(1)  
**C10** S. 6(3)(b) applied (1.4.2015) by Care Act 2014 (c. 23), s. 73(2)(3)127; S.I. 2015/993, art. 2(r) (with transitional provisions in S.I. 2015/995)

## 7 Proceedings.

- (1) A person who claims that a public authority has acted (or proposes to act) in a way which is made unlawful by section 6(1) may—
  - (a) bring proceedings against the authority under this Act in the appropriate court or tribunal, or
  - (b) rely on the Convention right or rights concerned in any legal proceedings, but only if he is (or would be) a victim of the unlawful act.
- (2) In subsection (1)(a) “appropriate court or tribunal” means such court or tribunal as may be determined in accordance with rules; and proceedings against an authority include a counterclaim or similar proceeding.
- (3) If the proceedings are brought on an application for judicial review, the applicant is to be taken to have a sufficient interest in relation to the unlawful act only if he is, or would be, a victim of that act.
- (4) If the proceedings are made by way of a petition for judicial review in Scotland, the applicant shall be taken to have title and interest to sue in relation to the unlawful act only if he is, or would be, a victim of that act.
- (5) Proceedings under subsection (1)(a) must be brought before the end of—
  - (a) the period of one year beginning with the date on which the act complained of took place; or
  - (b) such longer period as the court or tribunal considers equitable having regard to all the circumstances,
 but that is subject to any rule imposing a stricter time limit in relation to the procedure in question.
- (6) In subsection (1)(b) “legal proceedings” includes—
  - (a) proceedings brought by or at the instigation of a public authority; and
  - (b) an appeal against the decision of a court or tribunal.
- (7) For the purposes of this section, a person is a victim of an unlawful act only if he would be a victim for the purposes of Article 34 of the Convention if proceedings were brought in the European Court of Human Rights in respect of that act.
- (8) Nothing in this Act creates a criminal offence.

*Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998. (See end of Document for details)*

- (9) In this section “rules” means—
- (a) in relation to proceedings before a court or tribunal outside Scotland, rules made by <sup>F13</sup> . . . [<sup>F14</sup> the Lord Chancellor or] the Secretary of State for the purposes of this section or rules of court,
  - (b) in relation to proceedings before a court or tribunal in Scotland, rules made by the Secretary of State for those purposes,
  - (c) in relation to proceedings before a tribunal in Northern Ireland—
    - (i) which deals with transferred matters; and
    - (ii) for which no rules made under paragraph (a) are in force,rules made by a Northern Ireland department for those purposes, and includes provision made by order under section 1 of the <sup>M1</sup> Courts and Legal Services Act 1990.
- (10) In making rules, regard must be had to section 9.
- (11) The Minister who has power to make rules in relation to a particular tribunal may, to the extent he considers it necessary to ensure that the tribunal can provide an appropriate remedy in relation to an act (or proposed act) of a public authority which is (or would be) unlawful as a result of section 6(1), by order add to—
- (a) the relief or remedies which the tribunal may grant; or
  - (b) the grounds on which it may grant any of them.
- (12) An order made under subsection (11) may contain such incidental, supplemental, consequential or transitional provision as the Minister making it considers appropriate.
- (13) “The Minister” includes the Northern Ireland department concerned.

#### Textual Amendments

- F13** Words in s. 7(9)(a) repealed (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S. I. 2003/1887), art. 9, Sch. 2 para. 10(2)
- F14** Words in s. 7(9)(a) inserted (12.1.2006) by The Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429), art. 8, Sch. para. 3,

#### Modifications etc. (not altering text)

- C11** S. 7 amended (2.10.2000) by Regulation of Investigatory Powers Act 2000 (c. 23), ss. 65(2)(a), 83 (with s. 82(3); S.I. 2000/2543, art. 3)
- C12** S. 7: referred to (11.3.2005) by Prevention of Terrorism Act 2005 (c. 2), {s. 11(2)}
- C13** S. 7(9)(a): functions of the Secretary of State to be exercisable concurrently with the Lord Chancellor (12.1.2006) by The Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429), art. 3(2) (with arts. 4, 5)
- C14** S. 7(11): functions of the Secretary of State to be exercisable concurrently with the Lord Chancellor (12.1.2006) by The Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429), art. 3(2) (with arts. 4, 5)

#### Marginal Citations

- M1** 1990 c. 41.

*Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998. (See end of Document for details)*

#### **[7A] Limitation: overseas armed forces proceedings**

- (1) A court or tribunal exercising its discretion under section 7(5)(b) in respect of overseas armed forces proceedings must do so—
  - (a) in accordance with subsection (2), and
  - (b) subject to the rule in subsection (4).
- (2) The court or tribunal must have particular regard to—
  - (a) the effect of the delay in bringing proceedings on the cogency of evidence adduced or likely to be adduced by the parties, with particular reference to—
    - (i) the likely impact of the operational context on the ability of individuals who are (or, at the time of the events to which the proceedings relate, were) members of Her Majesty's forces to remember relevant events or actions fully or accurately, and
    - (ii) the extent of dependence on the memories of such individuals, taking into account the effect of the operational context on the ability of such individuals to record, or to retain records of, relevant events or actions;
  - (b) the likely impact of the proceedings on the mental health of any witness or potential witness who is (or, at the time of the events to which the proceedings relate, was) a member of Her Majesty's forces.
- (3) In subsection (2) references to “the operational context” are to the fact that the events to which the proceedings relate took place in the context of overseas operations, and include references to the exceptional demands and stresses to which members of Her Majesty's forces are subject.
- (4) The rule referred to in subsection (1)(b) is that overseas armed forces proceedings must be brought before the later of—
  - (a) the end of the period of 6 years beginning with the date on which the act complained of took place;
  - (b) the end of the period of 12 months beginning with the date of knowledge.
- (5) In subsection (4), the “date of knowledge” means the date on which the person bringing the proceedings first knew, or first ought to have known, both—
  - (a) of the act complained of, and
  - (b) that it was an act of the Ministry of Defence or the Secretary of State for Defence.
- (6) “Overseas armed forces proceedings” means proceedings—
  - (a) against the Ministry of Defence or the Secretary of State for Defence, and
  - (b) in connection with overseas operations.
- (7) “Overseas operations” means any operations outside the British Islands, including peacekeeping operations and operations for dealing with terrorism, civil unrest or serious public disorder, in the course of which members of Her Majesty's forces come under attack or face the threat of attack or violent resistance.
- (8) In this section the reference to the British Islands includes the territorial sea adjacent to the United Kingdom and the territorial sea adjacent to any of the Channel Islands or the Isle of Man.
- (9) In this section “Her Majesty's forces” has the same meaning as in the Armed Forces Act 2006 (see section 374 of that Act).]

*Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998. (See end of Document for details)*

### Textual Amendments

- F15** S. 7A inserted (30.6.2021) by Overseas Operations (Service Personnel and Veterans) Act 2021 (c. 23), ss. 11(2), 14(2); S.I. 2021/678, reg. 2

## 8 Judicial remedies.

- (1) In relation to any act (or proposed act) of a public authority which the court finds is (or would be) unlawful, it may grant such relief or remedy, or make such order, within its powers as it considers just and appropriate.
- (2) But damages may be awarded only by a court which has power to award damages, or to order the payment of compensation, in civil proceedings.
- (3) No award of damages is to be made unless, taking account of all the circumstances of the case, including—
  - (a) any other relief or remedy granted, or order made, in relation to the act in question (by that or any other court), and
  - (b) the consequences of any decision (of that or any other court) in respect of that act,the court is satisfied that the award is necessary to afford just satisfaction to the person in whose favour it is made.
- (4) In determining—
  - (a) whether to award damages, or
  - (b) the amount of an award,the court must take into account the principles applied by the European Court of Human Rights in relation to the award of compensation under Article 41 of the Convention.
- (5) A public authority against which damages are awarded is to be treated—
  - (a) in Scotland, for the purposes of section 3 of the <sup>M2</sup>Law Reform (Miscellaneous Provisions) (Scotland) Act 1940 as if the award were made in an action of damages in which the authority has been found liable in respect of loss or damage to the person to whom the award is made;
  - (b) for the purposes of the <sup>M3</sup>Civil Liability (Contribution) Act 1978 as liable in respect of damage suffered by the person to whom the award is made.
- (6) In this section—

“court” includes a tribunal;

“damages” means damages for an unlawful act of a public authority; and

“unlawful” means unlawful under section 6(1).

### Marginal Citations

- M2** 1940 c. 42.  
**M3** 1978 c. 47.

*Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998. (See end of Document for details)*

## 9 Judicial acts.

- (1) Proceedings under section 7(1)(a) in respect of a judicial act may be brought only—
  - (a) by exercising a right of appeal;
  - (b) on an application (in Scotland a petition) for judicial review; or
  - (c) in such other forum as may be prescribed by rules.
- (2) That does not affect any rule of law which prevents a court from being the subject of judicial review.
- <sup>F16</sup>(3) In proceedings under this Act in respect of a judicial act done in good faith, damages may not be awarded otherwise than—
  - (a) to compensate a person to the extent required by Article 5(5) of the Convention, or
  - (b) to compensate a person for a judicial act that is incompatible with Article 6 of the Convention in circumstances where the person is detained and, but for the incompatibility, the person would not have been detained or would not have been detained for so long.]
- (4) An award of damages permitted by subsection (3) is to be made against the Crown; but no award may be made unless the appropriate person, if not a party to the proceedings, is joined.
- (5) In this section—
 

“appropriate person” means the Minister responsible for the court concerned, or a person or government department nominated by him;

“court” includes a tribunal;

“judge” includes a member of a tribunal, a justice of the peace <sup>F17</sup>(or, in Northern Ireland, a lay magistrate)] and a clerk or other officer entitled to exercise the jurisdiction of a court;

“judicial act” means a judicial act of a court and includes an act done on the instructions, or on behalf, of a judge; and

“rules” has the same meaning as in section 7(9).

### Textual Amendments

- F16** S. 9(3) substituted (21.10.2020) by The Human Rights Act 1998 (Remedial) Order 2020 (S.I. 2020/1160), arts. 1(2), 2(1) (with art. 2(2))
- F17** Words in definition s. 9(5) inserted (N.I.)(1.4.2005) by 2002 c. 26, s. 10(6), Sch. 4 para. 39; S.R. 2005/109, art. 2 Sch.

### *Remedial action*

## 10 Power to take remedial action.

- (1) This section applies if—
  - (a) a provision of legislation has been declared under section 4 to be incompatible with a Convention right and, if an appeal lies—
    - (i) all persons who may appeal have stated in writing that they do not intend to do so;



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- (ii) the time for bringing an appeal has expired and no appeal has been brought within that time; or
    - (iii) an appeal brought within that time has been determined or abandoned; or
  - (b) it appears to a Minister of the Crown or Her Majesty in Council that, having regard to a finding of the European Court of Human Rights made after the coming into force of this section in proceedings against the United Kingdom, a provision of legislation is incompatible with an obligation of the United Kingdom arising from the Convention.
- (2) If a Minister of the Crown considers that there are compelling reasons for proceeding under this section, he may by order make such amendments to the legislation as he considers necessary to remove the incompatibility.
- (3) If, in the case of subordinate legislation, a Minister of the Crown considers—
- (a) that it is necessary to amend the primary legislation under which the subordinate legislation in question was made, in order to enable the incompatibility to be removed, and
  - (b) that there are compelling reasons for proceeding under this section,
- he may by order make such amendments to the primary legislation as he considers necessary.
- (4) This section also applies where the provision in question is in subordinate legislation and has been quashed, or declared invalid, by reason of incompatibility with a Convention right and the Minister proposes to proceed under paragraph 2(b) of Schedule 2.
- (5) If the legislation is an Order in Council, the power conferred by subsection (2) or (3) is exercisable by Her Majesty in Council.
- (6) In this section “legislation” does not include a Measure of the Church Assembly or of the General Synod of the Church of England.
- (7) Schedule 2 makes further provision about remedial orders.

#### *Other rights and proceedings*

### **11 Safeguard for existing human rights.**

A person’s reliance on a Convention right does not restrict—

- (a) any other right or freedom conferred on him by or under any law having effect in any part of the United Kingdom; or
- (b) his right to make any claim or bring any proceedings which he could make or bring apart from sections 7 to 9.

### **12 Freedom of expression.**

- (1) This section applies if a court is considering whether to grant any relief which, if granted, might affect the exercise of the Convention right to freedom of expression.
- (2) If the person against whom the application for relief is made (“the respondent”) is neither present nor represented, no such relief is to be granted unless the court is satisfied—



*Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998. (See end of Document for details)*

- (a) that the applicant has taken all practicable steps to notify the respondent; or
  - (b) that there are compelling reasons why the respondent should not be notified.
- (3) No such relief is to be granted so as to restrain publication before trial unless the court is satisfied that the applicant is likely to establish that publication should not be allowed.
- (4) The court must have particular regard to the importance of the Convention right to freedom of expression and, where the proceedings relate to material which the respondent claims, or which appears to the court, to be journalistic, literary or artistic material (or to conduct connected with such material), to—
- (a) the extent to which—
    - (i) the material has, or is about to, become available to the public; or
    - (ii) it is, or would be, in the public interest for the material to be published;
  - (b) any relevant privacy code.
- (5) In this section—
- “court” includes a tribunal; and
  - “relief” includes any remedy or order (other than in criminal proceedings).

### 13 Freedom of thought, conscience and religion.

- (1) If a court's determination of any question arising under this Act might affect the exercise by a religious organisation (itself or its members collectively) of the Convention right to freedom of thought, conscience and religion, it must have particular regard to the importance of that right.
- (2) In this section “court” includes a tribunal.

### *Derogations and reservations*

### 14 Derogations.

- (1) In this Act “designated derogation” means—

<sup>F18</sup> .....

any derogation by the United Kingdom from an Article of the Convention, or of any protocol to the Convention, which is designated for the purposes of this Act in an order made by the [<sup>F19</sup>Secretary of State]

<sup>F20</sup>(2) .....

- (3) If a designated derogation is amended or replaced it ceases to be a designated derogation.
- (4) But subsection (3) does not prevent the [<sup>F21</sup>Secretary of State] from exercising his power under subsection (1) <sup>F22</sup>... to make a fresh designation order in respect of the Article concerned.
- (5) The [<sup>F23</sup>Secretary of State] must by order make such amendments to Schedule 3 as he considers appropriate to reflect—
  - (a) any designation order; or
  - (b) the effect of subsection (3).

*Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998. (See end of Document for details)*

- (6) A designation order may be made in anticipation of the making by the United Kingdom of a proposed derogation.

#### Textual Amendments

- F18** S. 14(1): from “(a)” to “(b)” repealed (1.4.2001) by S.I. 2001/1216, art. 2(a)  
**F19** Words in s. 14 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S. I. 2003/1887), art. 9, Sch. 2 para. 10(1)  
**F20** S. 14(2) repealed (1.4.2001) by S.I. 2001/1216, art. 2(b)  
**F21** Words in s. 14 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S. I. 2003/1887), art. 9, Sch. 2 para. 10(1)  
**F22** S. 14(4): “(b)” repealed (1.4.2001) by S.I. 2001/1216, art. 2(c)  
**F23** Words in s. 14 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S. I. 2003/1887), art. 9, Sch. 2 para. 10(1)

## 15 Reservations.

- (1) In this Act “designated reservation” means—
- (a) the United Kingdom’s reservation to Article 2 of the First Protocol to the Convention; and
  - (b) any other reservation by the United Kingdom to an Article of the Convention, or of any protocol to the Convention, which is designated for the purposes of this Act in an order made by the [<sup>F24</sup>Secretary of State] .
- (2) The text of the reservation referred to in subsection (1)(a) is set out in Part II of Schedule 3.
- (3) If a designated reservation is withdrawn wholly or in part it ceases to be a designated reservation.
- (4) But subsection (3) does not prevent the [<sup>F25</sup>Secretary of State] from exercising his power under subsection (1)(b) to make a fresh designation order in respect of the Article concerned.
- (5) [<sup>F26</sup>Secretary of State] must by order make such amendments to this Act as he considers appropriate to reflect—
- (a) any designation order; or
  - (b) the effect of subsection (3).

#### Textual Amendments

- F24** Words in s. 15 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S. I. 2003/1887), art. 9, Sch. 2 para. 10(1)  
**F25** Words in s. 15 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S. I. 2003/1887), art. 9, Sch. 2 para. 10(1)  
**F26** Words in s. 15 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S. I. 2003/1887), art. 9, Sch. 2 para. 10(1)

*Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998. (See end of Document for details)*

## 16 Period for which designated derogations have effect.

- (1) If it has not already been withdrawn by the United Kingdom, a designated derogation ceases to have effect for the purposes of this Act—  
<sup>F27</sup> . . . . .  
 . . . , at the end of the period of five years beginning with the date on which the order designating it was made.
- (2) At any time before the period—
  - (a) fixed by subsection (1) <sup>F28</sup> . . . , or
  - (b) extended by an order under this subsection,
 comes to an end, the [<sup>F29</sup>Secretary of State] may by order extend it by a further period of five years.
- (3) An order under section 14(1) <sup>F30</sup> . . . ceases to have effect at the end of the period for consideration, unless a resolution has been passed by each House approving the order.
- (4) Subsection (3) does not affect—
  - (a) anything done in reliance on the order; or
  - (b) the power to make a fresh order under section 14(1) <sup>F30</sup> . . .
- (5) In subsection (3) “period for consideration” means the period of forty days beginning with the day on which the order was made.
- (6) In calculating the period for consideration, no account is to be taken of any time during which—
  - (a) Parliament is dissolved or prorogued; or
  - (b) both Houses are adjourned for more than four days.
- (7) If a designated derogation is withdrawn by the United Kingdom, the [<sup>F31</sup>Secretary of State] must by order make such amendments to this Act as he considers are required to reflect that withdrawal.

### Textual Amendments

- F27** S. 16(1): words from “(a)” to “any other derogation” repealed (1.4.2001) by S.I. 2001/1216, art. 3(a)
- F28** Words in s. 16(2)(a) repealed (1.4.2001) by S.I. 2001/1216, art. 3(b)
- F29** Words in s. 16 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S. I. 2003/1887), art. 9, Sch. 2 para. 10(1)
- F30** S. 16(3)(4)(b): “(b)” repealed (1.4.2001) by S.I. 2001/1216, art. 3(c)(d)
- F31** Words in s. 16 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S. I. 2003/1887), art. 9, Sch. 2 para. 10(1)

## 17 Periodic review of designated reservations.

- (1) The appropriate Minister must review the designated reservation referred to in section 15(1)(a)—
  - (a) before the end of the period of five years beginning with the date on which section 1(2) came into force; and
  - (b) if that designation is still in force, before the end of the period of five years beginning with the date on which the last report relating to it was laid under subsection (3).

*Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998. (See end of Document for details)*

- (2) The appropriate Minister must review each of the other designated reservations (if any)—
- (a) before the end of the period of five years beginning with the date on which the order designating the reservation first came into force; and
  - (b) if the designation is still in force, before the end of the period of five years beginning with the date on which the last report relating to it was laid under subsection (3).
- (3) The Minister conducting a review under this section must prepare a report on the result of the review and lay a copy of it before each House of Parliament.

*Judges of the European Court of Human Rights*

**18 Appointment to European Court of Human Rights.**

- (1) In this section “judicial office” means the office of—
- (a) Lord Justice of Appeal, Justice of the High Court or Circuit judge, in England and Wales;
  - (b) judge of the Court of Session or sheriff, in Scotland;
  - (c) Lord Justice of Appeal, judge of the High Court or county court judge, in Northern Ireland.
- (2) The holder of a judicial office may become a judge of the European Court of Human Rights (“the Court”) without being required to relinquish his office.
- (3) But he is not required to perform the duties of his judicial office while he is a judge of the Court.
- (4) In respect of any period during which he is a judge of the Court—
- (a) a Lord Justice of Appeal or Justice of the High Court is not to count as a judge of the relevant court for the purposes of section 2(1) or 4(1) of the <sup>F32</sup>Senior Courts Act 1981 (maximum number of judges) nor as a judge of the <sup>F33</sup>Senior Courts for the purposes of section 12(1) to (6) of that Act (salaries etc.);
  - (b) a judge of the Court of Session is not to count as a judge of that court for the purposes of section 1(1) of the <sup>M4</sup>Court of Session Act 1988 (maximum number of judges) or of section 9(1)(c) of the <sup>M5</sup>Administration of Justice Act 1973 (“the 1973 Act”) (salaries etc.);
  - (c) a Lord Justice of Appeal or judge of the High Court in Northern Ireland is not to count as a judge of the relevant court for the purposes of section 2(1) or 3(1) of the <sup>M6</sup>Judicature (Northern Ireland) Act 1978 (maximum number of judges) nor as a judge of the <sup>F34</sup>Court of Judicature of Northern Ireland for the purposes of section 9(1)(d) of the 1973 Act (salaries etc.);
  - (d) a Circuit judge is not to count as such for the purposes of section 18 of the <sup>M7</sup>Courts Act 1971 (salaries etc.);
  - (e) a sheriff is not to count as such for the purposes of section 14 of the <sup>M8</sup>Sheriff Courts (Scotland) Act 1907 (salaries etc.);
  - (f) a county court judge of Northern Ireland is not to count as such for the purposes of section 106 of the <sup>M9</sup>County Courts Act (Northern Ireland) 1959 (salaries etc.).

*Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998. (See end of Document for details)*

- (5) If a sheriff principal is appointed a judge of the Court, section 11(1) of the <sup>M10</sup>Sheriff Courts (Scotland) Act 1971 (temporary appointment of sheriff principal) applies, while he holds that appointment, as if his office is vacant.
- (6) Schedule 4 makes provision about judicial pensions in relation to the holder of a judicial office who serves as a judge of the Court.
- (7) The Lord Chancellor or the Secretary of State may by order make such transitional provision (including, in particular, provision for a temporary increase in the maximum number of judges) as he considers appropriate in relation to any holder of a judicial office who has completed his service as a judge of the Court.
- [<sup>F35</sup>(7A) The following paragraphs apply to the making of an order under subsection (7) in relation to any holder of a judicial office listed in subsection (1)(a)—
- (a) before deciding what transitional provision it is appropriate to make, the person making the order must consult the Lord Chief Justice of England and Wales;
  - (b) before making the order, that person must consult the Lord Chief Justice of England and Wales.
- (7B) The following paragraphs apply to the making of an order under subsection (7) in relation to any holder of a judicial office listed in subsection (1)(c)—
- (a) before deciding what transitional provision it is appropriate to make, the person making the order must consult the Lord Chief Justice of Northern Ireland;
  - (b) before making the order, that person must consult the Lord Chief Justice of Northern Ireland.
- (7C) The Lord Chief Justice of England and Wales may nominate a judicial office holder (within the meaning of section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.
- (7D) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this section—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
  - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

#### Textual Amendments

- F32** Words in s. 18(4)(a) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59, 148, Sch. 11 para. 4; S.I. 2009/1604, art. 2(d)
- F33** Words in s. 18(4)(a) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59, 148, Sch. 11 para. 4; S.I. 2009/1604, art. 2(d)
- F34** Words in s. 18(4)(c) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59, 148, Sch. 11 para. 6; S.I. 2009/1604, art. 2(d)
- F35** S. 18(7A)-(7D) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, Sch. 4 para. 278; S.I. 2006/1014, art. 2, Sch. 1 para. 11(v)

#### Marginal Citations

- M4** 1988 c. 36.
- M5** 1973 c. 15.
- M6** 1978 c. 23.

*Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998. (See end of Document for details)*

- M7** 1971 c. 23.
- M8** 1907 c. 51.
- M9** 1959 c. 25 (N.I.).
- M10** 1971 c. 58.

### *Parliamentary procedure*

## **19 Statements of compatibility.**

- (1) A Minister of the Crown in charge of a Bill in either House of Parliament must, before Second Reading of the Bill—
  - (a) make a statement to the effect that in his view the provisions of the Bill are compatible with the Convention rights (“a statement of compatibility”); or
  - (b) make a statement to the effect that although he is unable to make a statement of compatibility the government nevertheless wishes the House to proceed with the Bill.
- (2) The statement must be in writing and be published in such manner as the Minister making it considers appropriate.

### *Supplemental*

## **20 Orders etc. under this Act.**

- (1) Any power of a Minister of the Crown to make an order under this Act is exercisable by statutory instrument.
- (2) The power of <sup>F36</sup>. . . [<sup>F37</sup>the Lord Chancellor or] the Secretary of State to make rules (other than rules of court) under section 2(3) or 7(9) is exercisable by statutory instrument.
- (3) Any statutory instrument made under section 14, 15 or 16(7) must be laid before Parliament.
- (4) No order may be made by <sup>F38</sup>. . . [<sup>F39</sup>the Lord Chancellor or] the Secretary of State under section 1(4), 7(11) or 16(2) unless a draft of the order has been laid before, and approved by, each House of Parliament.
- (5) Any statutory instrument made under section 18(7) or Schedule 4, or to which subsection (2) applies, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) The power of a Northern Ireland department to make—
  - (a) rules under section 2(3)(c) or 7(9)(c), or
  - (b) an order under section 7(11),is exercisable by statutory rule for the purposes of the <sup>M11</sup>Statutory Rules (Northern Ireland) Order 1979.
- (7) Any rules made under section 2(3)(c) or 7(9)(c) shall be subject to negative resolution; and section 41(6) of the <sup>M12</sup>Interpretation Act Northern Ireland) 1954 (meaning of “subject to negative resolution”) shall apply as if the power to make the rules were conferred by an Act of the Northern Ireland Assembly.

*Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998. (See end of Document for details)*

- (8) No order may be made by a Northern Ireland department under section 7(11) unless a draft of the order has been laid before, and approved by, the Northern Ireland Assembly.

#### Textual Amendments

- F36** Words in s. 20(2) repealed (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S. I. 2003/1887), art. 9, Sch. 2 para. 10(2)
- F37** Words in s. 20(2) inserted (12.1.2006) by The Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429), art. 8, Sch. para. 3
- F38** Words in s. 20(4) repealed (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S. I. 2003/1887), art. 9, Sch. 2 para. 10(2)
- F39** Words in s. 20(4) inserted (12.1.2006) by The Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429), art. 8, Sch. para. 3

#### Marginal Citations

- M11** S.I. 1979/1573 (N.I. 12).
- M12** 1954 c. 33 (N.I.).

## 21 Interpretation, etc.

### (1) In this Act—

- “amend” includes repeal and apply (with or without modifications);
- “the appropriate Minister” means the Minister of the Crown having charge of the appropriate authorised government department (within the meaning of the <sup>M13</sup>Crown Proceedings Act 1947);
- “the Commission” means the European Commission of Human Rights;
- “the Convention” means the Convention for the Protection of Human Rights and Fundamental Freedoms, agreed by the Council of Europe at Rome on 4th November 1950 as it has effect for the time being in relation to the United Kingdom;
- “declaration of incompatibility” means a declaration under section 4;
- “Minister of the Crown” has the same meaning as in the Ministers of the <sup>M14</sup>Crown Act 1975;
- “Northern Ireland Minister” includes the First Minister and the deputy First Minister in Northern Ireland;
- “primary legislation” means any—
  - (a) public general Act;
  - (b) local and personal Act;
  - (c) private Act;
  - (d) Measure of the Church Assembly;
  - (e) Measure of the General Synod of the Church of England;
  - (f) Order in Council—
    - (i) made in exercise of Her Majesty’s Royal Prerogative;
    - (ii) made under section 38(1)(a) of the <sup>M15</sup>Northern Ireland Constitution Act 1973 or the corresponding provision of the Northern Ireland Act 1998; or
    - (iii) amending an Act of a kind mentioned in paragraph (a), (b) or (c);



*Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998. (See end of Document for details)*

and includes an order or other instrument made under primary legislation (otherwise than by the [<sup>F48</sup>Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Assembly Government,] a member of the Scottish Executive, a Northern Ireland Minister or a Northern Ireland department) to the extent to which it operates to bring one or more provisions of that legislation into force or amends any primary legislation;

“the First Protocol” means the protocol to the Convention agreed at Paris on 20th March 1952;

<sup>F41</sup>  
...

“the Eleventh Protocol” means the protocol to the Convention (restructuring the control machinery established by the Convention) agreed at Strasbourg on 11th May 1994;

[<sup>F42</sup>“the Thirteenth Protocol” means the protocol to the Convention (concerning the abolition of the death penalty in all circumstances) agreed at Vilnius on 3rd May 2002;]

“remedial order” means an order under section 10;

“subordinate legislation” means any—

- (a) Order in Council other than one—
  - (i) made in exercise of Her Majesty's Royal Prerogative;
  - (ii) made under section 38(1)(a) of the Northern Ireland Constitution Act 1973 or the corresponding provision of the Northern Ireland Act 1998; or
  - (iii) amending an Act of a kind mentioned in the definition of primary legislation;
- (b) Act of the Scottish Parliament;
- (ba) [<sup>F43</sup>Measure of the National Assembly for Wales;
- (bb) Act of the National Assembly for Wales;]
- (c) Act of the Parliament of Northern Ireland;
- (d) Measure of the Assembly established under section 1 of the <sup>M16</sup>Northern Ireland Assembly Act 1973;
- (e) Act of the Northern Ireland Assembly;
- (f) order, rules, regulations, scheme, warrant, byelaw or other instrument made under primary legislation (except to the extent to which it operates to bring one or more provisions of that legislation into force or amends any primary legislation);
- (g) order, rules, regulations, scheme, warrant, byelaw or other instrument made under legislation mentioned in paragraph (b), (c), (d) or (e) or made under an Order in Council applying only to Northern Ireland;
- (h) order, rules, regulations, scheme, warrant, byelaw or other instrument made by a member of the Scottish Executive [<sup>F44</sup>, Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Assembly Government,] a Northern Ireland Minister or a Northern Ireland department in exercise of prerogative or other executive functions of Her Majesty which are exercisable by such a person on behalf of Her Majesty;

“transferred matters” has the same meaning as in the Northern Ireland Act 1998; and

“tribunal” means any tribunal in which legal proceedings may be brought.



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- (2) The references in paragraphs (b) and (c) of section 2(1) to Articles are to Articles of the Convention as they had effect immediately before the coming into force of the Eleventh Protocol.
- (3) The reference in paragraph (d) of section 2(1) to Article 46 includes a reference to Articles 32 and 54 of the Convention as they had effect immediately before the coming into force of the Eleventh Protocol.
- (4) The references in section 2(1) to a report or decision of the Commission or a decision of the Committee of Ministers include references to a report or decision made as provided by paragraphs 3, 4 and 6 of Article 5 of the Eleventh Protocol (transitional provisions).
- <sup>F45</sup>(5) .....

#### Extent Information

**E2** For the extent of s. 21 outside the U.K. see s. 22(7)

#### Textual Amendments

- F40** Words in the definition of "primary legislation" in s. 21(1) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), Sch. 10 para.56(2) (with Sch. 11 para. 22) the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F41** S. 21(1): definition of "the Sixth Protocol" omitted (22.6.2004) by virtue of The Human Rights Act 1998 (Amendment) Order 2004 (S.I. 2004/1574), art. 2(2)
- F42** S. 21(1): definition of "the Thirteenth Protocol" inserted (22.6.2004) by virtue of The Human Rights Act 1998 (Amendment) Order 2004 (S.I. 2004/1574), art. 2(2)
- F43** Words in the definition of "subordinate legislation" in s. 21(1) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), Sch. 10 para.56(3) (with Sch. 11 para. 22) the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F44** Words in the definition of "subordinate legislation" in s. 21(1) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), Sch. 10 para.56(4) (with Sch. 11 para. 22) the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F45** S. 21(5) repealed (28.3.2009 for specified purposes and 31.10.2009 otherwise) by Armed Forces Act 2006 (c. 52), ss. 378, 383, Sch. 17; S.I. 2009/812, art. 3 (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

#### Commencement Information

- I1** S. 21 wholly in force at 2.10.2000; s. 21(5) in force at Royal Assent, see s. 22(2)(3); s. 21 in force so far as not already in force (2.10.2000) by S.I. 2000/1851, art. 2

#### Marginal Citations

- M13** 1947 c. 44.  
**M14** 1975 c. 26.  
**M15** 1973 c. 36.

*Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998. (See end of Document for details)*

M16 1973 c. 17.

## **22 Short title, commencement, application and extent.**

- (1) This Act may be cited as the Human Rights Act 1998.
- (2) Sections 18, 20 and 21(5) and this section come into force on the passing of this Act.
- (3) The other provisions of this Act come into force on such day as the Secretary of State may by order appoint; and different days may be appointed for different purposes.
- (4) Paragraph (b) of subsection (1) of section 7 applies to proceedings brought by or at the instigation of a public authority whenever the act in question took place; but otherwise that subsection does not apply to an act taking place before the coming into force of that section.
- [<sup>F46</sup>(4A) Section 7A (limitation: overseas armed forces proceedings) applies to proceedings brought under section 7(1)(a) on or after the date on which section 7A comes into force, whenever the act in question took place.]
- (5) This Act binds the Crown.
- (6) This Act extends to Northern Ireland.
- <sup>F47</sup>(7) .....

### **Subordinate Legislation Made**

- P1** S. 22(3) power partly exercised: 24.11.1998 appointed for specified provisions by S.I. 1998/2882, art. 2  
S. 22(3) power fully exercised: 2.10.2000 appointed for remaining provisions by S.I. 2000/1851, art. 2

### **Textual Amendments**

- F46** S. 22(4A) inserted (30.6.2021) by Overseas Operations (Service Personnel and Veterans) Act 2021 (c. 23), ss. 11(3), 14(2); S.I. 2021/678, reg. 2  
**F47** S. 22(7) repealed (28.3.2009 for certain purposes and 31.10.2009 otherwise) by Armed Forces Act 2006 (c. 52), ss. 378, 383, Sch. 17; S.I. 2009/812, art. 3 (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

*Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1

Section 1(3).

#### THE ARTICLES

#### PART I

#### THE CONVENTION

#### RIGHTS AND FREEDOMS

#### ARTICLE 2

##### RIGHT TO LIFE

- 1 Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.
- 2 Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:
  - (a) in defence of any person from unlawful violence;
  - (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
  - (c) in action lawfully taken for the purpose of quelling a riot or insurrection.

#### ARTICLE 3

##### PROHIBITION OF TORTURE

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

#### ARTICLE 4

##### PROHIBITION OF SLAVERY AND FORCED LABOUR

- 1 No one shall be held in slavery or servitude.
- 2 No one shall be required to perform forced or compulsory labour.
- 3 For the purpose of this Article the term "forced or compulsory labour" shall not include:
  - (a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;

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*Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998. (See end of Document for details)*

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- (b) any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;
- (c) any service exacted in case of an emergency or calamity threatening the life or well-being of the community;
- (d) any work or service which forms part of normal civic obligations.

## **ARTICLE 5**

### **RIGHT TO LIBERTY AND SECURITY**

- 1 Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
  - (a) the lawful detention of a person after conviction by a competent court;
  - (b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;
  - (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
  - (d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
  - (e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;
  - (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.
- 2 Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.
- 3 Everyone arrested or detained in accordance with the provisions of paragraph 1(c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.
- 4 Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.
- 5 Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.

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*Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998. (See end of Document for details)*

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## ARTICLE 6

### RIGHT TO A FAIR TRIAL

- 1 In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.
- 2 Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.
- 3 Everyone charged with a criminal offence has the following minimum rights:
  - (a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
  - (b) to have adequate time and facilities for the preparation of his defence;
  - (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;
  - (d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
  - (e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

## ARTICLE 7

### NO PUNISHMENT WITHOUT LAW

- 1 No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.
- 2 This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by civilised nations.

## ARTICLE 8

### RIGHT TO RESPECT FOR PRIVATE AND FAMILY LIFE

- 1 Everyone has the right to respect for his private and family life, his home and his correspondence.
- 2 There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of

*Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998. (See end of Document for details)*

the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

#### **ARTICLE 9**

##### ***FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION***

- 1 Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
- 2 Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

#### **ARTICLE 10**

##### ***FREEDOM OF EXPRESSION***

- 1 Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
- 2 The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

#### **ARTICLE 11**

##### ***FREEDOM OF ASSEMBLY AND ASSOCIATION***

- 1 Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
- 2 No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

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*Changes to Legislation: There are currently no known outstanding effects for the Human Rights Act 1998. (See end of Document for details)*

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## **ARTICLE 12**

### **RIGHT TO MARRY**

Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.

## **ARTICLE 14**

### **PROHIBITION OF DISCRIMINATION**

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

## **ARTICLE 16**

### **RESTRICTIONS ON POLITICAL ACTIVITY OF ALIENS**

Nothing in Articles 10, 11 and 14 shall be regarded as preventing the High Contracting Parties from imposing restrictions on the political activity of aliens.

## **ARTICLE 17**

### **PROHIBITION OF ABUSE OF RIGHTS**

Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.

## **ARTICLE 18**

### **LIMITATION ON USE OF RESTRICTIONS ON RIGHTS**

The restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed.

*Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998. (See end of Document for details)*

## PART II

### THE FIRST PROTOCOL

#### ARTICLE 1

##### PROTECTION OF PROPERTY

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

#### ARTICLE 2

##### RIGHT TO EDUCATION

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

#### ARTICLE 3

##### RIGHT TO FREE ELECTIONS

The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.

## <sup>F48</sup>PART 3

### ARTICLE 1 OF THE THIRTEENTH PROTOCOL

#### ABOLITION OF THE DEATH PENALTY

##### Textual Amendments

**F48** Sch. 1 Pt. 3 substituted (22.6.2004) by The Human Rights Act 1998 (Amendment) Order 2004 (S.I. 2004/1574), art. 2(3)

The death penalty shall be abolished. No one shall be condemned to such penalty or executed.]



*Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998. (See end of Document for details)*

### PART III

#### THE SIXTH PROTOCOL

#### ARTICLE 1

##### ABOLITION OF THE DEATH PENALTY

#### ARTICLE 2

##### DEATH PENALTY IN TIME OF WAR

### SCHEDULE 2

Section 10.

#### REMEDIAL ORDERS

##### *Orders*

- 1 (1) A remedial order may—
  - (a) contain such incidental, supplemental, consequential or transitional provision as the person making it considers appropriate;
  - (b) be made so as to have effect from a date earlier than that on which it is made;
  - (c) make provision for the delegation of specific functions;
  - (d) make different provision for different cases.
- (2) The power conferred by sub-paragraph (1)(a) includes—
  - (a) power to amend primary legislation (including primary legislation other than that which contains the incompatible provision); and
  - (b) power to amend or revoke subordinate legislation (including subordinate legislation other than that which contains the incompatible provision).
- (3) A remedial order may be made so as to have the same extent as the legislation which it affects.
- (4) No person is to be guilty of an offence solely as a result of the retrospective effect of a remedial order.

##### *Procedure*

- 2 No remedial order may be made unless—
  - (a) a draft of the order has been approved by a resolution of each House of Parliament made after the end of the period of 60 days beginning with the day on which the draft was laid; or
  - (b) it is declared in the order that it appears to the person making it that, because of the urgency of the matter, it is necessary to make the order without a draft being so approved.

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*Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998. (See end of Document for details)*

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#### *Orders laid in draft*

- 3 (1) No draft may be laid under paragraph 2(a) unless—
- (a) the person proposing to make the order has laid before Parliament a document which contains a draft of the proposed order and the required information; and
  - (b) the period of 60 days, beginning with the day on which the document required by this sub-paragraph was laid, has ended.
- (2) If representations have been made during that period, the draft laid under paragraph 2(a) must be accompanied by a statement containing—
- (a) a summary of the representations; and
  - (b) if, as a result of the representations, the proposed order has been changed, details of the changes.

#### *Urgent cases*

- 4 (1) If a remedial order (“the original order”) is made without being approved in draft, the person making it must lay it before Parliament, accompanied by the required information, after it is made.
- (2) If representations have been made during the period of 60 days beginning with the day on which the original order was made, the person making it must (after the end of that period) lay before Parliament a statement containing—
- (a) a summary of the representations; and
  - (b) if, as a result of the representations, he considers it appropriate to make changes to the original order, details of the changes.
- (3) If sub-paragraph (2)(b) applies, the person making the statement must—
- (a) make a further remedial order replacing the original order; and
  - (b) lay the replacement order before Parliament.
- (4) If, at the end of the period of 120 days beginning with the day on which the original order was made, a resolution has not been passed by each House approving the original or replacement order, the order ceases to have effect (but without that affecting anything previously done under either order or the power to make a fresh remedial order).

#### *Definitions*

- 5 In this Schedule—
- “representations” means representations about a remedial order (or proposed remedial order) made to the person making (or proposing to make) it and includes any relevant Parliamentary report or resolution; and
- “required information” means—
- (a) an explanation of the incompatibility which the order (or proposed order) seeks to remove, including particulars of the relevant declaration, finding or order; and
  - (b) a statement of the reasons for proceeding under section 10 and for making an order in those terms.

*Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998. (See end of Document for details)*

### *Calculating periods*

- 6 In calculating any period for the purposes of this Schedule, no account is to be taken of any time during which—
- (a) Parliament is dissolved or prorogued; or
  - (b) both Houses are adjourned for more than four days.
- [F52-7 (1) This paragraph applies in relation to—
- (a) any remedial order made, and any draft of such an order proposed to be made,—
    - (i) by the Scottish Ministers; or
    - (ii) within devolved competence (within the meaning of the Scotland Act 1998) by Her Majesty in Council; and
  - (b) any document or statement to be laid in connection with such an order (or proposed order).
- (2) This Schedule has effect in relation to any such order (or proposed order), document or statement subject to the following modifications.
- (3) Any reference to Parliament, each House of Parliament or both Houses of Parliament shall be construed as a reference to the Scottish Parliament.
- (4) Paragraph 6 does not apply and instead, in calculating any period for the purposes of this Schedule, no account is to be taken of any time during which the Scottish Parliament is dissolved or is in recess for more than four days.]

#### **Textual Amendments**

**F52** Sch. 2 para. 7 inserted (27.7.2000) by S.I. 2000/2040, art. 2, Sch. Pt. 1 para. 21 (with art. 3)

## **SCHEDULE 3**

Sections 14 and 15.

### **DEROGATION AND RESERVATION**

#### **F53F53 PART I**

### **DEROGATION**

#### **Textual Amendments**

**F53** Sch. 3 Pt. I repealed (8.4.2005) by The Human Rights Act 1998 (Amendment) Order 2005 (S.I. 2005/1071), art. 2

### *United Kingdom's derogation from Article 5(1)*

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 .....  
 .....  
 .....

*Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998. (See end of Document for details)*

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## PART II

### RESERVATION

At the time of signing the present (First) Protocol, I declare that, in view of certain provisions of the Education Acts in the United Kingdom, the principle affirmed in the second sentence of Article 2 is accepted by the United Kingdom only so far as it is compatible with the provision of efficient instruction and training, and the avoidance of unreasonable public expenditure.

Dated 20 March 1952

Made by the United Kingdom Permanent Representative to the Council of Europe.

## SCHEDULE 4

Section 18(6).

### JUDICIAL PENSIONS

#### *Duty to make orders about pensions*

- 1 (1) The appropriate Minister must by order make provision with respect to pensions payable to or in respect of any holder of a judicial office who serves as an ECHR judge.
- (2) A pensions order must include such provision as the Minister making it considers is necessary to secure that—
  - (a) an ECHR judge who was, immediately before his appointment as an ECHR judge, a member of a judicial pension scheme is entitled to remain as a member of that scheme;
  - (b) the terms on which he remains a member of the scheme are those which would have been applicable had he not been appointed as an ECHR judge; and
  - (c) entitlement to benefits payable in accordance with the scheme continues to be determined as if, while serving as an ECHR judge, his salary was that which would (but for section 18(4)) have been payable to him in respect of his continuing service as the holder of his judicial office.

#### *Contributions*

- 2 A pensions order may, in particular, make provision—
  - (a) for any contributions which are payable by a person who remains a member of a scheme as a result of the order, and which would otherwise be payable by deduction from his salary, to be made otherwise than by deduction from his salary as an ECHR judge; and
  - (b) for such contributions to be collected in such manner as may be determined by the administrators of the scheme.

*Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998. (See end of Document for details)*

### *Amendments of other enactments*

- 3 A pensions order may amend any provision of, or made under, a pensions Act in such manner and to such extent as the Minister making the order considers necessary or expedient to ensure the proper administration of any scheme to which it relates.

### *Definitions*

- 4 In this Schedule—
- “appropriate Minister” means—
- (a) in relation to any judicial office whose jurisdiction is exercisable exclusively in relation to Scotland, the Secretary of State; and
  - (b) otherwise, the Lord Chancellor;
- “ECHR judge” means the holder of a judicial office who is serving as a judge of the Court;
- “judicial pension scheme” means a scheme established by and in accordance with a pensions Act;
- “pensions Act” means—
- (a) the <sup>M17</sup>County Courts Act Northern Ireland) 1959;
  - (b) the <sup>M18</sup>Sheriffs’ Pensions (Scotland) Act 1961;
  - (c) the <sup>M19</sup>Judicial Pensions Act 1981; or
  - (d) the <sup>M20</sup>Judicial Pensions and Retirement Act 1993;
  - (e) [<sup>F54</sup>the Public Service Pensions Act 2013;] and
- “pensions order” means an order made under paragraph 1.

### **Textual Amendments**

**F54** Words in Sch. 4 para. 4 inserted (1.4.2014) by Public Service Pensions Act 2013 (c. 25), s. 41(2), Sch. 8 para. 26 (with Sch. 11 para. 8); S.I. 2014/839, art. 4(2)(k)

### **Marginal Citations**

**M17** 1959 c. 25 (N.I.).  
**M18** 1961 c. 42.  
**M19** 1981 c. 20.  
**M20** 1993 c. 8.

**Changes to legislation:**

There are currently no known outstanding effects for the Human Rights Act 1998.



## Guidance on Local Government Association Model Councillor Code of Conduct

### **Freedom of expression**

"The requirement to treat others with respect must be balanced with the right to Freedom of expression. Article 10 of the European Convention on Human Rights protects your right to hold your own opinions and to express them freely without government interference. This includes the right to express your views aloud or in writing, such as in published articles or leaflets or on the internet and social media. Protection under Article 10 extends to the expression of views that may shock, disturb, or offend the deeply-held beliefs of others.

However, Article 10 is not an absolute but a qualified right which means that the rights of the individual must be balanced against the interests of society. Whether a restriction on freedom of expression is justified is likely to depend on a number of factors, including the identity of the speaker, the context of the speech and its purpose, as well as the actual words spoken or written. Democracy depends on people being free to express, debate and criticise opposing viewpoints. The courts have generally held that the right to free expression should not be curtailed simply because other people may find it offensive or insulting. A balance must still be struck between the right of individuals to express points of view which others may find offensive or insulting, and the rights of others to be protected from hatred and discrimination.

Freedom of expression is protected more strongly in some contexts than others. In particular, a wide degree of tolerance is accorded to political speech, and this enhanced protection applies to all levels of politics, including local government. Article 10 protects the right to make incorrect but honestly made statements in a political context but it does not protect statements which the publisher knows to be false. Political expression is a broad concept and is not limited to expressions of or criticism of political views but extends to all matters of public administration including comments about the performance of public duties by others. However, gratuitous personal comments do not fall within the definition of political expression."

Link to full guidance:

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