

DARTFORD BOROUGH COUNCIL - INDEPENDENT PERSONS' PROTOCOL

This Protocol sets out the expected conduct of Dartford Borough Council's Independent Persons when carrying out their consultation functions in relation to an allegation that a Member, or co-opted Member, of the Borough Council, or a Member, or co-opted Member, of a Town or Parish Council within the Borough, has failed to comply with the relevant Council's Code of Conduct.

1. The role of the Independent Person (IP) is set down in legislation (section 28(7) of the Localism Act 2011) - *'Arrangements put in place by the Council must include provision for the appointment by the authority of at least one independent person, whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and in any other such circumstances it considers appropriate'*.
2. The purpose of the IP role is to enable the public to have confidence in how the Borough Council deals with allegations of misconduct and to promote and maintain high ethical standards of conduct for Members, ensuring they are adequately trained and understand the Code of Conduct.
3. In carrying out the role, the IP will ensure that they:
 - a. act in accordance with:
 - any relevant legislation or guidance and the respective Council's Code of Conduct in force at the time; and
 - the adopted processes/procedures approved by the Borough Council's Audit Board.
 - b. act impartially at all times, without political bias or prejudice and in accordance with the rules of natural justice; and
 - c. maintain confidentiality at all times.
4. The IP's role is consultative at various stages of the process, in accordance with the Borough Council's [Arrangements for Dealing with Code of Conduct Complaints under the Localism Act 2011](#), more specifically:
 - the Monitoring Officer will seek and take into account the views of the IP before deciding that an allegation should be investigated; and
 - in circumstances other than a decision to investigate, the Monitoring Officer may seek and take into account the views of the IP;
 - if the Monitoring Officer concludes that the case needs to be presented to a Hearing Panel, the IP will be consulted.
5. If the Hearing Panel invites the IP to attend its meeting, the IP has no voting rights.
6. The Monitoring Officer will have regard to but not be bound by the views expressed by the IP.
7. The IP will inform the Monitoring Officer of any conflicts of interest e.g. being a friend

of either the complainant or Member subject of the complaint; or being previously involved in the matter.

8. If all the IPs are conflicted, the Monitoring Officer will request the services of an IP from another local authority, in accordance with the Kent Monitoring Officers Mutual Assistance Protocol.
9. When a complaint is being investigated, the IPs will be allocated one of the following consultation roles by the Monitoring Officer, as considered appropriate:
 - a. available to the complainant; or
 - b. available to the Member, the subject of the complaint.

The Monitoring Officer may rotate the roles between the IPs on a case-by-case basis.

10. In circumstances where:
 - a Member approaches an IP directly for informal advice, before lodging a complaint with the Monitoring Office; or
 - the IP has been asked by the Monitoring Officer to support either the complainant or the Member subject of the complaint;

the IP will not express their views on the merits or otherwise of the complaint or the evidence in support, but give advice and reassurance on the process only.

The IP provides an impartial point of reference and source of advice. Consultations with the IP are confidential between the parties and the content or outcome of such consultation may only be disclosed by either, if both parties agree to such disclosure.

11. The MO will ensure that the IPs are kept up to date with changes in legislation, national guidance and/or good practice.
12. This Protocol will be kept under review by the Monitoring Officer and amended where necessary, in light of legislation, guidance, good practice etc.