

PART 2: THE COMPLAINTS PROCESS

This Part of the Code of Conduct sets out how the Council will deal with allegations of a failure to comply with the Council's Code of Conduct.

The Monitoring Officer may investigate a specific matter relating to a Member's adherence to the Rules of Conduct under the Code or a complaint made against a member for breach of the Council's Code of Conduct. Members shall cooperate, at all stages, with any such investigation by or under the authority of the Council. No Member shall lobby a member of the Standards Committee in a manner calculated or intended to influence its consideration of an alleged breach of this Code.

Complaints against Members

All complaints against members must be in writing and on the Council's prescribed form. The Council will not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The Monitoring Officer will consider complaints according to the Code of Conduct's "Member's Complaint Assessment Criteria" contained at Appendix C of the Code. **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 members' time. This is an important consideration where the complaint is relatively minor.**

The Monitoring Officer will acknowledge receipt of a complaint within 5 working days of receiving it and seek further information as required to enable the assessment criteria to be applied. Once sufficient information has been obtained and the complainant has been informed that details of the complaint will be passed to the Subject Member, the Subject Member will be advised that a complaint has been made, together with a short summary of the complaint and the name of the complainant. If the complainant has indicated that they wish to remain anonymous, the Monitoring Officer will consider the impact this will have on the fairness of the process.

The Monitoring Officer will determine every complaint received and shall consult the Independent Person as to whether a formal investigation should be undertaken and shall give him the opportunity to review and comment upon any complaint which the Monitoring Officer is minded to dismiss as being without merit, vexatious, or trivial. This decision will normally be taken within 14 days of receipt of a complaint. Where the Monitoring Officer has taken a decision, he will inform the Complainant and the Subject Member of his decision and the reasons for that decision.

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. The Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

If the complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies

PART 3: INVESTIGATION & DETERMINATION OF COMPLAINTS

If the Monitoring Officer decides that a complaint merits formal investigation, he may either appoint an Investigating Officer to investigate the complaint or investigate the complaint himself.

The Investigating Officer would normally write to the Subject Member.

The Subject Member will be provided with a copy of the complaint. The Subject Member will be requested to provide any relevant information the Investigating Officer needs to investigate the Complaint.

In exceptional cases, where it is appropriate to keep the identity of the Complainant confidential or disclosure of details of the complaint to the Subject Member might prejudice the investigation, the Monitoring Officer will withhold the Complainant's details or delay notifying the Subject Member until the investigation has progressed sufficiently.

At the end of his/her investigation, the Investigating Officer/Monitoring Officer will produce a draft report. This draft will be sent in confidence to the Complainant and the Subject Member, to give them an opportunity to identify any matter in that draft report which is either factually incorrect or which may require further consideration. Having received and taken account of any comments on the Draft Report, the Investigating Officer will send the Final Report to the Monitoring Officer.

The Monitoring Officer will review the Investigating Officer's report and, if he is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to the Subject Member and the Complainant notifying them of either:

- (a) he is satisfied that no further action is required, and provide them both a copy of the Investigating Officer's final report, or
- (b) following review of the Investigating Officer's report that either the complaint will be
 - (i) sent for determination before a Standards Committee or,
 - (ii) after consulting the Independent Person, seek a local resolution.

Local Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and the Complainant and seek to agree fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Subject Member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the Council. If the Subject Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee for information, but will take no further action.

Process for the Determination of Complaints

If the Monitoring Officer considers that local resolution is not appropriate, then the Monitoring Officer will convene a Standards Committee to determine the complaint. It will conduct a hearing which will decide whether the member has failed to comply with the Code of Conduct and if so, whether to take any action in respect of the member.

The set up and structure of the Standards Committee is provided for by the Council's Constitution

The Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and may issue directions as to the manner in which the hearing will be conducted.

Conduct of a Committee hearing

The Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the Subject Member has failed to comply with the Code of Conduct. The Subject Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

If the Committee, with the benefit of any advice from the Independent Person, concludes

- (a) that the Subject Member did not fail to comply with the Code of Conduct, then they can dismiss the complaint
- (b) that the Subject Member did fail to comply with the Code of Conduct, the Chair will inform the Subject Member of this finding and the Committee will then consider what action, if any, the Committee should take as a result of the Subject Member's failure to comply with the Code of Conduct. In doing this, the Committee will give the Subject Member an opportunity to make representations to the Committee and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

The Council has delegated to the Committee powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Committee may authorise the Monitoring Officer to –

- (a) Publish on the Council's website any findings in respect of the Subject Member's conduct which shall include a brief statement of the facts, the provisions of the Councillors' Code of Conduct which have been breached, the view of the Independent Person, the reasons for the findings made and details of the sanctions applied;
- (b) Report the findings to the Standards Committee for information;

- (c) Recommend to the Subject Member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- (d) Recommend to the Leader of the Council that the Subject Member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- (e) Arrange training for the Subject Member;
- (f) Remove from all outside appointments to which the Subject Member has been appointed or nominated by the Council;
- (g) Withdraw facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- (h) Exclude the Subject Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

The Committee has no power to suspend or disqualify the Sub Member or to withdraw members' or special responsibility allowances.

At the end of the hearing, the Chairman will state the decision of the Committee as to whether the member failed to comply with the Code of Conduct and as to any actions which the Committee resolves to take.

The Monitoring Officer will issue a decision notice, in consultation with the Chairman of the Committee. The decision notice will be sent to the Complainant and the Subject Member. Thereafter a summary of the decision may be available for public inspection and the decision will be reported to the next convenient meeting of the Standards Committee.

Appeals

There is no right of appeal against a decision of the Monitoring Officer or of the Standards Committee to the Council.

The complainant may complain to the Local Government and Social Care Ombudsman if he or she is concerned that there has been a service failure or maladministration and they have been directly affected by the matter.

Independent Person

The Independent Person is invited to attend all meetings of the Committee and his/her views are sought and taken into consideration before the Committee takes any decision on whether the member'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.

Revision of these arrangements

In the interests of fairness, the Monitoring Officer may vary any of these arrangements as appropriate. The Chair of the Standards Committee may depart from the arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

Appendix C

MEMBERS 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; for example, 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
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.
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 Standards Committee; or
10. It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct.
11. Where the Member 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 Standards Committee

1. It is serious enough, if proven, to justifying the range of actions available to the Standards Sub-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.
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 Member such as the Leader of the Council and it would be difficult for the Monitoring Officer to investigate.

5. Such other complaints as the Monitoring Officer considers it would not be appropriate for him to investigate.