

MEMBER COMPLAINT PROCESS (Article 9.02(a))

1. INTRODUCTION

- 1.1 The Localism Act 2011 requires the Council to adopt its own Code of Conduct and to agree procedures for dealing with alleged breaches of that Code of Conduct. The Code of Conduct sets out the general standards of behaviour that are expected of Councillors and also the arrangements for the registration and declaration of financial and other interests
- 1.2 Parish and Town Councils within the Council's area are also required to adopt their own Code of Conduct. The Localism Act 2011 requires any complaints about breaches of those Codes by Parish or Town Councillors to be dealt with under the Council's arrangements.
- 1.3 References to 'councillors' include elected members and co-opted members of the Council and Town and Parish Councils in its area.

2. MAKING A COMPLAINT

- 2.1 Complaints should be made in writing to the Monitoring Officer, using a form provided by him/her if possible.
- 2.2 Anonymous complaints will not be considered.
- 2.3 In the interests of fairness and natural justice, the Councillor who is the subject of the complaint will normally be told who has complained about them and the details of the complaint. There may be occasions where the complainant requests that their identity is withheld. Such a request will only be agreed in exceptional circumstances.

3. WHO WILL DEAL WITH THE COMPLAINT?

- 3.1 The Initial Assessment of any complaint will be dealt with, in the first instance, by the Monitoring Officer or in the event of a conflict of interest, by a deputy Monitoring Officer.
- 3.2 Any investigation under Stage 2, will be conducted by the Monitoring Officer or a person appointed by him. His/her investigation report will be considered by the Council's Standards (Hearing) Sub-Committee, who will also conduct any hearing under Stage 3.
- 3.3 The Independent Person will be able to attend any meetings held under stages 2 and 3 of the process.

5. HOW WILL ANY COMPLAINT BE DEALT WITH?

5.1 Stage 1 – Initial Assessment

The Monitoring Officer will consider the complaint, in consultation with the Independent Person. The Monitoring Officer will consider whether:

- (a) The complaint is about the conduct of a councillor or lay or co-opted member of the Council or a town or parish council within the Council's area;

- (b) the Councillor was a councillor at the time of the incident giving rise to the complaint;
 - (c) the Councillor was a councillor at the time of the complaint;
 - (d) the matters giving rise to the complaint would, if proven, be capable of breaching the Code of the relevant local authority.
- 5.2 If the complaint fails one or more of these tests, or if the Monitoring Officer in consultation with the Independent Person is satisfied that the complaint is immaterial, no further action will be taken.
- 5.3 Unless the complaint is about a failure to disclose a Disclosable Pecuniary Interest or other criminal behaviour, if the complaint satisfies the tests in paragraphs 5.1 or 5.2 the Monitoring Officer will prepare a report for the Standards (Assessment) Sub-Committee to consider. The Councillor, and if they are a Town or Parish Councillor, the relevant Town or Parish Clerk, will be informed of the receipt of the complaint and that a report is being prepared for the Standards (Assessment) Sub-Committee.
- 5.4 In considering the Monitoring Officer's report and assessing the complaint the Standards (Assessment) Sub-Committee will have regard to the criteria set out in Appendix A.
- 5.5 The Standards (Assessment) Sub-Committee may:
- (a) reject the complaint or to decide to take no action – in which case the Sub-Committee will give their reasons for doing so;
 - (b) seek an informal resolution (including, for example, an apology, or mediation);
or
 - (c) ask the Monitoring Officer to investigate the complaint.
- 5.6 A copy of the complaint and a summary of the Standards (Assessment) Sub-Committee will be sent to the Councillor and to the complainant by the Monitoring Officer.
- 5.7 **Stage 2 – Investigation**
- The person appointed by the Monitoring Officer will examine any available evidence of the alleged breach. They will usually interview the complainant, the councillor and, if appropriate any witnesses. They will prepare a report setting out:
- (a) the agreed facts;
 - (b) any facts which are not agreed and the conflicting evidence; and
 - (c) their conclusion on whether or not there has been a breach of the Code of Conduct.
- 5.8 **Stage 3 – Hearing**
- The Standards (Hearing) Sub-Committee will consider the report. It will reach a view on disputed facts and decide whether or not to accept the conclusion of the

Investigating Officer on the alleged breach of the Code of Conduct. The Sub-Committee may:

- (a) dismiss the complaint;
- (b) refer the complaint to the Monitoring Officer to seek an informal resolution;
- (c) hold a hearing of the Committee.

5.9 The hearing will be to make a final decision on whether or not a Councillor has breached the Code of Conduct and, if so, to decide whether any sanction should be imposed.

5.10 The hearing will normally be held in public, in order to promote public confidence and ensure fairness and transparency. The Sub-Committee may resolve to exclude the public and press for any part of the hearing where confidential or exempt information is considered and will usually do so when coming to its decision. The Sub-Committee may decide:

- (a) to take no further action;
- (b) to seek an informal resolution between the complainant and the subject councillor (if agreed by both parties);
- (c) to censure the Councillor;
- (d) to recommend to the Councillor's Group Leader (or in the case of an ungrouped councillor recommend to Council) that the Councillor is removed from any Committees or Sub-Committees of the Council, either for a specified period or until the next Annual Meeting of the Council, when seats on Committees will next be allocated;
- (e) to instruct the Monitoring Officer to request the Councillor to attend training;
- (f) to recommend the Group Leader to remove the Councillor from all outside appointments to which they have been appointed or nominated by the Council;
- (g) to withdraw facilities provided to the Councillor by the Council, such as a computer and/or e-mail and internet access for a specified time;
- (h) to exclude, for a specified period of time, the Councillor from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

APPENDIX A – ASSESSMENT CRITERIA

1 Initial Tests

- 1.1 The complaint is about the conduct of a councillor or lay or co-opted member of a council within the Council's area;
- 1.2 the Councillor was a councillor at the time of the incident giving rise to the complaint;
- 1.3 the Councillor was a councillor at the time of the complaint;
- 1.4 the matters giving rise to the complaint would, if proven, be capable of breaching the Code of the relevant local authority.

2 Sufficiency of information

- 2.1 Has the complainant provided sufficient information to allow the Sub-Committee assessing the complaint to understand the issues complained of? If insufficient information is provided, the Sub-Committee will not normally proceed with assessment of the complaint.

3 Seriousness of the Complaint

- 3.1 Does the complaint appear, on the available information, to be trivial, vexatious, malicious, politically motivated or 'tit for tat'?
- 3.2 Other than in particularly serious cases a complaint will not generally be referred for investigation if the Councillor has offered an apology, or if the Sub-Committee takes the view that the complaint can reasonably be addressed by other means.
- 3.3 Given the public interest in financial and other resources being used efficiently referral for investigation is generally reserved for serious complaints where alternative options for resolution are not considered by the Sub-Committee to be appropriate.

4 Length of Time Elapsed

- 4.1 Except in exceptional circumstances a complaint will not be referred for investigation when it is made more than 20 working days from the date upon which the event giving rise to the complaint took place.

5 Multiple Complaints

- 5.1 A single event may give rise to similar complaints from a number of complainants. These will generally be treated as a single complaint with multiple complainants.