

## **Arrangements for dealing with Code of Conduct complaints against Councillors**

### **What is a Code of Conduct complaint?**

Dorset Council has adopted a Code of Conduct for its Councillors and Co-opted Members, which is available for inspection on the council's website and on request from the Monitoring Officer.

Each of the parish and town councils in Dorset have adopted a Code of Conduct for their Councillors and Co-opted Members which they publish on their own website.

A Code of Conduct complaint is one that alleges that a Dorset Council or Dorset parish or town Councillor or Co-opted Member has failed to comply with their council's code of conduct.

Dorset Council is required to have arrangements in place to investigate and reach decisions about Code of Conduct complaints.

These arrangements set out:

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4. what outcomes are available
5. how to make a complaint
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### **1. Who can you complain about?**

You can complain about Councillors and Co-opted Members of Dorset Council or any Town or Parish Council in the area of Dorset Council. A Co-opted Member is a voting member of a council or one of its committees, who was appointed to their position rather than being elected. Those Councillors and Co-opted Members are referred to as "Subject Member" throughout this Complaint Process.

## **2. What can you complain about?**

You can complain about the conduct of a Subject Member who is in office at the time of your complaint.

The conduct complained of must be covered by the relevant council's Code of Conduct and must have occurred during the Subject Member's time in office.

The conduct complained of must have happened in the last 20 working days. It could be a one-off incident or the last incident in a series of connected events (if a series of connected events is complained of all the connected events may be considered as part of the complaint even if some of the events are older than 20 working days). Only in exceptional circumstances will a complaint received outside the timeframe be considered.

Types of complaint alleging breach of Code of Conduct may include:

- unlawfully discriminating against someone
- failing to treat people with respect
- bullying any person
- intimidating any person involved in any investigation or proceedings about someone's misconduct
- doing something to prevent those who work for the authority from being unbiased
- revealing information that was given to them in confidence, or stopping someone getting information they are entitled to by law
- damaging the reputation of their office or authority, where the conduct is linked to their public role and not in their private capacity
- using their position improperly, to their own or someone else's advantage or disadvantage
- misusing their authority's resources
- allowing their authority's resources to be misused for the activities of a registered political party
- failing to register an appropriate interest correctly
- failing to register any gifts or hospitality (including its source) that they have received in their role as a member worth over £50.00.

## **3. What cannot be complained about under these arrangements?**

The following types of complaint cannot be considered under these arrangements:

- Complaints about a Subject Member who is not in office at the time of the complaint cannot be considered.
- Complaints about conduct which happened before a Subject Member was elected, co-opted or appointed to their council, or after they have resigned or otherwise ceased to be in office cannot be considered.
- Complaints about a council as a whole or people employed by it cannot be considered under these arrangements.
- Complaints about dissatisfaction with a decision or action of a Council, one of its committees or employees, a service provided by a Council or a Council's procedures, cannot be considered under these arrangements.

- Complaints which relate to conduct (one-off incident or the last in a series of connected events) which happened over 20 working days ago, unless there are exceptional circumstances.
- Where the complaint alleges criminal conduct (including failure to register or declare a Disclosable Pecuniary Interest or voting at a council meeting where such an interest exists), this is a matter for the police and cannot be dealt with under the Code of Conduct. The Monitoring Officer will consider whether it is appropriate to refer to the Police. No further action will be taken in relation to such complaints until any related criminal/regulatory investigation, proceedings or processes have been concluded. Complainants may refer criminal allegations directly to the Police.

#### **4. What outcomes are available?**

It is important to note that not every complaint about a breach of Code of Conduct will be referred for investigation or informal resolution. Each complaint will be checked and assessed before a decision is made about appropriate action.

While Dorset Council takes its duties and powers regarding the standards regime seriously (and the Procedure set out below ensures that there is a fair process for considering and dealing with standards complaints) there are limitations on the potential outcomes to standards complaints. There are also limitations to the potential sanctions where a Subject Member is found to have broken the Code.

The ability of the Council to impose and enforce meaningful sanctions or remedial action was severely curtailed by the changes to the standards regime introduced by the Localism Act 2011. This Act also repealed all of the preceding ethical governance legislation in its entirety.

##### **Examples of available outcomes:**

- An apology
- training for the Subject Member
- Mediation with the Subject Member
- Mentoring for the Subject Member
- Removal of the Subject Member from committees or sub-committees
- Removal of the Subject Member from any outside appointments
- Withdrawal of facilities (computer, website, email or internet access) from the Subject Member
- Withdrawal or restricted or chaperoned access to council offices or other premises or named officers
- formal censure of the Subject Member

##### **Outcomes which are not available**

- Suspension of a councillor
- Disqualification of a councillor
- Removal of a councillor from office

## 5. How to make a complaint

Complaints must be submitted in writing to Dorset Council's Monitoring Officer using the [Code of Conduct complaint form - Dorset Council](#).

You will need to set out details of your complaint including:

- Your contact details. If you are making the complaint on behalf of a number of individuals, please nominate one person as the single point of contact to whom all correspondence will be addressed.
- The identity of the Subject Member you are complaining about. Where a complaint is made against more than one Subject Member, a separate complaint form must be completed in respect of each Subject Member.
- A description of the conduct that has caused you to complain including when and where it took place and any witnesses to the conduct.
- The part of the Code of Conduct you think has been breached (please see the relevant council's website for details of their code of conduct for councillors).
- What remedy or outcome you are asking for (please see section 4 above).

You should submit any written evidence or documents that you have, with your complaint.

It is very important that you set your complaint out fully and clearly and provide as much information as you can at the outset.

For complaints concerning the conduct of a parish or town councillor you will also be asked if you have raised your complaint with the clerk of the council and what attempts have been made to resolve your complaint before submission of a complaint to the Monitoring Officer.

When complete, your form should be sent to the Monitoring Officer:

E-mail: [councillorcomplaints@dorsetcouncil.gov.uk](mailto:councillorcomplaints@dorsetcouncil.gov.uk)

The Monitoring Officer will not normally consider a complaint unless it is in writing and a complaint form has been received. This is to ensure that all of the relevant information is provided and, where necessary, consent to share information has been obtained so that the complaint can be processed.

If you do not have access to the internet or have difficulty completing the form, please contact 01305 224181 for assistance.

### **Before you complain**

Before you send us your complaint, you should be aware that anonymous complaints will not normally be investigated.

You may request that your identity is withheld but this will only be agreed by the Monitoring Officer in exceptional circumstances. The Monitoring Officer has to balance the right of the Subject Member complained of, who is entitled to properly

understand the complaint against them and respond to it, with your rights as Complainant. This normally means that the Subject Member will need to be told about the complaint, including who is making the complaint. You will be informed if your complaint cannot be investigated without disclosing your identity and you will be provided with the opportunity to proceed or withdraw your complaint.

## **6. How Dorset Council will deal with complaints**

### **A. Initial Check**

At this stage your complaint is confidential. You and the Subject Member complained of should not disclose information about the complaint or the outcome of the initial check to anyone else.

The Monitoring Officer will arrange initial checks to ensure that your complaint is covered by the Code of Conduct and these complaint arrangements. An Independent Person will be consulted before any decision is made about next steps.

(An Independent Person is someone appointed by the Council to give an independent view on complaints about Subject Members. They are not employed by the council and act voluntarily. An independent person must be consulted by the Council before it makes its decision on an allegation that it has decided to investigate. The Independent person is also available to be consulted by a Subject Member if their behaviour is the subject of a complaint.)

The initial checks are:

- Is the complaint about a current, individual Subject Member?
- Is the conduct complained of covered by the council's Code of Conduct for councillors?
- Did the conduct complained of occur during the Subject Member's time in office?
- Does the complaint relate to matters where the Subject Member was acting or has given the impression of acting as a councillor or representative of the Council in their official capacity or were they acting in their private capacity?
- Did the conduct complained of happened in the last 20 working days (one-off incident or the last incident in a series of connected events even if some of them are older than 20 working days) and/or whether there are any exceptional circumstances for considering a complaint received outside this timeframe.
- Is the complaint about criminal conduct? A referral should be made to Dorset Police and progress of your complaint may be delayed until their advice is received or until they have concluded their processes.
- Does the complaint raise concerns or allegations about someone who works with a child? A referral may be made to the Local Authority Designated Officer ("LADO") and progress of your complaint may be delayed until their advice is received or until they have concluded their processes.

The Local Authority Designated Officer (LADO) works within Children's Services and gives advice and guidance to employers, organisations and other

individuals who have concerns about the behaviour of an adult who works with children and young people.

- Does the complaint raise concerns or allegations of harm to an adult at risk? A referral may be made to Adult Safeguarding and progress of your complaint may be delayed until their advice is received or until they have concluded their processes.

Within 5 working days of receiving your complaint it will be acknowledged, you will be informed of the outcome of the initial check and whether your complaint is covered by the Code of Conduct and complaint process or not.

## **Outcomes**

### **Complaint will not proceed to Assessment**

You will be informed of a decision that your complaint is not covered by the Code of Conduct and these complaint arrangements, with reasons. This will conclude your complaint and there is no right of appeal.

If your details can be disclosed, the Subject Member will also be informed of your complaint and that it will not proceed.

### **Complaint proceeding to Assessment**

If your complaint is covered by the complaint process, you will be given details of next steps and timescales, including any possible delay (for example, due to a referral to Dorset Police, LADO or Adult Safeguarding). If you have asked for your details to be withheld or to remain anonymous you will be informed if this is agreed. You may also be asked to provide further details of your complaint.

If your details can be disclosed and there is no referral to another agency, the Subject Member will be notified of your complaint (with a copy of the complaint) with details of next steps and timescales. The Subject Member will be provided with contact details for an Independent Person, who they can contact for a view throughout the complaint process. The Subject Member will be asked to provide an initial and brief response to the complaint, details of any witnesses and relevant documents within 10 working days.

If your complaint relates to a Subject Member of a town or parish council, and if your details can be disclosed, the Clerk of the town or parish council will be notified of the outcome of the initial check. If your complaint is proceeding to assessment the Clerk will be invited to provide any relevant factual information within 10 working days.

## **B. Assessment**

The Monitoring Officer will arrange for your complaint to be assessed. As part of the assessment, some preliminary enquiries may be made; for example, relevant parts of the Code of Conduct, any relevant public meeting records or relevant register of interest may be checked.

The likely types of questions and criteria to be considered when assessing your complaint are listed below. The list is not exhaustive and not all questions will be relevant to every complaint:

- Does the complaint contain sufficient evidence to demonstrate a potential breach of the Code of Conduct?
- Does the complaint relate to conduct during a meeting or political debate where a Subject Member may have greater right to freedom of expression (but not personal abuse)?
- Is the complaint the same or substantially the same as a previous complaint which has been dealt with and no new evidence has been provided?
- Has a similar complaint involving the same Subject Member and the conduct or incident been assessed and referred for investigation?
- Does the complaint appear to be malicious, politically motivated, tit-for-tat or have another improper motive?
- Has the Subject Member offered or provided a satisfactory or reasonable remedy to the complaint?
- Is the complaint about a Subject Member who is seriously ill?
- Would investigation be in the public interest? For example, does the complaint disclose a minor or technical breach of the Code of Conduct or one which is not serious, or is the conduct a one-off or pattern of behaviour?
- Has there been a general breakdown in relationships at the Subject Member's council or are the allegations about how the conduct of governance of meetings?
- Does the Subject Member lack experience or training?
- Is the issue political?
- Has the Subject Member failed to agree or carry out local resolution?

After consultation with an Independent Person (either in person or electronically), and within the timescale specified, a decision will be made. The possible decisions are set out in sections C – J below.

Ordinarily a decision will be made, but if this is not possible, the complaint may be referred to a formal private hearing of the Audit and Governance (Assessment) Sub-Committee for decision. The process for an (Assessment) Sub-Committee is set out in section K below.

### **C. No decision due to insufficient information.**

Within 5 working days of the date for the Subject Member (or if relevant the town or parish clerk) to provide further information, you will be informed if an assessment decision cannot be made due to insufficient information. You may be given a further opportunity to provide information.

If you do not provide further information, you will be informed that no further action will be taken, and your complaint will be closed. If the complaint is closed that concludes your complaint and there is no right of appeal.

If you do provide further information this will be reviewed, a fresh view of the Independent Person will be obtained, and a decision will be made.

If your details can be disclosed, the Subject Member (and town or parish council clerk if relevant) will also be informed if a decision cannot be made due to insufficient information, if your complaint is closed, or if a decision is made in light of further information provided by you.

At this stage your complaint is confidential. The Subject Member has the option to request publication of the complaint and outcome, but if not, the complaint and outcome will remain confidential and should not be disclose to anyone else.

#### **D. Decision - no further action should be taken and the complaint is dismissed.**

Any decision to dismiss your complaint should be made within 5 working days of the last date for you, the Subject Member, or if relevant, the town or parish clerk to provide further information.

Below are some examples of circumstances where no further action may be appropriate:

- There is not sufficient information to demonstrate potential breach of the Code of Conduct;
- The complaint is the same or substantially the same as a complaint previously dealt with or one which has already been referred for investigation and it is not in the public interest to progress the complaint;
- The complaint is trivial or discloses such a minor or technical breach of the Code that it is not in the public interest to progress the complaint;
- The complaint is or appears to be malicious, politically motivated, tit-for-tat or otherwise submitted with an improper motive and does not disclose sufficiently serious potential breaches of the Code to merit further consideration;
- The Subject Member has provided a satisfactory remedy to the complaint;
- There is evidence to suggest a potential breach of the Code, but the circumstances do not warrant further action; for example, serious illness of the Subject Member.

You will be informed of the decision to dismiss your complaint with reasons. If your details can be disclosed, the Subject Member and, if relevant, a town or parish clerk will also be informed. The decision is final and there is no right of appeal.

At this stage your complaint is confidential. The Subject Member has the option to request publication of the complaint and outcome, but if not, the complaint and outcome will remain confidential and should not be disclose to anyone else.

#### **E. Decision – informal resolution**

There may be occasions where there is evidence of a potential breach, but instead of an investigation, informal resolution may be appropriate.



Types of informal resolution could include:

- An apology
- Mediation
- Training or mentoring
- Referral to a political group leader
- Referral to the town or parish clerk

Below are some examples of where informal resolution may be appropriate:

- Less serious complaints where the Subject Member wishes to put their actions right;
- A general breakdown in relationships at the Council where other action such as mediation might help;
- Complaints where the public interest in conducting an investigation does not justify the costs of such an investigation;
- Where the Subject Member lacks experience or may benefit from training or mentoring;
- Where the issue appears to be in the political arena and therefore appropriate for referral to a leader(s) of a political group to deal with;
- Where it appears that the town or parish council would be best placed to resolve the issue;
- Where there is the same alleged breach of the Code about several Subject Members in the same council, indicating a poor understanding of the Code and authority's procedures.

Informal resolution may be arranged where you and the Subject Member agree to it but it may also be arranged without your agreement if it is considered to be an appropriate outcome. For example, an apology from the Subject Member could be an appropriate outcome even if you indicate that you may not be satisfied.

At this stage your complaint is confidential.

### **Intention to arrange Informal Resolution**

Within 5 working days of the last date for you, the Subject Member, or if relevant, the town or parish clerk to provide further information, you and the Subject Member will be notified of any intention to refer your complaint for informal resolution. The notification will include reasons for the decision, details of the recommended type of informal resolution and a proposed date for it to be completed. You and the Subject Member will be asked to respond with your agreement or refusal within 5 working days.

Within a further 5 working days of the date for response, a fresh view of the Independent Person will be obtained and a decision will be made; this decision may be to continue with informal resolution, or to refer your complaint for investigation.

### **Decision to arrange Informal Resolution**

You and the Subject Member will be notified of any decision to arrange informal resolution, with reasons, details of the type of informal resolution and a date for it to be completed.

## **Informal resolution is completed**

If the informal resolution is completed by the required date (including any extension), this will be confirmed in writing to you, the Subject Member (and if relevant the town or parish council clerk) and will conclude your complaint, with no right of appeal.

Your complaint will be confidentially reported for noting at a meeting of the Audit and Governance Committee of Dorset Council (and if relevant, to a meeting of the town or parish council), unless the Subject Member asks for the decision to be published.

## **Informal Resolution is not completed**

If the informal resolution does not take place by the required date, your complaint will be re-assessed, including the reasons the informal resolution has not been completed, and a fresh view from an Independent Person.

Within 5 working days of the date for informal resolution to be completed, you, the Subject Member (and if relevant the town or parish clerk) will be informed of the outcome of the re-assessment which may result in:

- the timescale for completion of the informal resolution being extended, which will be monitored for completion;
- the complaint being dismissed (which would conclude the complaint with no appeal);
- referral for investigation.

## **F. Decision - refer complaint for investigation**

If your complaint is assessed as raising a potential breach of the Code of Conduct it may be referred for investigation. Below are some examples where a referral for investigation may be appropriate:

- The complaint is serious enough to warrant investigation;
- A Subject Member has failed to agree to or carry out local resolution.

Within 5 working days of the last date for you, the Subject Member, or if relevant, the town or parish clerk to provide further information, or the date for completion of informal resolution, you will be informed of a decision to refer your complaint for investigation, with reasons and the name of the Investigating Officer.

If your details can be disclosed, the Subject Member and, if relevant, a town or parish clerk will also be informed. The Subject Member is expected to cooperate with the investigation and may be accompanied or represented at any meetings with the Investigating Officer. If the Subject Member fails to co-operate with an investigation, it will proceed and report will be prepared.

Where a decision is made to refer your complaint for investigation an Investigating Officer will be appointed. This could be an appropriately skilled council officer from this or another council, or another external investigator.

The Investigating Officer will contact you and (if your details can be disclosed) the Subject Member as part of their investigation. The conduct of the investigation will

depend on the details of your complaint and may include, interviews, gathering of information and witness details, preparation of a chronology of events or documents and a written report with recommended findings.

Your complaint remains confidential during the investigation at least until the Investigation Report has been finalised.

### **G. Changes during an Investigation**

Sometimes circumstances change during an investigation. These could include:

- The case appears to the Investigating Officer to be less serious than it initially seemed;
- There may be no direct evidence;
- It may become clear the actions complained of were private and not conducted in the Subject Member's official capacity;
- The Subject Member may be too ill to engage with the complaint process;
- The Subject Member may have resigned or left office as a result of an election;
- The Subject Member may wish to make an apology;
- Evidence may be uncovered which requires referral to Dorset Police, the LADO or Adult Safeguarding;
- Additional possible breaches of the Code of Conduct may be discovered.

If a change of circumstances occurs the Investigating Officer should refer to the Monitoring Officer, who should seek the views of the Independent Person before continuing, halting or pausing the investigation.

If additional possible breaches are discovered the Investigating Officer will need to refer to the Monitoring Officer for a view about adding the allegation to the investigation or requesting a further complaint form be submitted (to be checked and then assessed in the normal way).

The Monitoring Officer will inform you, the Subject Member, and if relevant the town or parish council clerk of any decision to continue, pause or halt an investigation, add an allegation to the investigation or request a further complaint form, with reasons and timescales.

### **H. Investigation Report**

The Investigation Report should contain:

- (a) a summary of the complaint,
- (b) the relevant sections of the Code of Conduct;
- (c) relevant evidence, legislation, policies, protocols and case law;
- (d) a chronology of events leading to the complaint;
- (e) a chronology of the complaint process;
- (f) summary of any interviews (including any lack of cooperation);
- (g) the agreed and non-agreed facts (finding of facts);
- (h) any conflicting evidence;
- (i) a recommendation about whether a breach has occurred (on a balance of probabilities);
- (j) reasons for the recommendation.

Within 6 months of the decision to refer your complaint for investigation (unless a change in circumstances has occurred or the Monitoring Officer has agreed to an extension) the Investigating Officer will send their draft report to the Monitoring Officer and Independent Person. The Monitoring Officer and Independent Person will review the report and confirm if the investigation is of acceptable standard and meets the scope of the complaint or if they have other comment.

The draft report will then be supplied to you and the Subject Member with a timescale for response. Any response will be considered before the Investigating Officer finalises their report and submits it to the Monitoring Officer.

### **I. Monitoring Officer Investigation Decision**

Having received the Investigation Report the Monitoring Officer will ask the Independent Person for a view about the recommendation and will then make one of the following decisions:

- No breach of the Code of Conduct and the complaint is dismissed;
- Breach of the Code of Conduct but no further action;
- Breach of the Code of Conduct and a referral for informal resolution;
- Breach of the Code of Conduct and referral for hearing by the Audit and Governance (Hearing) Sub-Committee.

Within 10 working days of receiving the Investigation Report the Monitoring Officer will issue the decision to you, the Subject Member, the Independent Person and if relevant, to the town or parish council clerk.

For any decision of no breach, breach but no further action, or breach and referral for informal resolution this decision is final with no right of appeal. A confidential summary of the outcome will be provided to the Audit and Governance Committee (and if relevant a town and parish council). The decision will not be published unless the Subject Member requests it.

Where the decision is to refer the complaint for informal resolution, the process in Section E above (from Decision to arrange Informal Resolution) will apply.

Where the decision is to refer the complaint for hearing by the Audit and Governance (Hearing) Sub-Committee the Monitoring Officer will notify Democratic Services and ask them to arrange a (Hearing) Sub-Committee and a hearing date within 3 months of the date of the Investigation Report (unless the hearing must be delayed due to other parallel investigations e.g. Dorset Police).

### **J. Audit and Governance (Hearing) Sub-Committee**

Once notified of a referral for hearing Democratic Services will:

- Establish a (Hearing) Sub-Committee (consisting of 3 members of the Audit and Governance Committee)
- Arrange an informal private pre-meeting or briefing for the (Hearing) Sub-Committee with the Monitoring Officer or Deputy (who will be legally advising

the Sub-Committee at the hearing) no less than 3 weeks before the hearing date.

- Arrange a hearing date within 3 months of the date of the Investigation Report.

You, the Independent Person, the Investigating Officer and if relevant the town or parish clerk will be notified of the date and procedure for the hearing. The Investigating Officer will be asked if they will be calling witnesses.

The Subject Member will be notified of the date and procedure for the hearing, and will be asked to provide the following information within a set period of time:

- a brief written response;
- if they will be accompanied or represented at the hearing;
- if they wish to give written or verbal evidence at the hearing;
- if they wish to call any relevant witness who has been interviewed by the Investigating Officer and whose evidence appears in the Investigation Report;
- if they want to request any part of the Investigation Report, or documents or hearing be held in private session, with reasons.

### **Informal and Private Pre-meeting or briefing**

The main purpose of the informal and private meeting or briefing is to enable the (Hearing) Sub-Committee to prepare and deal with matters more fairly and economically at the hearing including:

- Deciding whether any findings of fact in the report are in dispute and how relevant they will be at hearing;
- Identifying any additional evidence the (Hearing) Sub-Committee wants to see;
- Identifying any witnesses it wants to hear from;
- Deciding any limit on numbers of witnesses;
- Deciding the relevance of any witnesses who the Subject Member or Investigating Officer wants to call bearing in mind proportionality;
- Identifying any parts of the hearing which are likely to be held in private or parts of reports to be withheld from public “exempt” – the (Hearing) Sub-Committee have final decision at the hearing;
- Identify any potential conflicts of interest;
- Consider who will likely Chair the hearing.

The meeting or briefing may be in person, on-line or paper based and will be supplied with any updated information received from you and the Subject Member. The meeting or briefing is attended by the (Hearing) Sub-Committee, Monitoring Officer or Deputy and Democratic Service officer who is arranging and supporting the (Hearing) Sub-Committee meeting. You, the Subject Member, the Independent Person and Investigating Officer will not be invited to attend. The (Hearing) Sub-Committee will not be debating the merits of the complaint at this meeting or briefing and it is not a formal committee meeting.

### **Hearing**

At least 2 weeks before the hearing date, you, everyone involved in the complaint will be notified of the date, time and place for the hearing, whether the Subject Member

will be accompanied or represented, listing witnesses who will be asked to give evidence and an outline of the procedure for the hearing.

If the Complainant or Subject Member or their witness(es) are unable to attend the hearing on the date arranged they should contact the Democratic Services officer who is arranging the hearing as soon as possible, with reasons. The Monitoring Officer or Deputy will be notified, will consult with the (Hearing) Sub-Committee and decide if another date needs to be found or if the hearing will proceed on the date arranged. Depending on circumstances a hearing may proceed in the absence of a Complainant, Subject Member or their witness(es). All attendees will be provided with an update and the decision will be reported at the hearing.

The hearing is a formal Committee meeting and normal Committee rules will apply including publication of an agenda in advance of the hearing, and publication of a minute after the meeting.

The hearing will be a public meeting unless the Subject Member requests the hearing takes place in confidential session and the (Hearing) Sub-Committee agrees.

All those attending, including the (Hearing) Sub-Committee will have received the Investigation Report in advance of the hearing, but it is not published as part of the Agenda in advance of the hearing. This is to allow the Sub-Committee opportunity to consider any request from the Subject Member to hold the hearing in closed confidential session.

At the hearing, the Investigating Officer will present their report and ask to hear from any witnesses. Questions may be asked of the Investigating Officer and their witnesses by the Subject Member (or their representative), the (Hearing) Sub-Committee and the Independent Person. The Subject Member (or their representative) will be invited to present their response and ask to hear from any witnesses. Questions may be asked of the Subject Member and their witnesses by the Investigating Officer, the (Hearing) Sub-Committee and the Independent Person.

The (Hearing) Sub-Committee will seek any legal and procedural advice from the Monitoring Officer or Deputy and the view of the Independent Person in the open hearing before they retire with the Monitoring Officer or Deputy, Independent Person and Democratic Services officer supporting the meeting, to make their decision about whether a breach of the Code of Conduct has occurred (on balance of probabilities). The Monitoring Officer or Deputy and the Independent Person attends the private deliberation to enable the (Hearing) Sub-Committee to ask for advice and seek views if necessary. The Monitoring Officer or Deputy and Independent Person do not take part in decision making about whether a breach has occurred.

Any legal or procedural advice from the Monitoring Officer or Deputy or view of the Independent Person given during the private deliberation will be repeated to the public meeting.

The (Hearing) Sub-Committee may return to the hearing to ask further questions and recommence their private deliberations.

If the (Hearing) Sub-Committee decide that no breach has occurred, that decision will be final, will conclude the hearing and the complaint with no right of appeal.

If the (Hearing) Sub-Committee decide that a breach has occurred, they will invite representations about aggravating or mitigating factors from the Investigating Officer and Subject Member (or their representative). As above, the (Hearing) Sub-Committee will seek any legal and procedural advice and view of the Independent Person in the open hearing before retiring with the Monitoring Officer or Deputy, Independent Person and Democratic Services officer supporting the meeting, to make their decision about an appropriate sanction.

Any sanction should be reasonable, proportionate and relevant to the Subject Member's conduct which is the subject of the complaint. Typical sanctions include (but are not limited to):

- Issue (or recommend the parish council issue) formal censure;
- Recommend to a Subject Member's group leader (or council if ungrouped) they be removed from any or all committees or sub-committees (or recommend this action to the town or parish council);
- Recommend to the Leader of the council that the Subject Member be removed from positions of responsibility;
- Instruct the Monitoring Officer to (or recommend the town or parish council) arrange training for the Subject Member;
- Recommend to the Subject Member's Group Leader (or recommend to the town or parish council) that the Subject Member be removed from all outside appointments;
- Instruct (recommend to the town or parish council) the Chief Executive of the council to arrange withdrawal of facilities from the Subject Member for a specified period (e.g. computer, website, email or internet access);
- Instruct (recommend to parish council) the Chief Executive of the council to arrange exclusion of the Subject Member from the council's offices or other premises for a specified period with the exception of meeting rooms necessary for attending council, committee and sub-committee meetings or restricts contact with officers to named officers only;
- If relevant recommend to the secretary or official of a political group that the Subject Member be removed as a group leader or other position of responsibility.

Any legal or procedural advice from the Monitoring Officer or Deputy or view of the Independent Person given during the private deliberation will be repeated to the public meeting.

The (Hearing) Sub-Committee will aim to provide their decisions (in writing) about breach and any sanction at the hearing but may reserve their decisions to a later date.

The decision of the (Hearing) Sub-Committee is final and there is no right of appeal.

Within 5 working days of the hearing you, the Subject Member and Independent Person will receive a full written decision and minutes of the hearing. The decision, minutes and Investigation Report (if the hearing was open to the public and subject to

any necessary redaction for data protection purposes) will be published on Dorset Council's website in accordance with normal committee publication arrangements.

If the complaint relates to a Dorset Council Subject Member and the hearing was open to the public the decision will be reported to the next Dorset Council meeting for information (subject to any necessary redaction for data protection purposes)

If the complaint relates to a town or parish council Subject Member, within 5 working days of the hearing the town or parish council clerk will receive a full written decision, confirmation the hearing was held in open or closed session, actions or decisions which need to be taken by the town or parish council. The decision should be taken to the next full council meeting of the town or parish council.

A town or parish council can decide whether to impose a recommended sanction. If they wish to replace it with another sanction, they must first consult their clerk or the Monitoring Officer. They cannot overturn a Sub-Committee decision about whether a breach of their Code of Conduct occurred.

A town or parish council clerk should report back to the Monitoring Officer within 3 months of the (Hearing) Sub-Committee to confirm their council has met to decide on sanction and to confirm when the sanction has been fulfilled.

Failure of a Subject Member to comply with a sanction may be a further breach of the relevant council's Code of Conduct.

### **K. Audit and Governance (Assessment) Sub-Committee**

Ordinarily an officer decision will be made at the Assessment stage whether to progress the complaint, and if so how. If this is not possible, the complaint may be referred to a formal and exempt meeting of the Audit and Governance (Assessment) Sub-Committee for decision.

Once notified of a referral for assessment Democratic Services will:

- Establish an (Assessment) Sub-Committee (consisting of 3 members of the Audit and Governance Committee)
- Arrange an exempt meeting date at the earliest possibility.

You, the Subject Member and if relevant the town or parish clerk will be notified that an (Assessment) Sub-Committee meeting is being arranged. You and the Subject Member will not be invited to attend as this meeting is in place of the internal officer decision, which is a paper-based decision, having asked for the view of the Independent Person.

The Independent Person will be invited to attend to give their view to the Sub-Committee.

The meeting is a formal Committee meeting and normal Committee rules will apply including publication of an exempt agenda in advance of the hearing, and publication of an exempt minute after the meeting.



At the meeting, the Monitoring Officer or their representative will present a report of all information relating to the complaint, including but not limited to:

- The Initial Check outcome;
- A summary of the complaint;
- Any initial Subject Member response;
- Any information provided by a town and parish council Clerk (if relevant);
- the likely relevant paragraphs of the Code of Conduct;
- any preliminary enquiries (e.g. meeting minutes or Register of Interest entries);
- the current Assessment (including criteria considered and reason for any view);
- the view of the Independent Person and whether this differs from the current assessment view.

The (Assessment) Sub-Committee will seek any legal and procedural advice from the Monitoring Officer or Deputy and seek the view of the Independent Person before they decide whether and if so, how the complaint should progress. The available options are set out in sections C – F above:

- C. No decision due to insufficient information
- D. Decision - no further action should be taken and the complaint is dismissed
- E. Decision – informal resolution
- F. Decision - refer complaint for investigation

The decision of the Assessment Sub-Committee is final and there is no right of appeal.

Within 5 working days of the Assessment Sub-Committee meeting, you, the Subject Member, the Independent Person and if relevant the town or parish council clerk will receive a full written decision and minutes of the meeting.

If the Assessment Sub-Committee decide that no decision can be made due to insufficient information or no breach has occurred, that will conclude your complaint with no right of appeal. This will be confirmed to you in accordance with the provisions in sections C and D above.

If the Assessment Sub-Committee decide that informal resolution or a referral for investigation is appropriate, your complaint will progress and this will be confirmed to you in accordance with the provisions of section E or F above.

An exempt version decision and minutes will be published on Dorset Council's website in accordance with normal committee publication arrangements.

## **7. How Dorset Council will Learn from Complaints**

Things do not always happen in the way they should and councillors and co-opted members do not always behave as they should, in accordance with their Code of Conduct.

Dorset Council is a learning organisation. Sometimes a hearing might result in sanctions being imposed upon a Subject Member but it is also important for all councillors and co-optees to be able to learn from complaints.

In addition to acting upon individual complaints the Council will, through the Audit and Governance Committee, receive monitoring information about complaints and an annual report on councillor and co-opted member conduct. The focus in doing so will be upon helping individual councillors, Dorset Council as a whole and the 163 Parish and Town Councils in Dorset to maintain high standards of conduct.