
STANDARDS PROCEDURE RULES

1.0 INTRODUCTION

- 1.1 It is expected that Elected and Co-opted Members of the Borough, District and Parish Councils will uphold the highest standards of conduct expected of holders of public office. However, in the event that there is a complaint, it is important that this is handled effectively to ensure public confidence is maintained.
- 1.2 Section 28(6) and (7) of the Localism Act 2011 requires the Councils to put in place 'arrangements' under which allegations that a Member or Co-opted Member of the Borough, District or Parish Council has failed to comply with the relevant Authority's Code of Member Conduct when they are acting in that capacity:
- (a) can be investigated; and
 - (b) decisions made on such allegations.
- 1.3 These 'arrangements' must provide for the Authority to appoint at least one Independent Person whose views:
- (a) must be sought, and taken into account by the Authority before it takes a decision on an allegation which it has decided shall be investigated, (i.e. at the assessment stage);
 - (b) may be sought by the Authority at any other stage, including the Committee or Sub-Committee hearing the matter; and
 - (c) may be sought by a Member or Co-opted Member of the Borough/District/Parish Council if that person's behaviour is the subject of an allegation (i.e. by the Subject Member).
- 1.4 The purpose of these arrangements is to comply with the requirements of the Localism Act 2011 in relation to complaints about an Elected or Co-opted Member of Adur District Council / Worthing Borough Council / Sompting Parish Council or Lancing Parish Council and what happens if someone makes a complaint.

2.0 INTERPRETATION

- 2.1 'Subject Member' means the Elected or Co-opted Member of the Authority who is the subject of the allegation made by the complainant, unless otherwise stated.
- 2.2 'Complainant' means the person who has submitted the complaint.
- 2.3 'Investigating Officer' means the person appointed by the Monitoring Officer to undertake an investigation and may include the Monitoring Officer and/or his or her Deputy or representative.
- 2.4 'The matter' is the subject matter of the allegation.
- 2.5 'The Standards Sub-Committee' refers to the Sub-Committee of the Joint Governance Committee, to which it has delegated the conduct of the hearing. It comprises of an equal number of Elected Members from Worthing Borough Council and from Adur District Council.
- 2.6 'Independent Person' means a person appointed by the Councils under the Localism Act 2011, Sections 28(1) to advise the Joint Governance Committee and its Sub-Committee and who has the functions set out in the Localism Act Section 28(7).
- 2.7 'Parish Representative' means a Parish Councillor appointed by the Council to advise the Joint Governance Committee and its Sub-Committee in relation to cases involving Parish Councillors. A Parish Representative will not give advice or sit in relation to a complaint about the conduct of a Parish Councillor of their own Authority.
- 2.8 'Monitoring Officer' means a statutory officer appointed by the Councils under the Local Government and Housing Act, Sections 5 and 5A, who has a role in the promotion and maintenance of high standards of conduct within Local Authorities and includes his or her deputy or representative.

3.0 COMPLAINTS IN WRITING

- 3.1 A complaint must be in writing and must allege a breach by the Member or Co-opted Member, of the relevant Council's Code of Conduct for Members, when the Member was acting in his/her capacity as a Councillor. The Monitoring Officer will be permitted to seek additional information from the complainant and/or the Subject Member.
- 3.2 A complaint should be made on the official complaint form, which can be found on the Councils' website.
- 3.3 A complaint must relate to an individual who was a Member or Co-opted Member of the Council at the time of the matter complained of. The Monitoring Officer cannot deal with complaints about the Borough, District or Parish

generally, or their staff or services; the Council's complaints procedure should be used for such issues. The Monitoring Officer cannot deal with complaints about an individual's conduct before he or she was Elected, Co-opted or appointed, nor after he or she ceased to be a Member.

4.0 ACKNOWLEDGEMENT AND NOTIFICATION

- 4.1 Within seven working days of receipt of the complaint, the Monitoring Officer will acknowledge receipt of the complaint and notify the Subject Member as to the existence of the complaint, the name of the complainant (unless it is not in the public interest to do so) and provide them with a copy of the complaint.
- 4.2 It is likely that the Monitoring Officer will also notify the Subject Member's Group Leader and the Councils' Chief Executive of the complaint and a summary of it.

5.0 ASSESSMENT OF COMPLAINTS

- 5.1 The Monitoring Officer has initial responsibility for considering written complaints by way of allegations against Members for breach of the relevant Code of Members' Conduct. This is known as assessment. The purpose of assessment is to determine whether or not, on the basis of information supplied by the Complainant, if the matter were proved, it would amount to a breach of the Code of Members' Conduct. No investigation or hearings are conducted at this stage.
- 5.2 The Monitoring Officer will consult with one of the Independent Persons on each complaint received, as to whether in their view it could amount to a breach of the Code of Conduct. The Parish Representative will also be consulted in relation to complaints concerning Parish Councillors, and their views will be sought as to whether the complaint merits formal investigation. Their views will be included in the Monitoring Officer's decision report.
- 5.3 If the Monitoring Officer requires further information in order to reach a decision, they may come back to the complainant for such information and may also request information from the Subject Member.
- 5.4 If the Subject Member was not acting in their capacity as a Member at the time of the matter complained of, or if the complaint does not disclose a potential breach of the Code of Members' Conduct, then the complaint will be rejected.
- 5.5 Complaints which in the opinion of the Monitoring Officer are trivial, simply malicious, vexatious, politically motivated or tit-for-tat are also likely to be rejected.
- 5.6 If the complaint does disclose a possible breach of the Code of Members' Conduct and has not been rejected under paragraphs 5.4 or 5.5 above, the Monitoring Officer will consider whether or not the complaint can be more

appropriately dealt with by way of informal resolution. If satisfied that this is the appropriate way forward then the Monitoring Officer will contact the complainant and the Subject Member and seek to arrive at an informal resolution of the complaint. Such informal resolution may involve the Member accepting that his or her conduct was unacceptable and offering an apology or other remedial action. Where the Subject Member makes a reasonable offer of local resolution but the complainant is not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

- 5.7 If the complaint identifies criminal conduct or breach of other regulations by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies. If the complaint identifies a safeguarding issue the Monitoring Officer has the power to refer it to other appropriate agencies.

6.0 HOW THE MONITORING OFFICER ASSESSES THE COMPLAINT

- 6.1 In reaching a decision on the complaint, the Monitoring Officer will take into account the following considerations, depending on the nature of the complaint and the need to adopt a proportionate response:

- (a) The extent to which the Subject Member is alleged to have failed to treat others with respect;
- (b) The extent to which the Subject Member is alleged to have acted in a way that may cause the Authority to breach an equality enactment;
- (c) Whether the allegation relates to bullying, intimidating or attempting to intimidate a person involved in an allegation against a Member;
- (d) Whether in disclosing confidential information, the Subject Member failed to take on or heed advice;
- (e) The implications for public perception on the reputation of the Council;
- (f) The implication for staff relations;
- (g) The seniority or position of influence of the Member and public trust and confidence;
- (h) The consequences, or the likely consequences, of the Member's alleged actions;
- (i) The extent to which the Subject Member is alleged to have used his or her position as a Member improperly to confer or secure an advantage or disadvantage;
- (j) The extent to which the Subject Member is alleged to have misused or abused the resources of the Council;
- (k) The detriment caused by acting against advice when reaching decisions;
- (l) The extent to which a failure to register or declare interests results from a failure or refusal to seek or to follow advice;
- (m) Whether the matter of complaint has already been the subject of a previous investigation, or an investigation by another regulator, e.g. the Local Government Ombudsman or the District Auditor or the subject of proceedings in Court;

- (n) Whether the complaint is about something that happened so long ago that there would be little public benefit in taking action now;
- (o) Whether the complaint is too trivial to warrant further action;
- (p) Whether the complaint appears to be simply malicious, vexatious, politically motivated or tit-for-tat;
- (q) The public benefit in directing an investigation or other steps and the costs and Officer and Member time which could be incurred on an investigation or other steps;
- (s) Whether there is enough information currently available to justify a decision to refer the matter for investigation or to seek an informal resolution;
- (t) Whether the complaint is about someone who has died, resigned, is seriously ill or is no longer a Member of the Council concerned and it is not in the public interest to pursue;
- (u) Whether the complaint is such that it is unlikely that an investigation will come to a firm conclusion on the matter and where independent evidence is likely to be difficult or impossible to obtain;
- (v) Whether the Subject Member has already provided a satisfactory remedy (e.g. apologising);
- (w) Whether the matter is suitable for informal resolution and the Member complained of is amenable to such an approach.

7.0 WHAT THE MONITORING OFFICER CAN DO

7.1 When the Monitoring Officer has considered the complaint, he/she can:

- (a) Decide to take no further action in respect of the complaint, whilst providing reasons for such a decision;
- (b) Ask the complainant for additional information, with reasons;
- (c) Refer your complaint for investigation;
- (d) Determine to use other steps rather than investigation, i.e. to resolve the complaint informally without the need for a formal investigation; or
- (e) Refer the complaint to the Police or other regulatory agency if the complaint identifies criminal conduct or a breach of other regulations by any person.

7.2 There is no right of appeal against the Monitoring Officer's decision on assessment.

8.0 A DECISION TO TAKE NO FURTHER ACTION

8.1 Reasons for taking no further action include:

- (a) That the subject matter of the allegation is outside the jurisdiction of the Joint Governance Committee;
- (b) That the allegation does not appear to disclose a failure by the Member to comply with the Code of Members' Conduct when acting in that capacity;

- (c) The information submitted by the complainant is insufficient to enable the Monitoring Officer to reach a decision;
- (d) The matter of the complaint has already been the subject of a previous investigation or of an investigation by another regulator or the subject of proceedings in Court;
- (e) The complaint is about something that happened so long ago, that there would be little public benefit in taking action now;
- (f) The complaint is too trivial to warrant further action;
- (g) The complaint appears to be simply malicious, vexatious, politically motivated or tit-for-tat.

9.0 INFORMAL RESOLUTION

- 9.1 If the Monitoring Officer decides to take steps other than dismissing the complaint or referring it for investigation, they will notify the Complainant, the Subject Member and the Independent Person. A decision to take other steps precludes an investigation or other disciplinary action.
- 9.2 If the Subject Member makes a reasonable offer of resolution but the Complainant is not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint merits a formal investigation.

10.0 INVESTIGATIONS

- 10.1 Should the Monitoring Officer, after having consulted with the Independent Person, and having concluded their assessment and considered informal resolution, decide that the matter should be investigated, they may conduct that investigation themselves, or delegate to another Investigating Officer, to investigate the matter on behalf of the Monitoring Officer. Such Investigating Officer may be a Deputy Monitoring Officer, another Officer of the Council, or an external appointment.
- 10.2 The investigation will be concluded in private and will result in an Investigator's Report, which will be shared with the Complainant, the Subject Member and the Independent Person. If the investigation identifies, in the view of the Monitoring Officer, that there is evidence that it is more likely than not, that the Subject Member has breached the Code of Conduct, then a meeting will be called of the Standards Sub-Committee of the Joint Governance Committee, to hear and determine the matter.
- 10.3 The Subject Member will be informed of the decision of the Monitoring Officer to call such a meeting. The Subject Member has the right to consult with the Independent Member who the Monitoring Officer has assigned to the case, and who has been involved in the assessment stage. The outcome of the investigation is reported to the Standards Sub-Committee, and may result in a hearing before that Sub-Committee, which is likely to be held in public.

11.0 THE STANDARDS SUB-COMMITTEE OF THE JOINT GOVERNANCE COMMITTEE

11.1 The Joint Governance Committee operates in accordance with the Joint Committee Agreement between Adur District Council and Worthing Borough Council. The terms of reference of the Joint Governance Committee are set out in Part 3 of each Council's Constitution.

11.2 A Sub-Committee of the Joint Governance Committee will be convened to hear and determine any individual complaints that a Member has breached the Code of Conduct, which are referred to it by the Monitoring Officer.

11.3 The Sub-Committee will consist of 6 Members: 3 Members of each of Adur District Council and Worthing Borough Council reflecting the political balance of each of the Councils. It is permissible to have a maximum of 1 Member of each Authority's Executive on the Sub-Committee.

11.4 The Sub-Committee may co-opt 1 Independent Person for each matter, to advise the Sub-Committee on Standards matters. Usual practice is for the Independent Person who was involved in the assessment of the complaint to be co-opted onto the Committee for that particular meeting where the complaint will be heard and determined.

The Independent Person co-opted onto the Sub-Committee will not be entitled to vote at the meeting.

The Independent Person will be entitled to retire to the adjournment room when the Sub-Committee consider and determine their decision.

The views of the Independent Person should be given in front of the Monitoring Officer and the Subject Member, and the public and press if present.

11.5 The Sub-Committee will co-opt one Member of the Parish Council to the Sub-Committee when meeting to hear and determine a complaint that a Parish Councillor has breached the Parish Code of Conduct. The Co-opted Parish Councillor will not be from the same Parish Council as the Parish Councillor subject to the complaint.

The Co-opted Parish Councillor will not be entitled to vote at the meeting.

The Parish Councillor will be entitled to retire to the adjournment room when the Sub-Committee consider and determine their decision.

The views of the Parish Councillor should be given in front of the Monitoring Officer and the Subject Members, and the public and press if present.

11.6 The Sub-Committee has the power to co-opt, in an advisory capacity only, any person who is an Independent Person at another Local Authority to advise the Sub-Committee on such terms as the Joint Governance Committee may

determine and agree with the person concerned and the Local Authority and in accordance with the Localism Act 2011 and any relevant regulations.

- 11.7 Decisions made at a Sub-Committee of the Joint Governance Committee shall be by way of a show of hands. Where the Sub-Committee is determining, following an investigation, whether or not the Code of Members' Conduct has been breached, the decision shall be made by a simple majority, subject to paragraph 11.8 and 11.9 below.
- 11.8 Where the Sub-Committee is determining, following an investigation, whether or not a breach of the Code has occurred and they fail to reach a decision upon the matter by a majority of their votes, this is an unresolved decision. An unresolved decision shall be referred to the Chairmen of the Joint Governance Committee with a view to resolution by discussion and negotiation and, where appropriate, referral to the Joint Governance Committee for a decision.
- 11.9 Where the Sub-Committee is determining, following an investigation, whether or not a breach of the Code has occurred and there is a simple majority vote which indicated that there has been a breach of the Code, then if the majority of those Members who are Members of the same Council as the Subject Member voted against such a resolution, the matter shall not be determined but shall stand deferred to a meeting of the full Council of that Council for determination.

12.0 PROCEDURE FOR MEETING OF THE SUB-COMMITTEE OF THE JOINT GOVERNANCE COMMITTEE SITTING TO HEAR AND DETERMINE AN ALLEGATION OF A BREACH OF THE CODE OF CONDUCT

- 12.1 Firstly the Chairperson will introduce all parties and Members and Co-opted Members of the Committee and will explain the procedure for the meeting.
- 12.2 The Committee will give consideration to excluding the press and public from the meeting but only do so in exceptional circumstances. It is generally considered that the public interest in the matter will outweigh the interests of the individual, bearing in mind the individual is a holder of public office. Advice will be taken from the Legal Advisor to the Committee on this point.
- 12.3 The Subject Member is entitled to be represented at the hearing.
- 12.4 The Monitoring Officer, or their representative, will outline the Council's case and call witnesses, who are likely to include the Investigating Officer (if different from the Monitoring Officer) and the complainant. After each witness is called they should come forwards to give their evidence and return to the gallery once they have given their evidence and answered any questions.
- 12.5 After each individual witness gives evidence for the Council, the Subject Member (or their representative) may ask questions of the Monitoring Officer or the Witness, through the Chairperson, immediately after they have given evidence. Following which, Committee Members may ask any questions of the

Monitoring Officer or the Councils' witnesses immediately after the Subject Member has done so.

- 12.6 The Subject Member or their representative will then outline their case and call witnesses. After each witness is called they should come forwards to give their evidence and return to the gallery once they have given their evidence and answered any questions.
- 12.7 The Monitoring Officer (or their representative) may ask any questions of the Subject Member and their witnesses, through the Chairperson, immediately after they have given evidence. Following which, the Committee Members may ask questions of the Subject Member or their witnesses immediately after the Monitoring Officer has done so.
- 12.8 The Monitoring Officer will then be offered an opportunity of a final comment and summing up. Then the Subject Member will be offered an opportunity of a final comment and summing up.
- 12.9 The views of the Independent Person (and the Parish Representative when considering a Parish complaint) will be sought and will be given with the Monitoring Officer, Subject Member and any press and public present.
- 12.10 Members of the Sub-Committee will adjourn into private session to determine the matter. The Legal Advisor to the Committee will be present throughout any discussion, as will the Independent Person (and the Parish Representative when considering a Parish complaint).
- 12.11 The Sub-Committee will reconvene to take a vote in public, deliver their decision and provide reasons.
- 12.12 There is no right of appeal against the decision of the Sub-Committee.
- 12.13 It should be noted that if the Subject Member accepts that there has been a breach of the Code of Conduct as alleged and evidenced in the Investigating Officer's report then the Sub-Committee may determine that the procedure above is not appropriate; they may dispense with the calling of witnesses, formally find a breach of the Code of Conduct and deal with the issues set out at paragraph 13 below.

13.0 MITIGATION

- 13.1 Having heard the Sub-Committee's decision, if a breach has been found, the Legal Advisor to the Sub-Committee will outline the possible sanctions available.
- 13.2 The Monitoring Officer or their Representative has the opportunity to make representations relating to appropriate sanctions, to the Sub-Committee. The Subject Member or his Representative then have an opportunity to address the Sub-Committee on mitigation and sanctions.

- 13.3 The views of the Independent Person and the Parish Representative (if a Parish matter) will be sought and given in the meeting.
- 13.4 The Sub-Committee will then retire into private session, with the Legal Advisor, to come to a decision about sanctions. The decision together with reasons will then be announced in the meeting by the Chairperson of the Sub-Committee.
- 13.5 The decision of the Sub-Committee will be confirmed in writing within 5 working days.
- 13.6 The rules of natural justice apply to the hearing and determination of the Sub-Committee.

14.0 SANCTIONS

- 14.1 The Sub-Committee has no power to suspend or disqualify a Member.
- 14.2 Any sanction imposed must be proportionate and reasonable to the circumstances of the matter.
- 14.3 Any sanction imposed may not prevent the Member from being able to perform their duties as a Member.
- 14.4 Any sanctions imposed in respect of a Parish Councillor can only be recommendations from the Sub-Committee to the Parish Council. The District and Borough has no power to impose sanctions on a Parish Councillor and any recommendation would need to be agreed by the Parish.
- 14.5 Sanctions may include:
- Censure
 - Publishing a decision that the Member has been found to have breached the Code of Conduct
 - Recommending to the Group Leader or the Council that the Member be removed from any or all Committees or Sub-Committees.
 - Instructing the Monitoring Officer to arrange training
 - Recommending to the Group Leader or the Council that the Member be removed from outside body appointments
 - Withdrawal of facilities.

15.0 WITHDRAWAL OF A COMPLAINT

- 15.1 Once a valid complaint has been submitted it can only be withdrawn before assessment by the Monitoring Officer. Withdrawal requires the consent of the Monitoring Officer in consultation with the Independent Person and the Parish Representation, as appropriate. Consent will normally be given. However, in

considering a request from the complainant to withdraw the complaint, the Monitoring Officer will consider:

- (a) The reasons for the requests;
- (b) Whether the public interest in pursuing action outweighs the request;
- (c) If the public interest suggests the matter should proceed, the extent to which it can proceed without the complainant's involvement;
- (d) Whether there is an identifiable reason for the request, e.g. improper pressure that has been brought to bear.

After assessment by the Monitoring Officer, a complaint cannot formally be withdrawn without the Monitoring Officer or the Standards Sub-Committee, in consultation with the Independent Person and Parish Representative, as appropriate, depending upon the stage to which the action has reached, taking into account the request for the matter not to proceed further.

16.0 VARIATION

- 16.1 The Monitoring Officer may vary this procedure in any particular instance where he or she is of the opinion that such variation is desirable and does not conflict with the statutory requirements, nor the principles of natural justice.