

## **Procedure for considering complaints alleging a failure to comply with a Members' Code of Conduct within the area of Leeds Metropolitan District Council.**

### **Introduction**

1. This procedure should be used to deal with complaints submitted under the Members' Code of Conduct adopted by Leeds City Council and the Parish and Town Councils in the Leeds area.
2. The Members' Code of Conduct applies to elected Members and voting co-opted members when they are acting in that capacity. Complaints which relate to a failure to comply with the rules about 'Disclosable Pecuniary Interests' should be directed to the West Yorkshire Police for their consideration. Complaints about a potential breach of the general obligations should be submitted to the Monitoring Officer for consideration.
3. The Monitoring Officer may nominate another officer of suitable experience and seniority to carry out any of the functions listed in this procedure.

### **Stage 1 - Initial assessment by the Monitoring Officer**

4. Complaints must be submitted in writing, must provide substantiated information, and should outline what form of resolution the complainant is seeking. Otherwise the Monitoring Officer should ask the complainant to resubmit their complaint. Ideally the complainant will use the correct complaints form to submit their complaint, but other written complaints will be accepted so long as they contain the relevant information.
5. The Monitoring Officer will consider the complaint and make a decision as to whether it will be treated as a valid complaint or not.
6. The following types of complaint will not be considered as 'valid complaints' under this procedure:
  - a. Complaints which are submitted anonymously<sup>1 2</sup>;
  - b. Complaints which do not identify a subject Member;
  - c. Complaints which relate to a Member's personal or private life;
  - d. Complaints concerning a failure to respond to a request from a constituent or other individual;
  - e. Complaints which relate to the alleged actions of employees of the Council or non-voting co-optees;

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<sup>1</sup> Complaints which contain a request for the complainant's identity to be withheld may be considered to be 'valid complaints', although the complainant's identity will only be withheld in exceptional circumstances. If the Monitoring Officer does not consider it appropriate to withhold the complainant's identity, the complainant will be given the opportunity to withdraw their complaint before it proceeds to the next stage.

<sup>2</sup> Anonymous complaints which reveal potential fraud or corruption will be referred to Internal Audit for consideration under the Council's adopted Whistle blowing Policy

- f. Complaints which relate to a decision of an employee or a Committee;
  - g. Complaints which relate to a person who is no longer a Member of the Council or which refer to alleged incidents before the person became a Member of the Council;
  - h. Complaints which refer to alleged incidents which happened so long ago that there would be little benefit in taking action now;
  - i. Complaints containing trivial allegations, or which appear to be simply malicious, politically motivated or tit-for-tat;
  - j. Complaints regarding alleged behaviour which has already been the subject of an investigation or some form of action;
  - k. Complaints which relate to an alleged failure to comply with the rules regarding 'Disclosable Pecuniary Interests'<sup>3</sup>.
7. In all cases where the complaint names a Member of a relevant authority, the Member will be notified of the complaint. If the Monitoring Officer decides that the complaint is 'invalid', this notification is made for information only.
  8. If the complaint relates to an employee or is a service related issue, the Monitoring Officer will refer the complaint to the relevant service in order for them to respond to the complainant directly.
  9. In any case where the Monitoring Officer decides that the complaint is 'invalid', they will write to the complainant explaining why their complaint cannot be dealt with under this procedure. There is no appeal process for decisions taken by the Monitoring Officer at this stage.

## **Stage 2 - Informal resolution**

10. If, following initial assessment, the Monitoring Officer decides that the complaint should be treated as a 'valid complaint' they will write to the complainant and explain that the matter is to be referred to the subject Member for them to seek to resolve the issue in accordance with this procedure. The complainant will also be provided with an outline of the procedure for dealing with complaints against Councillors.
11. At the same time the Monitoring Officer will refer the matter to the subject Member and the relevant Group Whip<sup>4</sup> for their consideration. In this correspondence the Monitoring Officer will provide the subject Member with a reasonable timescale within which to attempt to resolve the complaint (usually this will be 28 days), and will provide the subject Member with the contact details for the Independent Person<sup>5</sup>.

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<sup>3</sup> Such complaints will be redirected to the West Yorkshire Police, subject to the complainant's agreement.

<sup>4</sup> If the subject Member is the Group Whip, the complaint will be copied to his or her Group Leader. In the case of a Parish or Town Council without structured political groups, the Monitoring Officer could consider involving the Chairperson of the Council.

<sup>5</sup> See Annex 1 for a summary of the role of the Independent Person.

12. Types of informal resolution might include:

- a. An explanation by the subject Member of the circumstances surrounding the complaint;
- b. An apology from the subject Member;
- c. An agreement from the subject Member to attend relevant training or to take part in a mentoring process;
- d. Offering to engage in a process of mediation or conciliation between the subject Member and the complainant; or
- e. Any other action capable of resolving the complaint.

13. Before deciding upon a course of action the subject Member may seek guidance from a Group Whip, the Independent Person, and/or the Monitoring Officer. It may also be advisable to seek advice from the complainant to ascertain what form of informal resolution they would find acceptable, particularly if the form of resolution they have specified in their complaint is not possible.

14. The Independent Person is available to the subject Member to give them advice on the severity of the complaint and what form of resolution they would consider appropriate. Providing such guidance will not prevent the Independent Person from giving a view to the Standards and Conduct Committee about the complaint at a later stage.

15. At the end of the 28 day period the Monitoring Officer will, in consultation with the Chair of the Standards and Conduct Committee, seek to establish whether the subject Member (or Group Whip) has appropriately addressed matters which have been raised by the complainant.

16. Where the subject Member has appropriately addressed the matters raised there will be no further action taken in respect of the complaint and the Monitoring Officer will notify both the complainant and the subject Member of this decision.

17. Where it has not been possible to appropriately address matters, the complaint will be referred to the Standards and Conduct Committee for consideration. The Monitoring Officer will notify both the complainant and the subject Member of this decision, and will provide the subject Member with information regarding the Council's insurance arrangements (and how legal representation may be accessed).

18. There will be no appeal process for decisions taken by the Monitoring Officer and the Chair of the Standards and Conduct Committee at this stage.

### **Stage 3 – Standards and Conduct Committee**

19. The Monitoring Officer will prepare a report for consideration by the Standards and Conduct Committee. This report will include readily obtainable information (such as minutes of meetings or Clerk's notes), a summary of the complaint and the efforts made to resolve the matter informally.
20. The Monitoring Officer must arrange for a meeting of the Standards and Conduct Committee (or the relevant Sub-Committee) to be convened to consider the Monitoring Officer's report of the complaint. Wherever possible the meeting will take place within 28 days of the Monitoring Officer's report being finalised.
21. The Sub-Committee will be made up of three Members of the Standards and Conduct Committee, one of whom must be from the same political group as the subject Member (wherever possible), but not all of the Members will be from the same political group. The Chair will be elected from among the membership at the beginning of the meeting, but cannot be from the same political group as the subject Member.
22. If the complaint relates to a Parish or Town Councillor, one of the co-opted Parish Members will be invited to attend the Sub-Committee meeting. The Parish Member will not be entitled to vote at the meeting, but will be entitled to speak at the discretion of the Chair.
23. The following people will also be invited to attend the Sub-Committee meeting:
  - a. The complainant;
  - b. The subject Member;
  - c. The Group Whip (if relevant); and
  - d. The Independent Person.
24. The Monitoring Officer will also attend the meeting in order to present their report.
25. After initial consideration of the Monitoring Officer's report, the Sub-Committee will take statements from the following parties (either in person or in written form if the person is unable to attend the meeting):
  - a. The complainant; and
  - b. The subject Member.
26. The Sub-Committee may also ask questions of anyone present at the meeting in order to reach a conclusion on the complaint.
27. Before reaching a final decision on the complaint, the Standards and Conduct Committee must seek, and take account of, the view of the Independent Person in relation to the complaint.

28. If the Sub-Committee is unable to reach a conclusion on the complaint on the basis of the information before it, it may adjourn the meeting and request that the Monitoring Officer seeks the further information required. However, when doing so the Sub-Committee should consider whether the information will be readily available to the Monitoring Officer.
29. Once the Sub-Committee is satisfied with the information before it, it must decide the following issues:
  - a. Whether the subject Member has failed to comply with the Members' Code of Conduct;
  - b. Whether further action is warranted; and
  - c. What form of action might be appropriate.
30. If the complaint relates to a Parish or Town Councillor the Sub-Committee will only make a decision regarding whether the subject Member has failed to comply with the relevant Members' Code of Conduct. This decision, and the reasons for it, will be communicated to the relevant Parish or Town Council in order for it to make a decision as to whether further action is warranted and what form of action would be appropriate.
31. In all other cases, if the Sub-Committee concludes that, on the balance of probabilities, the subject Member did not fail to comply with the Members' Code of Conduct, this will conclude the complaints process. In such cases no further action will be taken in respect of the complaint, although the Sub-Committee may still wish to consider making a recommendation to the authority with a view to promoting and maintaining high standards of conduct in general. Such recommendations may include proposed changes to internal procedures and practices or training for Members in general.
32. If the Sub-Committee concludes that, on the balance of probabilities, the subject Member has failed to comply with the Members' Code of Conduct, the Sub-Committee must go on to consider whether action should be recommended in respect of the subject Member, and what form of action might be appropriate.
33. The recommendations available to the Sub-Committee are limited to:
  - a. A formal letter to the subject Member from the Chair of the Standards and Conduct Committee;
  - b. Formal censure by a motion of full Council; or
  - c. Removal by the authority of the Member from a relevant Committee(s) subject to statutory and constitutional requirements.
34. The Sub-Committee may make a recommendation in relation to one or more of the above sanctions to full Council, the Group Whip or the Chair of the Standards and Conduct Committee. The Chair will confirm any such recommendations in writing within five working days of the Sub-Committee meeting.

35. The Sub-Committee may also make general recommendations to the authority with a view to promoting and maintaining high standards of conduct within the authority. As stated above, such recommendations may include proposed changes to internal procedures and practices or training for Members in general. The Monitoring Officer will be responsible for communicating such recommendations to the relevant Committee or officer for consideration.
36. Within five working days of the meeting the Chair of the Sub-Committee will write to the complainant and the subject Member explaining the final decision of the Sub-Committee and detailing any recommendations made.
37. There will be no right of appeal against a decision of the Sub-Committee.

## **ANNEX 1 - Role of the 'Independent Person'**

### Role of the Independent Person

The role of the independent person is set out in Section 28 of the Localism Act 2011.

As part of its arrangements under which decisions on allegations can be made, each principal authority must appoint at least one independent person.

The independent person's views **must** be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate.

The authority may also seek the independent person's views on an allegation that it has not decided to investigate. However, there is no requirement for the authority to do so, or to take those views into account.

Finally, a member or co-opted member of the authority (or of a parish council in the area) may seek the independent person's views on an allegation made against them.