

APPENDIX 6

PROCEDURE FOR DEALING WITH CONDUCT ALLEGATIONS

Introduction

1. The Council is committed to promoting and maintaining high standards of conduct by all Councillors and Co-opted Members and has adopted a Code of Conduct which all of its members must adhere to.
2. This procedure covers complaints made against Councillors and Co-optees who are alleged to have breached the Code.

Responsibilities

3. Any complaints should be addressed to the Monitoring Officer who will consider the matter.
4. An Independent Person appointed by Council will be consulted on any matter that is referred to the Governance and Ethics Sub-Committee. The Governance and Ethics Sub-Committee must take the Independent Person's views into account before making a decision on an allegation that is subject to investigation and formal hearing.
5. The member who is the subject of a complaint may consult the Independent Person in respect of the complaint.

Receiving the complaint

6. Any complaint must be made in writing. The complaint should include details of:
 - a. the complainant's name, address and other contact details
 - b. the complainant's status, for example, member of the public, fellow member or officer
 - c. who the complaint is about and
 - d. the alleged misconduct including, where possible, dates, witness details and other supporting information
 - e. whether the complainant is willing for their name to be disclosed to the person who the complaint is about

Initial considerations

7. The Monitoring Officer will check that the complaint relates to a serving member of the Council or a Co-optee and could amount to a breach of the Code and is therefore valid.
8. If the complaint is not valid the complainant will be informed that no further action will be taken.

9. Where the complaint falls under the scope of one of the Council's other complaints procedures, the Monitoring Officer may refer the complaint on to the Complaints and Information Team for investigation.

Consideration of the complaint

10. The Monitoring Officer can decide to:

a. Take no further action, for example where the complaint is in the Monitoring Officer's opinion frivolous, vexatious or so minor that it would be disproportionate use of resources to take further action

b. Consult with the Chair of Governance and Ethics Committee before deciding whether to take further action

a.c. Consult with a cross-party panel of Governance and Ethics Committee Members before deciding whether to take further action

b. Refer the complaint to the Councillor's political Group in order for it to be dealt with under the Group's discipline rules or agreed process, in which case the political Group will be required to report back on the outcome for the sake of transparency

e.d.

d.e. Seek to resolve the issue through mediation, explanation, or by the Councillor or Co-optee agreeing to make an apology

e.f. Fully investigate the complaint further before deciding on the most appropriate course of action. The use of resources in relation to any investigation should, in the opinion of the Monitoring Officer, be proportionate to the seriousness of the alleged misconduct, and refer to the Conduct Committee for formal decision

f.g. Taking into account proportionate use of resources, if following investigation the Monitoring Officer is satisfied that the alleged misconduct is sufficiently serious that another course of action would be inappropriate, refer the complaint to the Conduct Governance and Ethics Sub-Committee for a decision on which of the above courses of action to take a formal hearing

11. The Monitoring Officer will inform the relevant Councillor or Co-optee that the complaint has been received and, unless the complainant objects, the identity of the complainant.

12. All complaints will be dealt with within a reasonable time period.

13. The Monitoring Officer will keep the relevant Councillor or Co-optee and the complainant up to date with the progress and outcome of the complaint.

14. Where the complaint is fully investigated and referred to the Conduct Governance and Ethics Sub-Committee for a formal hearing, the relevant Councillor or Co-optee and the complainant will be given reasonable notice.

15. There is a presumption that ~~Conduct~~Governance and Ethics Sub-Committee meetings will be open to the public, but in some circumstances members of the public may be excluded where exempt information is being discussed.
16. The Council's appointed Independent Persons will be entitled to attend all ~~Conduct~~Governance and Ethics Sub-Committee meetings and to speak if they wish, but not vote.

17. In accordance with the rules of natural justice a) At any ~~Conduct Governance and Ethics Sub-Committee~~ meeting where an investigation report is to be considered and a complaint determined the complainant and the Councillor or Co-optee who is the subject of the complaint will be entitled to speak if they wish. The matter may be considered on the papers if parties do not wish to speak. The order of speaking will be as follows:

- a. Presentation of the investigation report
- b. The complainant
- c. The Councillor or Co-optee who is the subject of the complaint
- d. The Independent Person/s
- e. Members of the Committee may ask questions of speakers when they finish speaking and/or after all speakers have finished
- f. At the Chair's discretion the complainant and the Councillor or Co-optee who is the subject of the complaint may speak again to clarify issues arising during the meeting

Powers of ~~Conduct Governance and Ethics Sub-Committee~~

18. The ~~Sub-Committee~~ has authority to decide whether there has been a breach of the Code of Conduct.

19. In the event the Committee concludes that there has been a breach of the Code of Conduct, it may impose any of the following sanctions:

- a. censure the Councillor or Co-optee
- b. recommend that Council censures the Councillor or Co-optee
- ~~c. recommend that the Councillor be removed from a position of responsibility~~
- ~~d. in relation to Co-optees appointed on behalf of an external organisation, recommend that the organisation removes them from that position~~
- ~~e. recommend that the Councillor or Co-optee makes a formal apology~~
- ~~f.c. recommend relevant training any other appropriate sanction available under the relevant legislation~~

Appeal

20. ~~There is no right of appeal under this procedure~~ Any decision of the Monitoring Officer or Governance and Ethics Sub-Committee is final.

Reporting

21. Subject to paragraph 15 above in relation to exempt information, all findings of the Governance and Ethics Sub-Committee will be reported on the Council's website.
22. Governance and Ethics Committee will receive regular reports on complaints considered under this Procedure, including any complaints determined by the Governance and Ethics Sub-Committee