

## **Arrangements for dealing with complaints about councillor conduct**

These Arrangements set out how you may make a complaint that an elected or co-opted member of this authority or of a Town/Parish Council within its area has failed to comply with the authority's Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the authority's Code of Conduct.

The Council must have in place arrangements under which allegations that a member or co-opted member of the authority (or of a Town/Parish Council within the authority's area), has failed to comply with that authority's Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the authority to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a member (or a member or co-opted member of a Town/Parish Council) against whom an allegation as been made.

### **The Code of Conduct**

The Council has adopted a Code of Conduct for members.

Each Town/Parish Council is also required to adopt a Code of Conduct. If you wish to inspect a Town/Parish Council's Code of Conduct, you should inspect any website operated by the Town/Parish Council and request the town/parish clerk to allow you to inspect the Town/Parish Council's Code of Conduct.

### **Making a complaint**

If you wish to make a complaint, please write to –

The Monitoring Officer  
Lewes District Council  
Southover House  
Southover Road  
Lewes, East Sussex  
BN7 1AB

Or email [jennifer.norman@lewes.gov.uk](mailto:jennifer.norman@lewes.gov.uk)

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the model complaint form.

Please do provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name

and address to the member against whom you make the complaint, without your prior consent. However, please note that the authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

### **Will your complaint be investigated?**

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. This decision will normally be taken within 14 days of receipt of your complaint. The Monitoring Officer may decide a complaint does not merit investigation if:

- It is about someone who is no longer a member of the Council
- There has been a long delay before the complaint was made
- The complaint appears to be minor, politically motivated, or not sufficiently serious to warrant further action.

This list is not intended to be exhaustive and the Monitoring Officer may decide that a complaint does not merit formal investigation for any other reason which appears to him/her to be relevant.

The Monitoring Officer has discretion to refer the decision as to whether a complaint merits an investigation to the Standards Panel if it appears appropriate to do so.

Where he/she requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the member against whom your complaint is directed. Where your complaint relates to a Town/Parish Councillor, the Monitoring Officer may also inform the Town/Parish Council of your complaint and seek the views of the Town/Parish Council before deciding whether the complaint merits formal investigation.

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the member or the authority make a reasonable offer of local resolution, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

### **How is the investigation conducted?**

The Council has adopted a procedure for the investigation of misconduct complaints.

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events

and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer will normally write to the member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

### **What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**

The Monitoring Officer will review the Investigating Officer's report and, if he/she is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned, and to the Town/Parish Council, where your complaint relates to a Town/Parish Councillor, notifying you that he/she is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer to reconsider his/her report.

### **What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?**

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person, seek local resolution.

#### **Local Resolution**

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee and the Town/Parish Council for information, but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate, the Monitoring Officer may refer the matter for a local hearing.

#### **Local Hearing**

If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the

Monitoring Officer may report the Investigating Officer's report to the Hearings Panel (i.e. a sub-committee of the Council's Standards Committee) which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The Council has agreed a procedure for local hearings.

The Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearings Panel. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Hearings Panel may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Hearings Panel concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the member of this finding and the Hearings Panel will then consider what action, if any, the Hearings Panel should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the member an opportunity to make representations to the Panel and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter..

### **What action can the Hearings Panel take where a member has failed to comply with the Code of Conduct?**

The Council has delegated to the Hearings Panel such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearings Panel may –

1. Publish its findings in respect of the member's conduct;
2. Write a formal letter to the councillor found to have breached the code,
3. Report its findings to Council or to the Town/Parish Council for information,
4. Seek formal censure through a motion at Council,
5. Recommend to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council,
6. Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities,
7. Instruct the Monitoring Officer or recommend that the Town/Parish Council arrange training, mediation or other appropriate course of action, for the member.

8. Remove or recommend to the Town/Parish Council that the member be removed from some/all outside appointments to which he/she has been appointed or nominated by the authority or by the Town/Parish Council.

The Hearings Panel has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

### **What happens at the end of the hearing?**

At the end of the hearing, the Chair will state the decision of the Hearings Panel as to whether the member failed to comply with the Code of Conduct and as to any actions which the Hearings Panel resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel, and send a copy to you, to the member, and to the Town/Parish Council, make that decision notice available for public inspection.

### **Who is the Independent Person?**

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council. The definition of an Independent Person can be found in the [Localism Act 2011](#).

### **Revision of these arrangements**

The Council may by resolution agree to amend these arrangements, and has delegated to the Chair of the Hearings Panel the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

### **Appeals**

There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Hearings Panel

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.