# **Standards arrangements**

# **These are the procedures by which complaints about Councillors will be determined by the Council.**

These arrangements set out how you may make a complaint about an elected or co-opted member of the Chichester District Council (or of a Parish Council)

These arrangements are made under **Sections 28(6) and (7) Localism Act 2011**.

# Independent Person

* 1. The Council has appointed Independent Persons whose views must be sought by the Council

before it takes any decision on an allegation which may be investigated. The Independent Person’s views can also be sought by the Monitoring Officer or the Council at any other stage or by a Member against whom an allegation has been made. In practice complaints are dealt with by the Monitoring Officer, and by the Standards Committee. An independent Person may also support the subject of a Complaint.

# Members’ Code of Conduct

2.1 The Council has adopted a Code of Conduct for Members, which is published on the

Council’s website. It applies any time a Member is acting as a Councillor including when

commenting on social media using a social media account where they have previously

commented as a Councillor or where they otherwise use their public position to describe

themself.

2.1 Each parish council is required to adopt a code of conduct. If you wish to inspect a parish council’s code of conduct, you should inspect any website operated by the parish council or request the clerk to allow you to inspect that council’s code.

# 3 Making a Complaint

3.1 If you wish to complaint about a breach of the Code of Conduct by a Member you should write or send an email to:

*The Monitoring Officer*

*Chichester District Council*

*East Pallant House*

*East Pallant*

*Chichester*

*PO19 1TY*

email: legalservices@chichester.gov.uk

3.2 Where possible, the standard complaint form should be used. It is available from the Monitoring Officer at the above address or at LINK. Support is available if you need assistance in making a complaint, simply telephone the Council customer services team on 01243 785166.

# 4 Timescales

4.1 Complaints should normally be lodged as quickly as reasonably possible and no later than twelve months from the point of the alleged incident(s).

4.2 The Monitoring Officer will acknowledge receipt of your complaint within 10 working days and will keep you informed of progress.

# 5 Assessment for Investigation or Other Action

5.1 Every complaint relating to the Code of Conduct will be received by the Monitoring Officer who has overall responsibility to review and manage complaints under the Code of Conduct.

5.2 It is important to provide a name and contact address. Please note that the Council will not normally investigate anonymous complaints unless there is a significant public interest in doing so.

5.3 An initial assessment will take place, where possible, within 20 working days of receipt of the complaint or as soon as possible thereafter. The Monitoring Officer may request more information to assist the decision as to whether investigation is appropriate.

5.4 The Member who is the subject of a complaint (‘the subject Member’) will be advised of the complaint and copied into any relevant correspondence or complaint form received from the Complainant. Where a complaint relates to a Parish councillor, the Monitoring Officer may also inform the parish council of the complaint and seek views from the clerk or chair of that Parish before deciding whether the complaint merits formal investigation or any other action. The Monitoring Officer will review complaints and consult with the Independent Person in doing so and will decide whether a complaint merits formal investigation or any other action. Where there is a difference of opinion between the Monitoring Officer and the Independent Person, then the allegation will be investigated.

5.5 An assessment will take place, where possible, within 20 working days of receipt of the complaint or as soon as possible thereafter. The Monitoring Officer may request more information to assist the decision as to whether investigation is appropriate.

5.6 The subject Member may also be requested to provide information about the matter.

5.7 The Monitoring Officer will advise you, in writing, of their decision about whether the matter should be investigated.

5.8 If the complaint identifies criminal conduct or breach of other regulation, the Monitoring Officer will consult the Police and/or such other regulatory agencies as they consider appropriate. Investigation into a Complaint may be delayed where that Complaint relates to matters which are also being investigated by other enforcement bodies such as the Police.

5.9 The Monitoring Officer will not refer for investigation matters which are, in their opinion, and after consultation with the Independent Person, vexatious, offensive, trivial, personally motivated or politically motivated. Regard may be had to the Council Policy for dealing with Unreasonable Complainants in this respect and in relation to the handling of such complaints generally. Decisions not to refer matters on these grounds shall be at the Monitoring Officers absolute discretion.

5.10 If the Monitoring Officer has a conflict of interest or does not for any other reason consider it appropriate that they undertake initial assessment of a complaint, it will either be referred to the Standards Committee directly or referred to another Authority.

5.11 The Standards Committee will be informed of the outcome of all complaints received through an annual report. In addition, the Monitoring Officer shall, when they deem it appropriate, liaise with the Chair of the Committee regarding patterns of complaints, for example where large numbers of complaints are received against a particular Member, a specific complaint relating to one Member is registered by more than one complainant or there is an unusually large number of complaints generally.

# 6 Informal Resolution

6.1 Wherever possible the Monitoring Officer will seek to resolve a complaint informally without the need for formal investigation or referral to the Standards Committee.

6.2 This may involve trying to mediate between the parties, aiming to clarify misunderstandings, or encouraging discussion between the Complainant and subject Member to enable a resolution between them, or where appropriate, an apology. It may also involve other remedial action by the Council or the use of any other sanction available under the Code of Conduct.

6.3 If the Member or the Council makes a reasonable offer of local resolution, but the Complainant is not willing to accept the offer, the Monitoring Officer will take this into account in deciding whether a complaint merits formal investigation. In most cases the Monitoring Officer will not issue a decision notice after informal Resolution.

# 7 Investigation

7.1 If the Monitoring Officer concludes that a matter merits investigation, the Complainant will be invited to submit all information they wish to submit in support of their allegation within 10 working days of that decision to investigate by the Monitoring Officer.

7.2 Once the information is received it will be sent to the Member, that Member would also be invited to submit all information they wish to be considered.

7.3 Throughout the process the Monitoring Officer will ensure the subject Member and Complainant receive appropriate support and assistance typically through the involvement of the Independent persons.

7.4 The Monitoring Officer may also appoint a member of their staff to oversee the gathering of information relating to the matter which will comprise the investigation (‘the Nominated Officer’). The Nominated Officer will consider whether any further information is needed and take steps so far as possible to secure its production.

7.5 A report containing the information provided by the Complainant and subject Member will be prepared by the Nominated Officer and copied to both parties and sent to the Monitoring Officer. The report will conclude with a recommendation as to whether it is considered that there has been a breach of the Code.

# 8 Conclusion of no evidence of failure to comply with the Code of Conduct

8.1 The Monitoring Officer will receive and review the report and consult the Independent Person upon it. Subsequently, if satisfied that the report is sufficient, the Monitoring Officer will write to the Complainant and the subject Member notifying them that they are satisfied that no further action is required. In most cases these decisions will not be made public, but this will be a matter for the discretion of the Monitoring Officer.

# 9 Conclusion that there is evidence of failure to comply with the Code of Conduct

9.1 The Monitoring Officer will review the report and consult the Independent Person as to whether local resolution may be possible. If any suggested resolution is not agreed, the matter will be referred to the Standards Committee for consideration.

9.2 If the matter can reasonably be resolved in the Monitoring Officer’s opinion without the need for a hearing they will consult the Independent Person, with the Complainant and subject Member, to seek to agree a fair resolution which will also ensure higher standards of conduct for the future.

9.3 As with the initial assessment this can include the Member accepting that their conduct was unacceptable and offering an apology, and/or other remedial action by the Council or the Member. If the Member complies with the suggested resolution the matter will be reported to the Standards Committee, but no further action will be taken. A decision notice setting out the Monitoring Officer decision may be issued.

# 10 Hearing

10.1 If local resolution is not appropriate, or the Complainant or subject Member are not satisfied with the proposed resolution, or the subject Member is not prepared to undertake any proposed remedial action, the report will be sent to a Hearing. Where a complaint is in relation to a Parish councillor the Panel will also include a Parish councillor representative. The Parish representative will not be from the same parish as the subject Member. The Independent Person will be invited to attend all Panel meetings and will be consulted by the Panel in making its decision about whether there has been a breach of the Code and any action to be taken. Otherwise the Council Democratic Services Team will be responsible for setting up the Panel in accordance with the Constitution of the District Council.

10.2 The Panel will meet to decide whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action.

10.3 The report will be presented to the Panel. The Complainant and the subject Member will be invited to attend the Panel to present information and make representations in relation to the allegations that there has been a failure to comply with the Code of Conduct. The Independent Person will be invited to attend. The Panel can proceed in the absence of either the subject Member or the Complainant where it deems this to be appropriate.

10.4 The Panel may consult with the Independent Person if present and be advised by the Monitoring Officer or an advisor appointed by the Monitoring Officer. It may conclude:

(a) that the Member did not fail to comply with the Code of Conduct.

(b) that the Member did fail to comply with the Code of Conduct; and, if it so concludes, the Panel may determine whether any action is necessary and, if so, what sanction is appropriate.

All decisions by a Panel will be made Public.

# 11 What happens at the end of the Hearing?

11.1 The Chair of the Panel will announce the decision of the Panel as to whether the Member has failed to comply with the Code of Conduct and as to any action it deems necessary. The Monitoring Officer will prepare a Decision Notice which will be given to the subject Member and the Complainant within 10 working days. The outcome will be reported to the next meeting of the Standards Committee.

# 12 What actions can the Panel take if there has been a breach of the Code of Conduct?

12.1 The Panel will issue a decision notice explaining their findings and actions they direct should be taken.

12.2 The Panel may recommend any actions available under the Code of conduct including:

(a) issue a public letter of censure to the Member and where appropriate require an apology to be given to the Complainant or for the letter to be read out at Council and/or their Parish Council.

(b) recommend to the Member’s Group Leader that the Member be removed from any or all committees or sub-committees of the Council.

(c) instruct the Monitoring Officer to arrange training for the Member including training at the member’s own expense; except where the Subject Member is a Parish council Member in which case the Panel can only make recommendations to the relevant Parish council.

12.3 The Panel has no power to suspend or disqualify the Member or to withdraw allowances.

12.4 The Panel shall consult the Independent Person and decide what, if any, additional publicity should be undertaken regarding the outcome of the matter. Options for such publicity include a notice on the Council’s website or a press release.

# 13 Revision of these arrangements

13.1 The Council may by resolution agree to amend these arrangements and delegates to the

Chair of the Standards Committee the right to depart from these arrangements in

consultation with the Monitoring Officer where they consider it expedient to do so to secure

the effective and fair consideration of any matter.

# 14 Appeals

14.1 There is no internal right of appeal for the Complainant or the subject Member against a

decision of the Monitoring Officer or Panel.

14.2 If the Complainant feels that the Council has failed to deal with the complaint properly, they

may make a complaint to the Local Government and Social Care Ombudsman.

# Glossary

* **Anonymous complaint.** This is a complaint made without providing contact details which enable the complainant to be identified. Use of an email address or complaints by social media alone will be treated as an anonymous complaint unless supported by other identifying information such as name, address and telephone number.
* **Complainant(s).**  The person/people making the complaint.
* Initial tests and assessment stage. A meeting or discussion between the Monitoring Officer and an Independent Person to consider a complaint against the initial tests and assessment criteria.
* **Hearing.** A meeting of a Standards Sub-Committee at which they consider whether the Member has breached the code of conduct.
* **Independent person.** The Council must appoint at least one Independent Person and seek that person’s views before it takes decision on a complaint that it has decided to investigate. The Independent Person’s views can also be sought by the council on any other issue in the complaints handling process. The Independent Person will also provide, on request, procedural advice to a Subject Councillor.
* **Investigator.** The person appointed by the Monitoring Officer to undertake a formal investigation. This may involve the appointment of an investigating officer, who may be the Monitoring Officer themselves, another officer of the council, an officer of another council or an external investigator.
* **Legal advisor.** The officer responsible for providing legal advice to the Local Hearing Panel of the Standards Committee. This may be the Monitoring Officer, another legally qualified officer, or someone appointed for this purpose from outside the council.
* **Member.** This is a member of the Chichester District Council or a Parish within the administrative area of Chichester.
* **Monitoring officer.** The Monitoring Officer is a senior officer of the council who has statutory responsibility for maintaining the register of councillors’ interests and who is responsible for administering the system in respect of complaints of councillor misconduct.
* **Panel.** Three members of the Standards Committee selected to consider evidence at a Hearing.
* **Parish Council.** This is a local authority carrying out Parish functions under the local government Acts, locally these are called Parish Councils, Parish Meetings, Town Councils or the City Council.
* **Public interest.**  Public interest considerations are at the heart of this process. The Monitoring Officer must balance the appropriate use of public resource in dealing with complaints with the extent to which it may be in the public interest to take further action, and what that further action should be (informal resolution of a formal investigation perhaps leading to a finding of a breach of the code and sanctions being imposed).
* **Subject Councillor** The councillor, co-opted, or parish councillor against whom an allegation has been made.

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