

Royal Borough of Greenwich

Standards Committee

Procedure for dealing with complaints against Councillors concerning breaches of the Code of Conduct¹

I Introduction

- I.1 The Localism Act 2011 requires local authorities to establish arrangements to deal with allegations that Members have broken the Code of Conduct. The Royal Borough has already agreed a Code of Conduct and established a Standards Committee (including independent members). It has also appointed an Independent Person which is required under the Act.
- I.2 This procedure sets out the way in which complaints against councillors involving breaches of the Member's Code of Conduct are processed.
- I.3 The principles which underpin this procedure are:
- The procedure should be the same for all Members.
 - The procedure should be fair to the Member and complainant and should be seen to be fair.
 - A complaint should be copied to the Member complained of and to his/her Group Leader (or Deputy Leader if the matter involves the Group Leader).
 - Provision should be made for anonymous complaints and where a complainant wants to withhold his/her name.
 - The procedure should provide for complaints to be settled informally – by agreement/conciliation between the parties and/or through political Groups.
 - Complaints should be assessed to see whether they concern a breach of the code, and, if so, merit an investigation.
 - The procedure should set out criteria for assessing whether complaints merit an investigation, so that all complaints are, and can be seen to be, treated in a fair and transparent way.
 - The report of any investigation will be sent to the Independent Person.
 - The Standards Committee will consider the report of any investigation and the views of the Independent Person and decide whether there should be a hearing or whether other action is appropriate.
 - This procedure will be published on the website.

¹ Agreed by Council on 30 October 2013

1.4 The procedure has stages as follows:

Stage 1	Receiving a Complaint
Stage 2	Initial Assessment of a Complaint
Stage 3	The Investigation
Stage 4	Standards Committee Consideration of the Investigator's Report
Stage 5	Hearing
Stage 6	Outcome

2 Stage 1: Receiving a Complaint

- 2.1 A complaint must be made in writing to the Chief Executive, who will acknowledge receipt within five working days and if necessary seek further information from the complainant.
- 2.2 The Chief Executive will consult the Monitoring Officer on whether the complaint appears to involve a breach of the Code of Conduct. The Chief Executive will inform the Group Leader of the Member complained against (or the Deputy Leader if the complaint concerns the Leader). If there is a potential breach of the Code, a copy of the complaint will be sent to the Member complained against unless the Chief Executive decides that this would prejudice any investigation.
- 2.3 Where the complainant has requested confidentiality, their name will not be disclosed if the Chief Executive decides they reasonably believe that they or any witness may be at risk of physical harm, or their employment may be jeopardised, or there are medical risks (supported by medical evidence) or the complaint is pursued via the Whistleblowing Procedure. For employees, the Council recognises that making a complaint may be difficult and will respect any request for confidentiality. Where it is not possible to resolve a complaint without revealing an employee's identity (for instance because a statement is required as evidence) the employee will be advised on how the investigation will proceed.
- 2.4 If the Chief Executive refuses a request for confidentiality, she/he will offer the complainant the option to withdraw the complaint, rather than proceed with their name being disclosed. However, the Chief Executive will determine whether the public interest in taking action on a complaint will outweigh the complainant's wish to have their name withheld.

2.5 Investigating complaints is costly and time consuming. Many complaints can be dealt with more rapidly and effectively if an informal resolution of the matter can be achieved. Therefore, upon receipt of a complaint the Chief Executive will explore the potential for an informal resolution in discussion with the relevant Group Leader, or if the complaint involves them, the Deputy Group Leader.

2.6 If the matter is resolved informally, the complaint will not proceed further.

3. Stage 2 : Initial Assessment of a Complaint

3.1 The Member complained against may, within 5 working days of receiving the complaint, make written representations which the Chief Executive and the Standards Committee must take into account when considering how the complaint will be dealt with. Later representations may be taken into account at the discretion of the Chief Executive or the Standards Committee.

3.2 The Chief Executive will consider the complaint and any comments from the Member complained against and the relevant Group Leader (or Deputy Group Leader if the matter involves the Group Leader) and in consultation with the Independent Person will decide:

- whether the complaint, if proven, would show a failure to comply with the Code, and if so:
- whether the complaint would justify an investigation.

3.3 Factors which will be taken into account in deciding whether a complaint would justify an investigation include:

- whether the complaint merits an investigation for reasons of protection of the Council's reputation, the principle of transparency or to uphold the reputation of the democratic process;
- whether the complaint has already been the subject of an investigation, scrutiny, or other action;
- whether other actions would be more appropriate, such as training, conciliation or mediation or reviewing procedures;
- whether the complaint appears to be trivial, vexatious, malicious, politically motivated or tit for tat;
- whether the complaint is about something that happened a long time ago. This is both because, where a matter is serious, it would be reasonable to

expect the complainant to make a complaint promptly, and because the passage of time may make it more difficult to obtain documentary and reliable witness evidence;

- Whether the Member complained of has made a reasonable offer of local/informal resolution.

4. Stage 3 : The Investigation

- 4.1 If the outcome of the process of considering a complaint is that an investigation is warranted, the Chief Executive will appoint an investigator who will carry out an investigation and write a report. The Investigator will have due regard to the need to protect the confidentiality of whistleblowers in writing a report. Subject to this, the Investigator will advise anyone who is interviewed that their evidence may be disclosed to the public if the Standards Committee decides to proceed to a hearing.
- 4.2 The Chief Executive will inform the Members of the Standards Committee that an investigation is taking place. The Investigator will use the template report in the Annex to these procedures and will be expected to address whether the Member has a case to answer in terms of breaches of the Code of Conduct.
- 4.3 The Investigator will provide the report to the Chief Executive, who will send a copy to the Member complained of, the relevant Group Leader (or Deputy Group Leader if the matter involved the Group Leader), the Monitoring Officer and the Independent Person.

5. Stage 4 : Standards Committee Consideration of the Investigator's Report

- 5.1 The Standards Committee, meeting in private, will receive a copy of the Investigator's report, together with the views of the Independent Person (either in writing or via attendance at the meeting). The Standards Committee will consider whether the complaint shows a breach of the Code of Conduct and, if so, should be considered at a hearing of the Standards Committee or whether a local resolution can reasonably be achieved.
- 5.2 If the Standards Committee decides to proceed to a hearing, it will also determine whether all or part of the hearing should be held in private and indicate the witnesses who should be asked to appear.

6. Stage 5 : Standards Committee Hearing

6.1 The Monitoring Officer will send a copy of the Committee's decision and this procedure to the Member complained against and ask for a written response within ten working days as to whether the Member wishes:

- to be represented at the hearing (at their own expense) by a solicitor, barrister or any other person;
- to give evidence, either orally or in writing;
- to call witnesses to give evidence.

The Member complained against will be requested to indicate whether they disagree with any findings of fact in the investigator's report, citing the reasons why she/he disagrees.

6.2 The Monitoring Officer will send a copy of the Member's response to the Investigator and ask for a written response within ten working days as to whether the Investigator wishes to call witnesses to give evidence.

6.3 At least two weeks before the date of the hearing, the Monitoring Officer will consult with the Chair of the Standards Committee on the arrangements for the hearing and will then advise the Member, the Investigator and any witnesses. The Monitoring Officer, in consultation with the Chair, will exclude from the public agenda any part of a report which the meeting is likely to discuss in private.

6.4 The Chair, or another independent member in his or her absence, will chair the hearing. A member of the Standards Committee may not take part if he or she is the subject of the report, or is the complainant or closely associated with the complainant, or is a potential witness to the complaint.

6.5 The Member complained against may be represented or accompanied during the hearing by a solicitor, barrister or any other person. The representative or companion should have no conflict of interest in the matter and should not be in a position to exert influence over any member of the Committee.

6.6 The Chair may adjourn the hearing at any time and for any purpose, including allowing further witnesses to be called or evidence to be obtained. The Standards Committee may take legal advice from the Monitoring Officer at any time, and may resolve to exclude the public at any time whenever it is likely that exempt information would be disclosed.

6.7 The Investigator will be asked to present the case and the Committee and the Member complained against may question the Investigating Officer and any witnesses. The Member (or their representative) will then be asked to present his or her case and the Committee and the Investigator may question the Member or their witnesses. The Investigator and the Member will be expected to address in their presentations:

- Disagreements on facts.
- Whether there has been a failure to follow the Code of Conduct.

7. Stage 6 : The Outcome

7.1 The Standards Committee will then retire and consider the matter in private, with the Independent Person, Chief Executive and Monitoring Officer in attendance. The views of the Independent Person must be sought and taken into consideration before the Committee takes any final decision on whether the Member's conduct constitutes a failure to comply with the Code and on any action to be taken. The Standards Committee will draft its decision and its reasons for it before re-opening the meeting to the public.

7.2 The Standards Committee will notify the Member and complainant of the decision in writing and will include their reasons for this.

7.3 If the Standards Committee decides that the Member has complied with the Code, it will consider whether it should make any recommendations to the Council.

7.4 If the Standards Committee decides that the Member has failed to comply with the Code, the measures available are:

- Recommendation that the Member make an apology to full Council, which should address any matters specified by the Committee;
- Recommendation to Council that the Member be censured;
- Recommendation to the Member's Group Leader (or in the case of ungrouped Members, a recommendation to Council) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- Recommendation to the Leader of the Council that the Member be removed from the Cabinet, or removed from any of their portfolio responsibilities or from any other position of responsibility;
- Recommendation that the Member should be provided with training on specific matters;

- Recommendation to Council that the Member be removed from any or all outside body appointments to which they have been appointed or nominated by the Council;
- Decision to exclude the Member from the Council's offices or other premises, with the exception of meeting rooms necessary for attending Council, Committee and Sub-Committee meetings and constituent surgeries.

7.5 The Standards Committee will publish its decision, including a summary of its reasons and any recommendations and comments.

7.6 There is no Appeal Mechanism.

7.7 The Chief Executive will report the outcome of a Standards Committee hearing to the next Council meeting. The report will contain a summary of the matter, the statement of the Standards Committee's findings and summary of its reasons and any recommendations and comments.