

P Standards Committee – Procedure for the Initial Assessment of Complaints

1. Submission of Complaints

- (a) The authority will maintain a distinct and separate process for the handling of Code of Conduct (“the Code”) complaints and shall attempt through regular advertisement to notify the public where to direct complaints, and provide details of the procedures it will follow.
- (b) The authority will also determine Code complaints for all town and parish councils within South Cambridgeshire, including those which have adopted a Code other than that adopted by the District Council. Allegations made about members of these authorities will be assessed against the provisions of their Code.
- (c) Officers administering the corporate compliments, comments and complaints procedure (non-Code complaints) shall be alert to a complaint that a member may have breached the Code and ensure that such complaints are passed to the Monitoring Officer.
- (d) Complaints must be in writing. This will include fax and electronic transmission. This requirement must be read in conjunction with the Disability Discrimination Act 2000 and occasions where the complainant’s first language is other than English. Transcriptions of oral complaints will be accepted only in these circumstances.
- (e) The authority will produce a Code of Conduct Complaint Form that will be freely available, both on request and from the authority’s website, www.scamb.gov.uk/standards, where it will be readily accessible. An on-line complaint submission form will also be available on the authority’s website.
- (f) The form will inform complainants that their identity will normally be disclosed to the subject member. In exceptional circumstances and at the discretion of the Monitoring Officer, having taken the view of an Independent Person, this information may be withheld.
- (g) Complainants may withdraw their complaint only with permission of the Monitoring Officer.
- (h) The Monitoring Officer, having sought and taken into account the views of the Independent Person (see section 2, below), has discretion to determine whether a complaint:
 - (i) is a Code complaint or not,
 - (ii) should be investigated further or whether a different course of action is more appropriate,
 - (iii) if in a manner other than described in 1(c) above, is suitable for informal resolution.
- (i) The Monitoring Officer has discretion to vary this procedure in any particular instance where s/he is of the opinion that such a variation is necessary in the interests of fairness.

2. Independent Person(s)

The authority will appoint one or more “Independent Persons” whose view the Monitoring Officer must seek and take into account before making any decision in relation to an allegation about the conduct of a District or Parish Councillor within South Cambridgeshire.

- (a) An “Independent Person” is someone who is not a councillor, co-opted member or officer of the District Council or of any Parish Council within South Cambridgeshire, nor has held such office within five years prior to his/her appointment;
- (b) An Independent Person will not be a relative or close friend of any such councillors, co-opted members or officers;
- (c) The Independent Person will not cease to be independent as a result of being paid any amounts by way of allowances or expenses in connection with performing the duties of the appointment;

- (d) The vacancy for Independent Person will have been advertised in such manner as the authority considers likely to bring it to the attention of the public;
- (e) The Independent Person will have submitted an application to fill the vacancy;
- (f) The District Council may adopt an appointments procedure for Independent Person(s), such procedure to be published on the authority's website and provided to all applicants;
- (g) The full Council will appoint the Independent Person(s) by majority vote on the recommendation of an appointments panel of the Standards Committee, or of a joint appointments panel of Cambridgeshire county, city, district and unitary authorities.

3. Acknowledging receipt of a complaint and contacting the subject member(s)

On receiving a complaint and after determining that it is a Code complaint, the Monitoring Officer shall:

- (a) Send written acknowledgement to the complainant within five working days of receipt:
 - (i) If sufficient supporting evidence is not provided by the complainant, the Monitoring Officer will require the complainant to provide such evidence within five working days of the date of the acknowledgement or no further action will be taken in respect of the matter.

Within five working days of having received a valid Code of Conduct complaint and supporting evidence, the Monitoring Officer shall:

- (b) Contact the subject member(s) with a summary of the complaint and evidence. The summary shall include the paragraphs of the Code of Conduct to which the complaint relates or as identified by the complainant.
- (c) Ask that the subject member(s) provide a written response to the allegation and supporting evidence within five working days.

The Monitoring Officer shall then supply to the Independent Person the written complaint and supporting evidence, and the written response and supporting evidence from the subject member. The views of the Independent Person will be communicated to the Monitoring Officer within five working days.

4. Pre-Assessment by the Monitoring Officer

All Code complaints will be assessed using criteria as set out below. These criteria shall reflect local circumstances and priorities. They shall be simple, clear, open and ensure fairness for both complainant and subject member.

The Monitoring Officer has the discretion to refuse any complaints:

- (a) Which are malicious, relatively minor, politically motivated, trivial or tit-for-tat;
- (b) Which are made anonymously, unless the Monitoring Officer decides that the allegation is supported by sufficient evidence to suggest an exceptionally serious or significant matter;
- (c) Which contain no prima facie evidence of a breach of the Code or where the complainant and/or subject member has not supplied enough information to evidence their case or where the information supplied is of too general a nature from which to make a judgement to take further action;
 - (i) Only in exceptional circumstances shall the complainant and/or subject member be asked for further information. Unless the complainant and/or subject member submits sufficient further information within five working days, the complaint shall warrant no further action.
- (d) Where an investigation would serve no useful purpose and/or would not serve the public interest, where the matter is not serious enough to warrant a sanction or where only an apology would be appropriate;
- (e) Which are the same, or substantially similar, to a complaint which has already been the subject of an investigation or inquiry, where there is nothing further to be gained by seeking the sanctions available to the local Standards Committees and where no new relevant evidence has been submitted;
- (f) Which relate to acts carried out in the subject member's private life;
- (g) Where more than one year has passed since the alleged conduct occurred;

- (h) Which relate to dissatisfaction with a council decision, about the way the Council conducts or records its meetings, the way the Council has or has not done something, or which are otherwise within the Council's corporate compliments, comments and complaints process. Such allegations will be addressed under the above corporate process or equivalent process at parish council level;
- (i) Which are about someone who is no longer a member of either the District Council or a town or parish council within the area, or is a member of another authority. Allegations made about someone who is a member of another authority not within the jurisdiction of South Cambridgeshire District Council will be referred to the relevant Monitoring Officer for consideration under that authority's procedures.
- (j) Should the subject member have died or become seriously ill, or has resigned from the authority, or any other relevant authority covered by South Cambridgeshire District Council, the Monitoring Officer may determine that in the circumstances it is no longer appropriate to continue.

Should the evidence submitted by the complainant or subject member reveal a different complaint, the Monitoring Officer will determine both matters separately. The Monitoring Officer has discretion to seek the views of a different Independent Person, who has no prior knowledge of the initial complaint.

5. Decision by the Monitoring Officer

The Monitoring Officer, having sought and taken into account the views of the Independent Person, shall reach one of following decisions:

- (a) to appoint an Investigating Officer under the arrangements the District Council has in place for the investigation of allegations of breaches of the Code, in which case the Monitoring Officer shall, within five working days:
 - (i) send a decision notice to the relevant parties stating what the allegation was, the evidence considered, and an explanation why the decision to investigate has been made;
 - (ii) if appropriate, advise who will conduct the investigation.
- (b) where the information submitted by the complainant and/or subject member discloses or appears to disclose potentially criminal conduct and/or the breach of other regulations, the Monitoring Officer shall, within five working days:
 - (i) refer the matter to the Crown Prosecution Services, Police or other authority which has responsibility to determine the matter;
 - (ii) send a decision notice to the relevant parties stating what the allegation was, the evidence considered, an explanation of why the decision to refer the matter to another organisation has been made.

In such cases the matter is no longer the responsibility of the District Council and the relevant parties will be subject to such regulations and procedures as operated by the authority with responsibility to determine the matter.

- (c) to take action other than an investigation, the suitability of other action being dependent upon the nature of the complaint, in which case the Monitoring Officer shall, within five working days:
 - (i) send a decision notice to the relevant parties stating what the allegation was, the evidence considered, an explanation of why the decision to take other action has been made, and the nature of the action proposed;
 - (ii) seek written confirmation from the complainant and subject member by a set deadline that they will co-operate in the other action proposed;
 - (iii) other action may include an apology, mediation, training, or any other action the Monitoring Officer feels is suitable to address the allegation.

If the complainant and/or subject member declines to co-operate in the other action proposed, the Monitoring Officer will seek the view of the Independent Person whether to refer the matter for investigation or to take no further action.

- (d) to take no further action should be taken in respect of the complaint, in which case the Monitoring Officer shall, within five working days:
 - (i) send a decision notice to the relevant parties stating what the allegation was, the evidence considered, and an explanation why the decision to take no further action has been made.

If the subject member were a parish councillor, the parish council shall also receive a copy of the decision notice.

The decision of the Monitoring Officer is final.

6. Timescale

The Monitoring Officer shall endeavour to assess all allegations within twenty working days since receipt of a valid complaint and supporting evidence.

DRAFT