

# Arrangements for dealing with Standards Allegations under the Localism Act 2011

## 1 Context

- 1.1 Under Sections 28(6) and (7) of the Localism Act 2011, the Council must have “arrangements” under which allegations that a Member, or co-opted Member, has failed to comply with the Council’s Code of Conduct can be investigated, and decisions made on such allegations.
- 1.2 Such arrangements must provide for the Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation which it has decided shall be investigated. The Independent Person’s views can also be sought by the Council at any other stage, or by a Member against whom an allegation has been made.

## 2 The Code of Conduct

- 2.1 The Council has adopted a Code of Conduct for Members. This is available for inspection on the Council’s website ([www.woking.gov.uk](http://www.woking.gov.uk)) and on request from the Council’s Monitoring Officer (see paragraph 3 below for contact details).

## 3 Making a complaint

- 3.1 If you wish to make a complaint, please write or email to –

The Monitoring Officer,  
Woking Borough Council,  
Civic Offices,  
Gloucester Square,  
Woking,  
Surrey,  
GU21 6YL  
[legal@woking.gov.uk](mailto:legal@woking.gov.uk)

- 3.2 The Monitoring Officer is a statutory officer of the Council who has responsibility for maintaining the Register of Members’ Interests, and who is responsible for administering the system in respect of complaints of Member misconduct.
- 3.3 Please 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. Your name and address will normally be disclosed to the Member against whom you make a complaint. In exceptional circumstances, the Monitoring Officer may agree not to disclose your name and address to the Member concerned. Please advise us if you think this would be justified. The Council does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.
- 3.4 The Monitoring Officer will acknowledge receipt of your complaint within five working days of receiving it, and will keep you informed of the progress of your complaint.

3.5 The Monitoring Officer will, within five working days of receipt, normally advise the Member against whom the complaint is made that a complaint has been received (together with the name and address of the complainant and brief details of the complaint). The Member shall not make any representations to the Monitoring Officer at this stage of the process. The Monitoring Officer will, within the same timescale, normally advise the Leader of the Council and the Member's Group Leader of the receipt of the complaint (together with the name and address of the complainant and brief details of the complaint). The Leader of the Council and the Group Leader shall not make any representations to the Monitoring Officer at any stage of the process. The Monitoring Officer may decide not to advise the Member, Leader of the Council or Group Leader of the receipt of the complaint if this might prejudice a subsequent investigation. The Monitoring Officer shall have the discretion to notify other persons of the receipt of the complaint as he/she considers appropriate.

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

4.1 The Monitoring Officer will review every complaint received and take a decision as to whether it merits formal investigation. The Monitoring Officer may consult the Independent Person before making this decision. This decision will normally be taken within ten working days of receipt of your complaint. Where the Monitoring Officer has taken a decision, he/she will inform you, the Independent Person, the Chairman of the Standards and Audit Committee, all Group Leaders, the Chief Executive and the Member, of his/her decision and the reasons for that decision. The Monitoring Officer shall have the discretion to notify other persons of his/her decision (and the reasons for that decision) as he/she considers appropriate.

4.2 Where the Monitoring Officer 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.

4.3 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 Council. Where the Member, or the Council, makes 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.

4.4 If your complaint identifies criminal conduct or breach of other regulations by any person, the Monitoring Officer may refer the complaint to the Police and/or other regulatory authorities. The Monitoring Officer should ensure that nothing is done under these arrangements which could prejudice possible action to be taken by the Police and/or other regulatory authorities.

4.5 Vexatious or frivolous complaints will not be formally investigated.

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

5.1 If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer. The Investigating Officer may be 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.

- 5.2 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. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the Member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the Member, or delay notifying the Member until the investigation has progressed sufficiently.
- 5.3 At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report to you and to the Member concerned, to give you both an opportunity to identify any matter in the draft report which you disagree with or which you consider requires more consideration. A copy of the draft report will also be sent to the Monitoring Officer.
- 5.4 Having received and taken account of any comments that may be made on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

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

- 6.1 The Monitoring Officer will review the Investigating Officer's report and, if satisfied (after consulting the Independent Person) that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the Member concerned notifying you that he/she is satisfied that no further action is required. The Monitoring Officer will 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.

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

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

7.2 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 Council. If the Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards and Audit Committee for information, but will otherwise take no further action.

7.3 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, the Monitoring Officer will report the Investigating Officer's report to the Standards Hearings Sub-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 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. 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 Standards Hearings Sub-Committee. The Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Standards Hearings Sub-Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

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

## **8 What action can the Standards Hearings Sub-Committee take where a Member has failed to comply with the Code of Conduct?**

8.1 The Standards and Audit Committee has delegated to the Standards Hearings Sub-Committee power to take action in respect of individual Members who have breached the Code of Conduct. Accordingly the Standards Hearings Sub-Committee may –

- (a) Publish its findings in respect of the Member's conduct. This might comprise issuing a press release and/or inserting a public notice in the local newspaper(s);
- (b) Report its findings to Council for information;
- (c) Censure or reprimand the Member;
- (d) 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 for such period as the Sub-Committee considers appropriate;
- (e) Recommend to the Leader of the Council that the Member be removed from the Executive, or removed from particular Portfolio responsibilities for such period as the Sub-Committee considers appropriate;

- (f) Instruct the Monitoring Officer to arrange training for the Member;
- (g) Recommend to the Council that the Member be removed from all outside appointments to which he/she has been appointed or nominated by the Council for such period as the Sub-Committee considers appropriate;
- (h) Withdraw facilities provided to the Member by the Council, such as a computer, website and/or email and Internet access for such period as the Sub-Committee considers appropriate; or
- (i) Exclude the Member from the Council's offices or other premises, with the exception of meeting rooms as are necessary for attending Council, Committee and Sub-Committee meetings for such period as the Sub-Committee considers appropriate.

8.2 The Standards Hearings Sub-Committee has no power to suspend or disqualify the Member or to withdraw Members' allowances.

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

9.1 At the end of the hearing, the Chairman will state the decision of the Standards Hearings Sub-Committee as to whether the Member failed to comply with the Code of Conduct and as to any actions which it resolves to take.

9.2 As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chairman of the Standards Hearings Sub-Committee, and send a copy to the complainant and to the Member. The decision notice shall include reasons for the decision. The Monitoring Officer will also make the decision notice available for public inspection and report the decision to the next convenient meeting of the Standards and Audit Committee.

## **10 What is the Standards Hearings Sub-Committee?**

10.1 The Standards Hearings Sub-Committee is a sub-committee of the Council's Standards and Audit Committee. The Independent Person is invited to attend all meetings of the Standards Hearings Sub-Committee and his/her views are sought and taken into consideration before it takes any decision on whether the Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

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

11.1 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.

## **12 Departure from these arrangements**

12.1 The Chairman of the Standards Hearings Sub-Committee may 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.

## **13 Appeals**

- 13.1 There is no right of appeal for you as complainant or for the Member against a decision of the Monitoring Officer or the Standards Hearings Sub-Committee.
- 13.2 If you feel that the Council has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

**14 Annual Report**

- 14.1 The Monitoring Officer shall submit an annual report to the Standards and Audit Committee. The report should include appropriate details of all complaints received (including those where no breach was found).

Adopted by Woking Borough Council on 28 June 2012.

Amended by Woking Borough Council on 24 October 2013 and [ ] 2018.