

Leicester  
City Council

## **MEETING OF THE STANDARDS COMMITTEE**

**DATE: WEDNESDAY, 8 OCTOBER 2014**

**TIME: 5:30 pm**

**PLACE: THE FOUNTAIN ROOM - GROUND FLOOR, TOWN HALL,  
TOWN HALL SQUARE, LEICESTER**

### **Members of the Committee**

Councillor Waddington (Chair )

Councillor Senior (Vice-Chair)

Councillor Shelton

Councillor Sood

One Unfilled Place for a Non-Grouped Member

Ms Amanda Fitchett (Independent Member)

Mr Desmond Henderson (Independent Member)

Mr Stephen Purser (Independent Member)

Ms Fiona Barber (Independent Member)

1 Independent Member Vacancy

Standing Invitees:

Mr David Lindley (Independent Person)

Ms Caroline Roberts (Independent Person)

Members of the Committee are summoned to attend the above meeting to consider the items of business listed overleaf.

for the Monitoring Officer

**Officer contact: Graham Carey**  
*Democratic Support, Leicester City Council*  
City Hall, 115 Charles Street, Leicester, LE1 1FZ  
(Tel. 0116 454 6356)

# Information for members of the public

## Attending meetings and access to information

You have the right to attend formal meetings such as full Council, committee meetings, City Mayor & Executive Public Briefing and Scrutiny Commissions and see copies of agendas and minutes. On occasion however, meetings may, for reasons set out in law, need to consider some items in private.

Dates of meetings and copies of public agendas and minutes are available on the Council's website at [www.cabinet.leicester.gov.uk](http://www.cabinet.leicester.gov.uk), from the Council's Customer Service Centre or by contacting us using the details below.

## Making meetings accessible to all

Wheelchair access – Public meeting rooms at the Town Hall are accessible to wheelchair users. Wheelchair access to the Town Hall is from Horsefair Street (Press the buzzer on the left hand side of the door to be let in to the building, then take the lift to the ground floor and go straight ahead to the main reception).

Braille/audio tape/translation - If you require this please contact the Democratic Support Officer (production times will depend upon equipment/facility availability).

Induction loops - There are induction loop facilities in Town Hall meeting rooms. Please speak to reception staff at the Town Hall or the Democratic Support Officer at the meeting if you wish to use this facility or contact us using the details below.

Filming and Recording the Meeting - The Council is committed to transparency and supports efforts to record and share reports of proceedings of public meetings through a variety of means, including social media. In accordance with government regulations and the Council's policy, persons and press attending any meeting of the Council open to the public (except Licensing Sub Committees and where the public have been formally excluded) are allowed to record and/or report all or part of that meeting. Details of the Council's policy are available at [www.leicester.gov.uk](http://www.leicester.gov.uk) or from Democratic Support.

If you intend to film or make an audio recording of a meeting you are asked to notify the relevant Democratic Support Officer in advance of the meeting to ensure that participants can be notified in advance and consideration given to practicalities such as allocating appropriate space in the public gallery etc.

The aim of the Regulations and of the Council's policy is to encourage public interest and engagement so in recording or reporting on proceedings members of the public are asked:

- ✓ to respect the right of others to view and hear debates without interruption;
- ✓ to ensure that the sound on any device is fully muted and intrusive lighting avoided;
- ✓ where filming, to only focus on those people actively participating in the meeting;
- ✓ where filming, to (via the Chair of the meeting) ensure that those present are aware that they may be filmed and respect any requests to not be filmed.

## Further information

If you have any queries about any of the above or the business to be discussed, please contact Graham Carey, **Democratic Support on (0116) 454 6356 or email [graham.carey@leicester.gov.uk](mailto:graham.carey@leicester.gov.uk)** or call in at City Hall, 115 Charles Street, Leicester, LE1 1FZ.

For Press Enquiries - please phone the **Communications Unit on 454 4151**

# **PUBLIC SESSION**

## **AGENDA**

### **1. APOLOGIES FOR ABSENCE**

### **2. DECLARATIONS OF INTEREST**

Members are asked to declare any interests they may have in the business to be discussed.

### **3. MINUTES OF PREVIOUS MEETING**

**Appendix A**

The minutes of the meeting of the Standards Committee, held on 9 July 2014, have been previously circulated and Members are asked to confirm that they are correct.

### **4. PROPOSED REVISIONS TO THE CODE AND ARRANGEMENTS**

**Appendix B**

The Monitoring Officer to submit suggested revisions to the Code of Conduct for Members (Appendix B1) together with revisions to the Arrangements for Dealing With Standards Complaints at Leicester City Council under the Localism Act 2011 (Appendix B2).

The Arrangements now include three Appendices:-

Appendix 1 Vexatious Complaints – Member Misconduct Process

Appendix 2 Protocol on the Role of the Independent Person meeting with Elected Members

Appendix 3 Procedure for Dealing with subject (Elected) Member who fails to act upon an outcome of “informal resolution”

The suggested revisions are highlighted in yellow, and Members are requested to make comments/observations and/or recommendations to the Council, which will be asked to approve the revised revisions at its meeting on 13 November 2014.

### **5. COMPLAINT AGAINST COUNCILLORS - UPDATE**

**Appendix C**

The Monitoring Officer submits a report giving feedback on complaints against Councillors reviewed and/or determined since the last meeting and updating the Committee on progress with outstanding complaints against Councillors. The Committee is recommended to receive and note the report.

Note: Should the Committee wish to discuss individual circumstances or details of the complaint, the Monitoring Officer may consider it necessary to move into private session and ask the Committee to pass the resolution in agenda item 7 below.

### **6. ANY OTHER URGENT BUSINESS**

## **7. PRIVATE SESSION**

### MEMBERS OF THE PUBLIC TO NOTE

Under the law, the Committee is entitled to consider certain items in private. Members of the public will be asked to leave the meeting when such items are discussed.

The Committee is recommended to consider the following reports in private on the grounds that they contain 'exempt' information as defined by the Local Government (Access to Information) Act 1985, as amended and consequently that the Committee makes the following resolution:-

“that the press and public be excluded during consideration of the following reports in accordance with the provisions of Section 100A(4) of the Local Government Act 1972, as amended, because they involve the likely disclosure of 'exempt' information, as defined in the Paragraphs detailed below of Part 1 of Schedule 12A of the Act and taking all the circumstances into account, it is considered that the public interest in maintaining the information as exempt outweighs the public interest in disclosing the information.

#### Paragraph 1

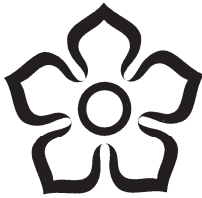
Information relating to any individual.

#### Paragraph 2

Information which is likely to reveal the identity of an individual.

#### Paragraph 7c

The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.



Leicester  
City Council

Minutes of the Meeting of the  
STANDARDS COMMITTEE

Held: WEDNESDAY, 9 JULY 2014 at 5.30pm

P R E S E N T :

Councillor Waddington (Chair)  
Councillor Senior – Vice Chair

Councillor Sood

Also present:

Mr Desmond Henderson	Independent Member
Mr Stephen Purser	Independent Member
Mr David Lindley	Independent Person

\* \* \* \* \*

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor Shelton, Fiona Barber, Amanda Fitchett, and Caroline Roberts.

**2. DECLARATIONS OF INTEREST**

Members were asked to declare any interests they might have in the business to be discussed. No such declarations were made.

**3. RESIGNATION OF INDEPENDENT MEMBER**

The Monitoring Officer reported the resignation of Ms Joanne Holland as an Independent Member of the Standards Committee and Standards Advisory Board.

RESOLVED:-

- 1) That the resignation be noted and Ms Holland be thanked for her service to the Committee and the Board;

- 2) That the Independent Member vacancy remain unfilled at the present time as it is felt that there are sufficient Independent Members to allow the Committee and Board to operate efficiently given the current workloads, but that the Monitoring Officer keep the situation under review.

#### **4. MINUTES OF PREVIOUS MEETING**

**RESOLVED:**

That the minutes of the meeting of the Standards Committee, held on 10 April 2014 be confirmed as a correct record.

#### **5. MONITORING OFFICER UPDATE ON MATTERS CONSIDERED AT PREVIOUS MEETINGS**

The Monitoring Officer provided an update on matters which had been considered at previous meeting.

a) Non-Compliance with informal resolution

The protocol approved at the last meeting had been used to invite the Councillor to a meeting with the Chair of the Committee, the Monitoring Officer and the Independent Person at which the expectations of the member to comply with the outcome of the informal resolution were stated. The Councillor had also been advised that any failure to comply with the informal resolution within the given timescale would result in a new complaint being raised against them. The Councillor had subsequently complied with the actions required in the informal resolution. A signed record of the meeting with the Councillor had been produced.

b) Vexatious Complainant

The Monitoring Officer had previously circulated a discussion paper on the definitions of a vexatious complaint and a vexatious complainant used by the Local Government Association (LGA) together with examples from a number of other internal policies.

It was noted that the LGA guidance was primarily aimed at serial complainants and that these were less likely to occur with the type of complaints expected under the Code of Conduct. It was more likely that in some circumstances a complaint could become vexatious as it progressed, particularly if the complainant was not in agreement with the proposed course of action or suggested outcomes.

Following a question, the Monitoring Officer stated that he and the Independent Person had the responsibility to determine whether a complaint was vexatious. The complainant would have the right of

review to the Monitoring Officer and the second Independent Person to review the decision. Members felt that it was important to have a robust opportunity for a vexatious complainant to have their situation looked at again.

The Monitoring Officer undertook to include the number of complaints determined as vexatious in the Annual Report on complaints and the definition of a vexatious complainant would be added to the Code of Conduct and the associated Arrangements.

c) Social Media Guidance.

The protocol had been circulated to members for comment and a number of helpful suggestions for minor amendments had been received which had now been incorporated into the protocol. One such amendment had arisen from the fact that the Council hosted Councillor's social media on the Council platform. An explanatory note had been included to indicate that the profile afforded to the City Mayor on the Council's webpages was related to his capacity as the prime Executive Decision Maker on behalf of the Council and not as an individual person.

Some members had requested training on the use of social media and the Monitoring Officer confirmed that this was now in the future training programme for members. He would inform members of the intended timescale for the training in due course. The protocol would be issued to all members during the following week.

d) Independent Person Protocol.

The protocol had now been issued with a minor amendment to reflect that one of the original intentions for role of Independent Persons had been to allow a member who felt pressured by other members to have an opportunity to raise any concerns. The revised protocol would be appended to the revised Code of Conduct and associated Arrangements when it was submitted to Council for approval later in the year.

RESOLVED:-

That the Monitoring Officer's updates be noted.

## **6. WORK PROGRAMME**

Members discussed items for the Committee's work programme for the municipal year 2014/15.

It was noted that a 'Review of the Code of Conduct and associated Arrangements' has been scheduled for the meeting on 8 October 2014.

A Member suggested that the Code of Conduct and associated Arrangements should be reviewed to ensure that they were consistent with the various guidance that had been issued by the Government and case law which had

arisen during the course of the last two years Training for members was also suggested.

Following a question, the Monitoring Officer confirmed that the Annual Report on Complaints would also be included in the work programme.

RESOLVED:-

That the work programme be noted and amended with the inclusion of the review of the Code of Conduct and associated Arrangements, Training and the Annual Report on Complaints.

## **7. CORPORATE COMPLAINTS MONITORING**

Further to Minute No 29 of the meeting held on 10 April 2014, members considered a copy of a report to the Operations Board on the revised monitoring information that was now provided for the Corporate Complaints System. The Director of Finance and the Director of Information Services attended the meeting to present the report.

The responsibility for Customer Services (including corporate complaints) had recently transferred from the Director of Information Services to the Director of Finance and both Directors had a number of years' experience of dealing with corporate complaints.

Following discussion and questions the following points were noted:-

- The Council had an ethos of accepting complaints and, given the high volume of daily transactions with the public, the number of complaints received was comparatively low.
- There was also a low volume of complaints which escalated from Stage 1 to Stage 2 in the complaints process.
- Complaints were logged and routed to one of the 4 Departmental Complaint Officers (2 of those being the statutory required adults and children's complaints functions). These officers were now meeting regularly to review progress in dealing with complaints and to discuss emerging themes and share good practice. A revised monitoring report was being submitted to corporate directors on a quarterly basis.
- There was now a requirement, as part of the new monitoring arrangements, for departments to identify the service improvements identified in response to a complaint.
- Directors were encouraged to carry out spot checks on the responses to complaints to ensure consistency and compliance with corporate standards.
- The new monitoring arrangements had recently been used as an opportunity to raise the profile of the corporate complaints system.



- Improvements planned for the future were to:-
  - undertake further training to ensure that service users' 'comments on a service were not necessarily recorded as a complaint that needed to be dealt with under the corporate complaints system.
  - progress the checking of the quality of responses to complaints under Stage 1 of the procedure, as experience had shown that poorly worded and/or confusing responses could lead to complaints escalating from Stage 1 to Stage 2.
  - capture 'complaints' received from third parties such as MPs and Councillors which were not submitted under the corporate complaints process.
- Where a complaint contained a number of issues, Customer Services Officers assigned the complaint to a lead officer who then co-ordinated the various responses to all elements of the complaint.
- There was also further work to be undertaken on managing customers' expectations to avoid a complaint on a service standard being submitted prematurely, particularly where the service response standard had not been exceeded.

Members felt reassured that the new monitoring and reporting arrangements were addressing a number of concerns expressed at the last meeting.

Members made the following comments and suggestions:-

- The monitoring report should include an analysis of whether complaints were dealt with within the prescribed timescales.
- The complaints system should be able to provide a robust mechanism for providing information and dealing with complaints from service users whose first language was not English or where language was a barrier to effective communication.
- It was important when services were contracted out that the contract required the provider to have a robust complaints system in place to deal with service issues.
- It would be useful for members to have guidance on how to deal with constituents' complaints where services had been commissioned on behalf of the Council or contracted out to external providers.

RESOLVED:

- 1) That whilst the new reporting and monitoring arrangements have provided some re-assurance, further quarterly

monitoring reports should be submitted to the Committee until such time as all their previous concerns had been satisfied.

- 2) That an analysis of whether complaints are dealt with within the prescribed time scales be incorporated into the statistical analysis of the report.

## **8. COMPLAINTS AGAINST COUNCILLORS**

The Monitoring Officer reported that no new complaints have been received against Councillors since the Committee's meeting held on 30 January 2014.

RESOLVED:

That the report be noted.

## **9. CLOSE OF MEETING**

The Chair declared the meeting closed at 6.35pm.

# Appendix B1

## LEICESTER CITY COUNCIL

### CODE OF CONDUCT FOR MEMBERS

#### **1. Application**

The Code of Conduct applies to you whenever you are acting in your capacity as a Member (to include co-opted Members and the Elected Mayor) of Leicester City Council, including:

- a. At formal meetings of the Council, its Committees and Sub-Committees, its Executive and Executive Committees
- b. When acting as a representative of the Authority
- c. In taking any decisions as a Member of the Executive or as a Ward Councillor
- d. In discharging your functions as a Ward Councillor
- e. At briefings meetings with officers
- f. At site visits
- g. When corresponding with the Authority other than in a private capacity
- h. At any other time when you conduct the business of your Authority

\* The Code therefore applies when performing your duties in meetings, or when acting alone, and it applies whether you are acting inside or outside of the City boundary

#### **2. Principles**

The Principles underpinning this Code of Conduct are that you will act with:

- a. Selflessness
- b. Integrity
- c. Objectivity
- d. Accountability
- e. Openness
- f. Honesty
- g. Leadership
- h. Respect for others
- i. A commitment to uphold the law

### 3. General conduct

You must, therefore:

- a. Respect others and not bully or intimidate any person
- b. Respect the confidentiality of information which you receive as a Member. In addition you must (i) not disclose confidential information to third parties other than in accordance with the law and (ii) not act to prevent a third party gaining access to information to which they are entitled in law
- c. Exercise your own independent judgement, paying due regard to any advice provided to you by the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer, and giving reasons for your decisions as required by the law and the reasonable requirements of the Authority
- d. Uphold the law at all times
- e. Uphold and promote the Authority's discharge of its Equality obligations, in particular to (i) eliminate discrimination (ii) promote equality of opportunity (iii) foster good relations
- f. Uphold and promote these principles by leadership and by example, and act in a way that secures and preserves public confidence
- g. Comply with the requirements regarding registration, declaration and participation in the Authority's business where you have a Disclosable Pecuniary Interest (DPI) or "Other Disclosable Interest (ODI)"
- h. When using the Authority's resources, do so in accordance with the Authority's requirements, and not use such resources improperly
- i. Not conduct yourself in a manner which is likely to bring the Authority into disrepute
- j. Not use your position as a Member to improperly confer upon yourself or any other person an advantage or disadvantage, but act only to further the public interest
- k. Not do anything which compromises, or is likely to compromise, the impartiality of those who work for (or work on behalf of) the Authority

(The above list is not exhaustive, and any conduct which breaches the principles set out in section 2 can constitute a breach of this Code)

#### 4. **Disclosable Pecuniary Interests (DPis)** (see Table 1 enclosed)

In addition to conducting yourself in accordance with the principles set out in section 2 you must:

**a. Declare any and all DPIs on your Register of Interests.**

- b. Ensure that your Register of Interests is kept fully up to date, and notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of your DPIs
- c. Make a verbal declaration (at the beginning, or as soon as you become aware of your interest) of the existence and nature of any DPI at any meeting at which you are present at which an item of business which affects or relates to the subject matter of the interest is under consideration **(unless it is already declared on your Register, in which case you must simply comply with point d. below).**
- d. Comply with the statutory requirements to withdraw from participating in respect of any matter in which you have a disclosable pecuniary interest (DPI), by either leaving the room **(where the business is being conducted at a “meeting”)** or by ceasing further participation in the item (where acting alone outside of a meeting)
- The requirements cover not only DPI’s of Members but a DPI of any other “relevant person”, defined as spouse/civil partner, or someone with whom the Member is living as though they were a spouse or civil partner
  - Separate provisions within the law provide for the circumstances in which a Member may seek a “dispensation”, or may ask that the interest be treated as “sensitive”

**5. Other Disclosable Interests (ODIs) (pecuniary or non-pecuniary)**

Aside from the statutorily defined DPIs, you may have another type of interest in a matter being discussed. These will be of category A. or B. below and you will either:

- disclose that interest (regular ODI), or
- disclose and withdraw from the meeting (prejudicial ODI).

**A. Regular ODI**

You will have an “Other Disclosable Interest” in an item of business of the Authority where:

*A decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you, or a member of your family or a person with whom you have a close association (see below), to a greater extent than it would affect*

*the majority of Council Tax payers, ratepayers or inhabitants of the Ward or electoral area*

- You may need to register such “Other Disclosable Interest” into the Register of Interests operated by the Monitoring Officer
- If you attend a meeting at which any item of business is to be considered and you are aware that you have an “ODI” in that item, you should make verbal declaration of the existence and nature of that interest at or before the consideration of that item of business, or as soon as the interest becomes apparent

### **B. Prejudicial ODI**

In addition to the above:

*Where your ODI is of a nature where a member of the public, who knows the relevant facts, would reasonably think your “other disclosable interest” is so significant that it is likely to prejudice your judgement of the public interest you should disclose and withdraw from participating in respect of that matter*

- “close association” is not defined in law but would reasonably include someone with whom you are in regular or irregular contact over a period of time, who is more than an acquaintance, and is someone whom a reasonable member of the public might think you were prepared to favour or disadvantage when discussing a matter that affects them.

## **6. Gifts and Hospitality**

- a. You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £25 which you have accepted as a member from any person or body other than the authority
- b. The Monitoring Officer will place your notification on a public register of gifts and hospitality
- c. This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the authority for this purpose

## **7. Other**

Breaches of this Code will be dealt with under the “Standards Arrangements” as approved by Council on 13.11.14

By virtue of section 28(4) Localism Act 2011 a decision is not invalidated just because something that occurred in the process of making the decision involved a failure to comply with this Code

Kamal Adatia  
City Barrister & Head of Standards  
October 2014

**Table 1**

## Categories of DPIs

Subject	Prescribed description
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(1).</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority—</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to M's knowledge)—</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where—</p> <p>(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either—</p>



(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.



## **ARRANGEMENTS FOR DEALING WITH STANDARDS COMPLAINTS AT LEICESTER CITY COUNCIL UNDER THE LOCALISM ACT 2011**

### **A. CONTEXT**

These “Arrangements” set out how you may make a complaint that an Elected or co-opted Member of this Authority 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.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “Arrangements” under which allegations that a member or co-opted member of the Authority or of a Committee or Sub-Committee of the authority, 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 against whom an allegation has been made

### **B. THE CODE OF CONDUCT**

The Council has adopted a Code of Conduct for members, which is available for inspection on the authority’s website and on request from Reception at the Civic Offices. <http://www.leicester.gov.uk/councillors-democracy-and-elections/complaints-about-councillors/>

### **C. PRINCIPLES UNDERLYING THE NEW SCHEME**

The following principles should underpin Leicester City Council’s Arrangements:

- a. There should be simplicity to the scheme so that it is easily understood and transparent
- b. There should be flexibility at every stage of the process for informal resolution and / or robust decisions to be taken about “no further action”.
- c. There should be Member involvement at key stages in the process.
- d. There should be the involvement of Independent Members (IM) and the Independent Person (IP) at key stages of the process.
- e. The Monitoring Officer should have greater powers to deal with complaints relating to the Code of Conduct.
- f. Rights for complainants to seek a “review” of a decisions at various stages should be limited, consistent with the reduced scope and severity of allowable outcomes that can be imposed under the new regime

- g. At any stage in the process where it is clear that a matter should be referred to the police this should be done and the local investigation should be suspended.

## **D. THE NEW PROCESS**

### **1. Who may complain?**

Complaints must be about Elected Members (to include the Elected Mayor) or co-opted Members and can be made by members of the public, Elected Members or officers of the Council. Where the Monitoring Officer lodges a complaint, it shall be made to the Standards Committee via the Deputy Monitoring Officer

### **2. To whom must a complaint be made?**

Complaints must be made to the Standards Committee c/o the Monitoring Officer by writing to:

The Monitoring Officer  
Legal Services Division  
Leicester City Council  
16 New Walk  
Leicester  
LE1 6UB

Or e-mail: [monitoring-officer@leicester.gov.uk](mailto:monitoring-officer@leicester.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 on behalf of the Standards Committee

In order to ensure that all of the correct information is available to process the complaint they should preferably be submitted on the model complaint form, which can be downloaded from the authority's website and is available on request from Reception at the Civic Offices.

The complainant should provide their name and a contact address or e-mail address, so that the Monitoring Officer can acknowledge receipt of the complaint and keep them informed of its progress. If the complainant wishes to keep their name and address confidential this should be discussed with the Monitoring Officer. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

Complaints should be lodged promptly, and normally within 3 months of the alleged breach occurring unless there are good reasons for the Monitoring Officer or Independent Person to accept a complaint lodged outside of this period.

### 3. How to complain?

Complaints must be made in writing either by letter, e-mail or on-line. Anonymous complaints will not be accepted because of the difficulties they cause with investigation. Appropriate safeguards for employees of the Council wishing to make a standards complaint will be afforded in parallel to those that might apply under the whistle blowing policy. Safeguards will also be in place, at the discretion of the Monitoring Officer, to protect confidential or sensitive information about a complainant, the disclosure of which may cause, or be likely to cause, "serious harm"

The complainant should be encouraged (either through questions on the standard complaint form or through subsequent discussion for clarification) what remedy is sought. This will help to identify informal methods of resolution at the earliest stages.

### 4. What will happen to the complaint?

The complaint will be acknowledged with the complainant within 5 working days

The complaint will also be notified (by sending a copy of the full complaint) to the subject Member within 5 further working days, save where there are exceptional or legal reasons for the Monitoring Officer agreeing with the complainant that there are elements of it, or the entirety of it, that must be kept confidential at this initial stage

Within 15 further working days the following actions will be taken by the Monitoring Officer, after consultation with the Independent Person:

- a. Revert to the complainant to seek further clarification.
- b. Refer the matter for further fact finding by Monitoring Officer (where further information is needed before deciding what route to follow).
- c. Reject the complaint on the grounds that it is not related to the Code of Conduct, or may be covered by another process
- d. Reject the complaint on the basis that it is (i) trivial or (ii) not in the public interest to pursue or (iii) vexatious (see Appendix 1 attached for definition).
- e. Recommend informal resolution where (i) Code engaged and not breached, but where some gesture of reparation would still be in the interests of fairness; or (ii) Code engaged but low-level breach only has occurred, such as not to warrant formal investigation
- f. Refer the matter for immediate further investigation.
- g. In exceptional cases, refer the matter to the Standards Committee or subcommittee thereof for a decision on a. to f. above on the grounds that the Monitoring Officer feels it would be inappropriate to make the decision himself/herself.

The complainant and the subject Member will receive a letter after expiry of the 5 days indicating which of the above outcomes is to be pursued.

By law the Subject Member has the right to consult with the Independent Person during the course of a complaint. Appendix 2 describes how this right is to be exercised.

**Matters referred for fact finding** - The Monitoring Officer will undertake this fact finding exercise by inviting the Member to attend for a discussion within 10 working days, or submitting information in writing. After obtaining the subject Member's factual account the Monitoring Officer will engage with the Independent Person (IP) to decide on next steps. The next steps will comprise either of outcomes c. to g. above.

**Informal resolution** - may incorporate acceptance by the subject Member that their behaviour was unacceptable and the offer of apology to the complainant, or other remedial action at the discretion of the Monitoring Officer (e.g. an offer of training). The outcome of 'informal resolution' does not require approval of the complainant or the subject Member (though the complainant may exercise a right to seek a "review" as per above).

Non-compliance with "informal" outcomes will be dealt with in accordance with Appendix 3 attached.

**Review of a complaint** - The complainant may seek a "review" of a decision only under outcomes c. d. or e. Such requests must be lodged with the Monitoring Officer within 5 working days of receipt of the outcome letter. Any Review will be undertaken by the Monitoring Officer, this time in consultation with a different Independent Person. The Subject Member will be notified of the request for a "review" and the reasons given for it by the complainant. It will be a matter for the Monitoring Officer and the Independent Person if they wish to invite any comment or representations from the Subject Member at this point.

*In the case of all outcomes up to and including referral for formal investigation, the Monitoring Officer will report outcomes to the Standards Committee by updating report at each meeting*

**Formal investigation** - should the matter warrant detailed investigation, the Monitoring Officer will appoint an investigating officer. The investigator will conduct a thorough review within three months. Upon receipt of the investigator's report by the Monitoring Officer he/she will refer the matter for further decision to the Standards Committee (acting through its Standards Advisory Board), this time with the mandatory requirement to consult the Independent Person, who may determine:

- no further action
- referral for hearing

The option of 'no further action' may only flow from an investigator's own conclusion that no breach has occurred. If the Investigator finds breaches, then the Board cannot decide, without a hearing, that no breach has occurred and no further action needs to be taken.

The option of 'informal resolution' is not available once a matter has been referred for formal Investigation (and the Investigator finds breaches). Equally, where the Board refer a matter for hearing in order to establish if breaches have occurred (for example after disagreeing with an Investigator who concludes there have been no breaches) informal resolution will not, at that point, be a viable outcome because the matter has ceased to be dealt with 'informally'.

If the matter is referred for hearing then a Hearing Panel will be convened to hear the evidence, make findings of fact and determine appropriate outcomes. The Hearing Panel is a sub-committee of the Council's Standards Committee. The Independent Person is invited to attend all meetings of the Hearing Panel and his/her views are sought and taken into consideration before the Hearing Panel 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 misconduct.

The complainant and the subject member would be written to and given reasons for any decision following a formal investigation, and no rights of review shall be afforded, save the right to challenge the process by way of Judicial Review or referral to the Local Government Ombudsman if appropriate.

The Standards Committee (acting either as the full Committee or via a Standards Advisory Board convened to deal with a particular complaint at either stage of the process) reserves its right to publish an investigative report at any stage.

## **5. Outcomes**

The Hearing Panel may make recommendations to the Standards Committee for:

- a. Censure or reprimand the Member by letter
- b. Press release of findings
- c. Report findings to Council for information (with or without a subsequent motion of censure being proposed by Council)
- d. Recommendation to Group (or Full Council in the case of ungrouped Members) of removal from Committees/subcommittees of Council
- e. Recommendation to Elected Mayor that the Member be removed from The Executive, or from particular portfolio responsibilities
- f. Recommendation that the Member be removed from outside bodies to which they have been appointed by the Council
- g. Withdrawal of facilities provided to the Member by the Council
- h. Excluding the Member from the Council's offices or other premises (with the exception of accessing meetings of Council, Committees and subcommittees)
- i. Instructing the Monitoring Officer to arrange training for the Member

## **6. Revision of these arrangements**

The Council may by resolution agree to amend these arrangements at any time, and delegates to the Monitoring Officer and/or Chair of the Standards Committee the right to

depart from these arrangements where he/she considers it is necessary to do so in order to secure effective and fair consideration of any matter

Kamal Adatia  
City Barrister & Head of Standards  
October 2014



## Vexatious Complaints – Member Misconduct process

Standards complaints are to be handled in accordance with the 'Arrangements for dealing with Standards Complaints at Leicester City Council'. This procedure was brought in following the new standards regime introduced by Chapter 7 of the Localism Act 2011.

One of the initial actions open to the Monitoring Officer (MO), after consultation with the Independent Person (IP), is to reject the complaint 'on the basis that it is:

*"... i) trivial or ii) not in the public interest to pursue or iii) **vexatious...**"*

No definition is provided within our Arrangements of 'vexatious'. The Localism Act and associated guidance make it clear that it is for the local authority to decide how they will investigate allegations for breach of conduct code and handle complaints. They do not specify what those arrangements must be.

Wherever possible, every effort should be made to find out what someone is complaining about, to investigate and respond. However, on occasion, complaints will be made that clearly do not substantiate claims or even justify further investigation. These types of complaints can be termed "vexatious complaints". It is important that the complaints procedure is correctly implemented and all elements of a complaint are considered as even repeated or vexatious complaints may have issues that contain some genuine substance.

It is important to note that it is the complaint itself that must be judged vexatious, oppressive or an abuse, not the complainant. Consideration of this ground should therefore focus primarily on the current complaint. The complainant's past complaint history may, however, be taken into account where it is relevant to show that the current complaint is vexatious, oppressive or an abuse.

The MO and IP should be able to demonstrate with evidence a reasonable belief that the complaint is vexatious, oppressive or an abuse of process before deciding to disapply the Standards process. Some assessment of the complaint will be required in order to demonstrate this.

- The LGO defines unreasonable and unreasonably persistent complainants as:  
*"those complainants who, because of the nature or frequency of their contacts with an organisation, hinder the organisation's consideration of their, or other people's complaints"*
- Examples of unacceptable or vexatious behaviour, as defined by the LGO, include any action or series of actions which are perceived by the staff member to be

*“deceitful, abusive, offensive, threatening”* whether they are delivered verbally or in writing or a combination of the two.

For the purposes of the Member misconduct processes the definition of ‘vexatious’ should include both limbs described above (that is, those that constitute unreasonable interpersonal behaviour as well as those that constitute unreasonable abuse of the system). Both represent behaviour which can potentially frustrate the proper application of the Standards regime in the interests of the wider public.

**The following (non-exhaustive list) factors will be taken into account by the MO and IP when considering whether to classify a complaint as vexatious:**

- Refusing to specify the grounds of a complaint, despite offers of assistance;
- Refusing to co-operate with the complaints investigation process;
- Refusing to accept that certain issues are not within the scope of the Complaints Procedure (e.g. substantive Planning Approval decisions);
- Insistence on the complaint being dealt with in ways which are incompatible with the Arrangements or with good practice;
- Demanding special treatment / immediate repeatedly;
- Politically motivated complaints
- Changing the basis of the complaint as the investigation proceeds;
- Denying or changing statements made at an earlier stage;
- Introducing trivial or irrelevant new information at a later stage;
- Raising numerous, detailed but unimportant questions; insisting they are all answered;
- Covertly recording meetings and conversations;
- Submitting falsified documents from themselves or others;
- Adopting a ‘scatter gun’ approach: pursuing parallel complaints on the same issue;
- Making excessive demands on the time and resources of staff with lengthy phone calls, emails to numerous Council staff, or detailed letters every few days, and expecting immediate responses;
- Submitting repeat complaints with minor additions/variations that the complainant insists make these ‘new’ complaints;
- Repeatedly arguing points with no new evidence
- Refusing to accept the decision as to how the complaint shall be progressed

**Process:**

More usually, consideration of designating a complaint as vexatious will arise at the early stages of receipt of a complaint. However, this should not impede the MO and IP from considering whether the designation of “vexatious” should apply at a later stage in any complaint.

Whenever the issue is raised, the IP and the MO must discuss the designation and reach a unanimous view. Exceptionally, where they cannot do so the second IP may be consulted and a majority view shall prevail.

The designation of a complaint as “vexatious” will be recorded with brief reasons given and communicated to the complainant and the Subject Member, with a right of “review” afforded as per the Arrangements.

Kamal Adatia  
City Barrister & Head of Standards  
October 2014

## **Protocol on the role of the Independent Person - meeting with Elected Members.**

This Protocol aims to set out the arrangements to be followed in the event that an Elected Member whom it is alleged has committed a breach of the Code of Conduct for Councillors seeks a meeting with the Independent Person (I.P.)

### **Background**

Section 28(7) Localism Act 2011 states:

(7) Arrangements put in place under subsection (6)(b) by a relevant authority must include provision for the appointment by the authority of at least one independent person—

(a) whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and

(b) whose views may be sought—

(i) by the authority in relation to an allegation in circumstances not within paragraph (a),

(ii) by a member, or co-opted member, of the authority if that person's behaviour is the subject of an allegation,

The Parliamentary record (Hansard) reveals that one reason for a Member subject of a complaint seeking the views of the IP can be to express their concern about pressures that they might be facing from other Elected Members. The subject Member can raise with the IP their concerns about the conduct of other members in regards to the relevant complaint. This is addressed at point (ix) below.

The new “Arrangements” for dealing with complaints about the conduct of Councillors was established on 1 July 2012 and the principles of the new arrangements included:

- simplicity and transparency
- involvement of the I.P. at key stages of the process
- greater powers for the Monitoring Officer to deal with complaints relating to the Code of Conduct.

The right to “seek the views” of the IP therefore applies to any Elected Member who is the subject of a complaint. They may do this at any stage of the process except where a matter is referred to the police.

This right is separate to the right of the complainant to seek a “Review” of their complaint in the following circumstances as set out in our “Arrangements”:

- *rejection on grounds that complaint is not related to Code of Conduct, or is covered by another process*
- *rejection on grounds of being (i) trivial or (ii) not in the public interest to pursue or (iii) vexatious) or*
- *recommendation of informal resolution*

Such requests must be lodged with the Monitoring Officer within 5 working days of receipt of the outcome letter. Any Review will be undertaken by the Monitoring Officer, this time in consultation with a different Independent Person

The experience gained during the first year of the new Standards regime shows that Elected Members have in most cases been willing to accept the views of the Monitoring Officer (M.O.) and I.P. where informal resolution is the outcome. This outcome often involves offering to explain more fully the reason for adopting a course of action, offering an apology and/or offering a way forward.

However in any matter, whether it is proposed to be dealt with by informal resolution; is being “reviewed” or is one that proceeds to full investigation, the subject Member has a right to “*seek the views*” of the I.P. It is important that this engagement is defined and moderated so as to guard against:

- the Subject Member attempting to unduly influence the progress of the investigation by, for example, trying to explain “off the record” to the I.P. what they think of the complaint or how it should be resolved
- the Subject Member trying to compromise the independence of the I.P. by, for example trying to tell them things “in confidence” which are highly material to the investigation
- the Subject Member having false expectations of the purpose of exercising their right to seek the I.P.’s views
- the complainant being disadvantaged by the Subject Member’s exercise of their statutory right to seek the views of the I.P.

This Protocol therefore sets out the terms of engagement of such interaction, such as to promote transparency and preserve confidence in the Standards regime.

**Arrangements for a meeting between the duly appointed IP and an Elected Member subject of a complaint:**

- i. A Subject Member shall only be entitled to “seek the views” of the I.P. allocated to their complaint.
- ii. The right to speak with the I.P. will not apply where a decision has already been taken (and communicated) to dismiss the complaint. In such circumstances the Monitoring Officer can be approached to discuss any “lessons learned”
- iii. The right to speak with the I.P. will not apply where a complaint has been referred to the Police
- iv. The Subject Member shall make any request to “seek the views” of the I.P. through, and only through, the M.O. Where a Subject Member directly approaches the I.P., the I.P. will refer them back to the M.O. without further engagement
- v. The M.O. will arrange the meeting between the Subject Member and the I.P. at a date and time convenient to both, and on Council premises
- vi. The meeting shall be between the Subject Member and the I.P. only. No other attendees shall be permitted.
- vii. The I.P. will explain, at the outset the nature of their role at the meeting which is to answer questions about the investigative process, explain the types of questions that they will be addressing/have addressed before reaching an outcome and reiterate that they will NOT at that meeting express a concluded or tentative view on any of those matters
- viii. The purpose of the meeting will be for the Subject Member to better understand the investigative process and the reasons why the I.P. and M.O. have reached a particular outcome. It is NOT an opportunity for the Subject Member to attempt to exhort the I.P. to change their mind or to present “evidence” to them. I.P.s do not conduct “investigations” or “fact finding” exercises. These are done by the M.O. in cases that are not referred for formal investigation, or by the independent Investigator in cases referred for investigation.
- ix. The meeting may also be used by the subject Member as an opportunity to raise with the IP concerns they may have about any pressures that they might be facing from other Elected Members by virtue of the fact that these other Members know about the complaint. Whilst the IP may not have direct powers to intervene in such circumstances, they might be able to discuss with the MO any intervention (from the

MO) to try to preserve the integrity of the complaints process (such as the MO talking to the other Members or their political parties)

- x. The I.P. will report back to the M.O. after the meeting a summary of the discussion.
- xi. If the I.P. takes notes of the meeting these will be as an aide memoire for the I.P. only and will not act as a formal minute. The Subject member is free to make their own notes
- xii. If the Subject member, contrary to this Protocol, submits information or evidence that is material to the handling of the complaint, this information or evidence will be shared by the I.P. with the M.O. (and an Investigator where one is appointed) and acted upon appropriately.
- xiii. There will only be one such meeting per complaint, save in exceptional circumstances which are to be approved by the MO and the IP.

Kamal Adatia  
City Barrister & Head of Standards  
October 2014

### **Procedure for dealing with subject (Elected) Member who fails to act upon an outcome of “informal resolution”**

The Council’s “Code of Conduct” and associated “Arrangements” govern the principles and processes to be applied when a standards complaint is made alleging misconduct by an Elected Member. To date, most complaints have been resolved by “informal resolution”, an outcome which is applied in circumstances where a potentially valid complaint is made, but where it is not deemed to be in the interests of justice to proceed to a full investigation and where instead a fair and proportionate outcome can be achieved by some other action (often an apology, coupled with an offer to revisit the original topic i.e. a Ward issue). It is the judgement of the Monitoring Officer and Independent Person as to whether to conclude that “informal resolution” is appropriate (with or without the consent of the complainant and subject member).

The Standards Committee, at its meeting on 10<sup>th</sup> April 2014 endorsed the following process for dealing with cases where a Subject Member fails to co-operate with such a recommendation:

- Step 1 – The Subject Member shall be invited to a meeting with the Chair of Standards, The relevant Independent Person and the Monitoring Officer to explain their reasons for non-compliance
- Step 2 – If compliance is not forthcoming after Step 1, the Chair of Standards and the Monitoring Officer may refer the matter for “political action” (e.g. for the Subject Member’s political Group to take any action it deems appropriate)
- Step 3 – In addition to or as an alternative to Step 2 above, the Subject Member’s non-compliance may be treated as a fresh potential breach of the Code of Conduct and a new complaint lodged, this time with the Monitoring Officer as the complainant. There will be no direct involvement of the original complainant into this separate complaint.

Kamal Adatia  
City Barrister & Head of Standards  
October 2014



## Standards Committee 08.10.14: Complaints Update

### Complaints received since 09.07.14

Case name/ number	Date complaint received	Nature of complaint	Outcome	Date completed	Lesson Learned
2014/01	13.07.14	Complaint from member of public about manner in which Ward Cllr dealt with a Planning objection	Complaint dismissed as unfounded after 'Fact Finding', as disclosing no breach, or potential breach, of the Code.	27.08.14	N/A

**Update on earlier complaints not completed before 09.07.14**

<b>Case name/ number</b>	<b>Date complaint received</b>	<b>Nature of complaint</b>	<b>Outcome</b>	<b>Date completed</b>	<b>Lesson Learned</b>
2013/16	27.11.13	Complaint by member of public about two Councillors regarding failure to respond to requests for assistance and failure to return phone calls.	Councillor (2) complied with "informal resolution" after being summoned to a meeting with the Chair of Standards, and subsequent contact with the complainant	09.06.14	Need for procedure to be developed to deal with non-compliance by Councillors
2013/17	12.12.13	Complaint by member of public alleging Councillor's actions in dealing with a funding bid were motivated by self-interest and biased as opposed to the public interest. Also failed to declare relevant interests.	Independent Investigator concluded no breach, and S.A.B agreed with this conclusion at their meeting on 10.07.14.	16.07.14	Clearer guidance needed on approval process for Ward Funding  Reminder to Members that they must comply promptly with the process of investigation