



Leicester  
City Council

**WARDS AFFECTED**  
**All Wards (Corporate Issue)**

**FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:  
STANDARDS COMMITTEE**

**31 OCTOBER 2002**

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**COMPLAINTS AGAINST MEMBERS**

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**Report of the Town Clerk**

**1. Purpose of Report**

- 1.1 To review the approach to complaints against Members, in the light of the Standards Board's procedures.

**2. Summary**

Previous Arrangements

- 2.1 Prior to the Standards Board for England being established, the Council expected the Standards Committee to have the "front line" role in dealing with complaints against Members. The emphasis is normally on complaints being handled locally before higher level procedures come into play (as with Ombudsman complaints). The Committee therefore developed the attached Procedure (**Appendix 1**). This is aimed at all participants having a fair opportunity to put their case. It is also designed, through the Committee's Co-Chairs and the Groups Whips, to filter out unwarranted complaints, and to match the response to the nature and seriousness of the issues.

Standards Board Arrangements

- 2.2 Regulations have now established the Standards Board and most of its procedures. It has been able to deal with complaints since 5 May 2002, but the Regulations to refer complaints back to the Council are still awaited. The Board's procedure is attached (**Appendix 2**). In essence:
- (1) The Board deals with allegations that Councillors or co-opted Members have broken their local code of conduct (in our case, the Political Conventions which incorporates the national Model Code).
  - (2) All allegations about breach of the code should be sent, without any local investigation, to the Board for consideration "to ensure consistency and a fairness of approach".

- (3) One of the Board's Ethical Standards Officers (ESOs) will review the complaint and may then reject or investigate it.
- (4) The ESO may decide:
  - There is no evidence of breach or the breach is not serious enough to justify action; or
  - (When "section 66 Regulations" have been made), the matter should be referred to the Council's Monitoring Officer to be dealt with locally; or
  - The matter should be referred to the Adjudication Panel for England.
- (5) The Adjudication Panel has power to suspend a Member from the Council or from particular activities. It can also disqualify from working in public office for up to five years. It cannot award compensation.
- (6) When an investigation is referred to the Monitoring Officer (under the awaited Regulations), he would complete the investigation if not fully completed by the ESO, when he completes it, or if it is already completed by the ESO, the Monitoring Officer reports to the Standards Committee who decide what action to take. At this stage, they will have the power to suspend or partially suspend the Member for up to six months. The Member has a right of appeal to an appeals tribunal, drawn from the Adjudication Panel.

2.3 By September 2002, the Standards Board had received about 1,000 complaints, around half against parish Councillors. They were arriving at about 100 a month. Most, so far, were from other Members and Officers. Over half had been referred to the Board's investigations unit and the first to be referred to the Adjudication Panel was expected soon. The Board reported that about half the complaints it received needed investigation with some of them going for full adjudication within a five months period.

#### Problems To Be Resolved

- 2.4 Referring all complaints to the Board before any local consideration creates, I believe, these difficulties:
- (1) Additional delay particularly over unjustified and trivial matters which need not be determined nationally.
  - (2) Lack of local context when the seriousness of a complaint is being assessed.
  - (3) A reversal of normal good practice (compare Ombudsman complaints) where the first stage is normally to attempt informal resolution locally, then exhaust the local procedure before going to higher levels.
  - (4) No allowance for complainants who just want the matter dealt with, rather than go through a formal procedure.
- 2.5 I therefore suggested to the Standards Board allowing the complainant to opt for the national or a local procedure in the first instance. I also suggested that the Board might

consider views from the Standards Committee or Monitoring Officer before deciding how to respond to a complaint. These suggestions were not accepted (correspondence in **Appendix 3**) although other organisations, such as SOLACE, have also raised them.

2.6 There has been debate on this requirement of the Model Code of Conduct:

“7. A member must, if he becomes aware of any conduct by another member which he reasonably believes involves a failure to comply with the authority’s code of conduct, make a written allegation to that effect to the Standards Board or England as soon as it is practicable for him to do so.”

2.7 Narrowly interpreted, this could place an unacceptable burden on Members to report every minor and inadvertent breach to the Board. Failure to do so would itself be a breach. This can hardly be the intention, so what exactly does this duty require Members to do?

2.8 Further issues may be raised by the final section 66 Regulations and Guidance. The draft proposals suggest, for example, that:

- (1) The Monitoring Officer should advise potential complainants on the Code and other sources of redress – avoiding investigation of any kind until the Board has investigated.
- (2) The Monitoring Officer should not recommend that a Councillor apologises or makes amends, even if the Councillor wishes to and this would satisfy the complainant. The rationale is that the Monitoring Officer “*should not seek to short-circuit the proper process of investigation*”. I find this advice bizarre and it goes against all my instincts.
- (3) There will be guidance on whether and when the Monitoring Officer should tell the Councillor that a complaint has been made.
- (4) All complaints must be referred to the Standards Committee who will have a duty to refer them straight to the Board. This seems to be an unnecessary bureaucracy and delay.

### Changes Required

2.9 The Committee will need to review its arrangements in the light of the final section 66 Regulations and Guidance. So far as these allow, the Committee may wish to consider:

- (1) Authorising the Town Clerk to refer external complaints straight to the Standards Board and informing the Committee.
- (2) Using the existing arrangements to consider the referral of complaints from Member and Officers (Town Clerk consults the Co-Chairs and Group Whips before referral).
- (3) Urging the Town Clerk to advise potential complainants of:

- What might amount to a breach of the Code.
  - the importance of evidence and a case to answer.
  - all alternatives which the complainant might choose to follow, including asking the Councillor to apologise and make amends.
- (4) Asking the Town Clerk to inform the Councillor when a complaint has been referred to the Board, unless there are exceptional reasons not to, and to use his discretion whether it is appropriate to reveal the identity of the complainant and the nature of the complaint.
  - (5) Using their existing Complaints Procedure, adapted in the light of guidance, as the basis for dealing with complaints referred back by the Board.
  - (6) Urging all Members to take the Town Clerk's advice before exercising their duty under paragraph 7 of the Model Code, and to note that the Town Clerk prefers a broad interpretation of the duty, so that:
    - *"Reasonable belief"* in a breach requires a sufficiency of evidence.
    - Trivial breaches may be ignored on the *"de minimis"* principle.
    - *"Heat of the moment"* lapses and matters swiftly corrected may be ignored

**3. Recommendations**

3.1 That guidance be given on the preferred approach, so far as imminent Regulations permit.

**4. Financial, legal and other implications**

4.1 There are no financial implications.

OTHER IMPLICATIONS	YES/NO	Paragraph Within Supporting information	References
Equal Opportunities	<b>No</b>		
Policy	<b>No</b>		
Sustainable and Environmental	<b>No</b>		
Crime and Disorder	<b>No</b>		
Human Rights Act	<b>No</b>		
Elderly/People on Low Income	<b>No</b>		

**5. Report Author/Officer to contact:**

Tom Stephenson  
 Town Clerk  
 Ext: 6300

**LEICESTER CITY COUNCIL  
PROCEDURE FOR DEALING WITH COMPLAINTS AGAINST COUNCILLORS**

1. The Standards Committee will consider complaints referred to it in accordance with the following procedure. The procedure may be initiated locally, or by referral from the Standards Board.

**Initiating a Complaint**

2. Complaints should be referred to the Town Clerk and should normally be in writing.
3. A complaint will only be accepted if it concerns the Code of Conduct, the Political Conventions or where a Council interest is involved. Political matters will not be addressed. The reality of the whole situation will be taken into account to determine this.
4. Allegation alone will not normally be enough to initiate a complaint and mere "*fishing expeditions*" will not be accepted. There could, very occasionally, be the need to address an allegation which in itself could significantly damage the Council's interests unless resolved. Otherwise, allegations must be "*on information*", that is, with sufficient indication of a case to be answered.
5. Where the "*information*" is a person's direct evidence of what happened, that person must be prepared to have the evidence used for an investigation – in effect, to stand up and be counted. There may, exceptionally, be "*whistle blowing*" justification for preserving anonymity, but it must be realistic to investigate and report meaningfully on that basis.

**Determining the Level of Response**

6. The emphasis will be on resolving problems and avoiding recurrence, with formal reporting of an investigation as the last resort. The response to a complaint will depend on:
  - (1) the seriousness and consequences of the issues;
  - (2) whether the alleged conduct appears inadvertent or deliberate;
  - (3) any relevant previous issues of conduct; and
  - (4) the likelihood of recurrence.

## APPENDIX 1

7. The Town Clerk will be guided by a majority of the Group Whips and the Independent Members on how he should respond to a complaint (with reasons for the approach adopted being given to those concerned):
  - (1) Reject the complaint for lack of a case to answer;
  - (2) Hold informal discussions with those concerned with a view to an agreed resolution;
  - (3) Consider the issues without a full investigation and without conclusions on the facts; the resulting report will merely clarify the proper approach and recommend action without forming a view on any transgression.
  - (4) Investigate the facts fully, leading to a report with conclusions on the facts and any transgressions, and with recommended action.
8. The Town Clerk will keep a record of and report periodically to the Standards Committee on the pattern of complaints received and the resultant consideration.

### **Convening the Standards Committee**

9. Agreed resolution of a complaint after informal discussions will not be reported to the Standards Committee. The Committee will be convened to consider the Town Clerk's report on a complaint as followings:
  - (1) A report which merely considers the issues will be reported only if a majority of the Whips or one or more of the Independent Members consider that there has not been an adequate response to the recommended action.
  - (2) A full investigation will always be reported.
10. The Standards Committee will, as necessary, be convened within a period of six weeks from the issuing of the report on a complaint by the Town Clerk.
11. The complainant and the person complained about will be given notice of the meeting and a copy of the Town Clerk's report at least fifteen working days in advance.
12. Any written comments to the Standards Committee from either party must be submitted to the Town Clerk at least ten working days before the meeting, and the Town Clerk will copy them to the other party as quickly as possible.
13. At least ten working days notice must be given to the Town Clerk of any witness a party would like to give evidence to the Standards Committee. The parties will have the opportunity to present all their evidence during the Town Clerk's investigation. A witness would normally be appropriate at the meeting only with a view to demonstrating that a conclusion in the report is incorrect. New issues may not be introduced.

**Procedure at the Meeting**

14. Both the person complained about and the complainant may be accompanied at the meeting by a *“friend”*. The Town Clerk will be the Committee’s adviser.
15. The matter will normally be considered by the Standards Committee in the absence of the press and public, under the appropriate exemption to the access to information provisions. The Committee will conduct the meeting as informally as the circumstances allow.
16. The normal procedure will be:
  - (1) The Town Clerk will explain his conclusions and recommendations.
  - (2) The complainant may make a statement and (subject to paragraph 11) call witnesses. The person complained about, or person accompanying him/her may question a complainant who makes a statement and any witness.
  - (3) The person complained about or person accompanying him/her, may make a statement and (subject to paragraph 11) call witnesses. The complainant may question the person complained about if a statement has been made, and any witness.
  - (4) The person complained about, or person accompanying him/her, may make a final statement before the Committee considers its decision.
  - (5) The Committee will indicate when and how it will announce its decision. It will then consider its decision in the absence of the parties, after which a Formal Decision Notice, with reasons, will be sent, in writing , to all parties in dispute.

**Rights to Confidentiality**

17. Publishing or commenting on allegations prematurely could be unfair and could sometimes itself be a cause of complaint.
18. The Town Clerk will not comment publicly on complaints or investigations before their conclusion and afterwards will only respond factually to matters in the public domain.

**Updated: September 2001**

# How to make a complaint to the Standards Board for England

## This guide

This guide describes how you can make a complaint about certain types of inappropriate behaviour by elected and co-opted members of a range of authorities, including councils.

In addition to describing the sort of behaviour that is covered, it explains what will happen to your complaint.

A form to help you make sure you are sending us all the information we need at this stage is also included.

If we can be of any further help, or if you would like a copy of this leaflet in one of the other languages commonly used in the United Kingdom, or on tape, please call us on 0800 107 2001.

## 1 What do we do?

We investigate written complaints of misconduct by councillors in local government and members of the other authorities listed in section 5. We were set up under the Local Government Act 2000 and are independent of the Government. Our investigators, known as Ethical Standards Officers (ESOs), have extensive powers, allowing them to investigate matters thoroughly and without bias. There is no charge for our service.

This leaflet describes:

- **what complaints we can investigate;**
- **how to make a complaint to us;**
- **how we will deal with your complaint.**

This leaflet refers to 'members' of 'authorities', but it applies to all councillors, members and co-opted members of all of the authorities listed in section 5. A co-opted member is a member of an authority, or one of its committees, who was appointed to their position rather than being elected.

## 2 What is misconduct?

Parliament has approved model codes of conduct for members of the authorities listed in section 5. All of these authorities must draw up their own local code of conduct, based on the model code, which all members of the authority must sign up to. 'Misconduct' is where a member of an authority acts in a way that breaches (breaks) any part of their local code of conduct.

You can get a copy of an authority's code of conduct from the authority itself.

## 3 What complaints can we investigate?



We can investigate your complaint if:

- **it is in writing;**
- **it is about a member of one of the authorities listed in section 5;**
- **it is about misconduct (see section 2);**
- **it is about matters the law allows us to look into (see section 4).**

### **4 Who can make a complaint?**

Anybody who reasonably believes that a member of one of the authorities listed in section 5 has broken their local code of conduct. This includes members of the public, as well as members and staff of the authority. You do not have to have been directly affected by their action to make a complaint.

If you are a member of staff of the authority, you may make your complaint to us under the Public Interest Disclosure Act (PIDA). This means that you can give us information about suspected misconduct of a member without having to fear harassment or victimisation in the workplace. If you would like more information about this, please call us on 0800 107 2001.

### **5 Who can you complain about?**

You can complain to us about councillors and co-opted members in any **county, district, borough, city, parish** or **town council** in England.

You can also complain about any member or co-opted member in any of the following authorities:

- **National Parks** and the **Broads Authority;**
- **Fire service authorities;**
- **Police authorities;**
- **Passenger transport authorities;**
- **The Greater London Authority;**
- **The Metropolitan Police Authority;**
- **The London Fire and Emergency Planning Authority.**

### **6 What can't we investigate?**

There are some complaints we cannot investigate, such as:

- **incidents where there has been a fault in the way the council has or has not done something** (this is known as 'maladministration' and is a matter for the Local Government Ombudsman);
- **complaints about council officers** (we can only investigate complaints about councillors, members and co-opted members);
- **incidents that happened before the authority adopted its local code of conduct;**
- **incidents or actions that are not covered by the member's local code of conduct** (the authority can give you a copy of the code);
- **complaints that are not in writing.**

### **How to complain**

Please send your complaint, in writing, to the address at the end of this leaflet. You can use the complaint form that is included in this leaflet, or you can download it from our website at [www.standardsboard.co.uk](http://www.standardsboard.co.uk). If you don't want to use the form itself, you can write a letter including all the points covered in the form.

If this is difficult, ask someone to help you, for example your local Citizens Advice Bureau. If you cannot write your complaint in English, we can arrange to have it translated. Please include any documents that support your complaint with your form or letter.

**If you make a complaint, you should be aware that we are unlikely to be able to keep your identity confidential. If you would like to discuss this before making a complaint, please contact us on 0800 107 2001.**

### **7 What happens to your complaint?**

When we receive your complaint, we will write to you to let you know we have received it. We will then review your complaint to see if it is suitable for investigation. One of our officers may contact you personally to go through the details of your complaint.

If we cannot investigate, or decide not to investigate, your complaint, we will write to you explaining why. If you disagree with our decision not to investigate, you have the right to ask us to review our decision.

If your complaint is one that we decide to investigate, one of our ESOs will carry out an independent investigation. We will let you know when the investigation has started and tell you how long we expect it to take. At the end of the investigation, we will write to you to tell you the outcome.

An ESO may decide that:

- 1 there is no evidence that the member has broken any part of their local code of conduct;
- 2 the breach of the local code of conduct was not serious enough to justify any action being taken;
- 3 the matter should be referred to the monitoring officer (usually the Chief Legal Adviser) of the member's authority;
- 4 the matter should be referred to the Adjudication Panel for England.

The Adjudication Panel for England is an independent tribunal that decides on the findings of investigations referred to it by ESOs. It can punish councillors in a number of ways, from publicly revealing what they did wrong, suspending them from the council or particular activities, or disqualifying them from working in public office for up to five years. The Adjudication Panel does not award damages or compensation.

### **8 How can you contact us?**

You can contact us at:

**The Standards Board for England**  
**PO Box 36656**  
**London**

**SE1 OWN**

**Telephone:** 0800 107 2001

**E-mail:** [newcomplaints@standardsboard.co.uk](mailto:newcomplaints@standardsboard.co.uk)

**Website:** [www.standardsboard.co.uk](http://www.standardsboard.co.uk)

**9 Before you complain**

Before you complain, please consider the options below and tick the box (or boxes) that describes the misconduct you believe has taken place. A member has:

- discriminated against someone, failed to treat people with respect, or done something to prevent those who work for the authority from being unbiased;
- revealed information that was given to them in confidence, or stopped someone getting information they are entitled to by law;
- damaged the reputation of their office or authority;
- used their position to their own or someone else's advantage or disadvantage;
- allowed the authority's resources to be misused for the activities of a registered political party;
- failed to report another member's misconduct to us;
- failed to register financial or other interests;
- failed to reveal a personal interest at a meeting;
- taken part in a meeting or made a decision where they have an interest that is so significant that you think it may affect their judgement;
- failed to tell the authority's monitoring officer about any gifts or hospitality they have received worth over £25.

We can only deal with complaints about individual councillors, not the council as a whole. If you have not ticked any of the boxes above, then your complaint is probably not a matter we can deal with. If this is the case, you should contact your local Citizens Advice Bureau, Law Centre or other advice centres to find out if another organisation can help.

# Complaint form

We can only accept complaints in writing. One of our officers may contact you personally to go through the details of your complaint.

We are unlikely to be able to keep your identity confidential if you make a complaint. Please continue your answers on a separate sheet if there is not enough space on this form.

**About you**

Mr  Ms  Mrs  Miss  Other

First name: \_\_\_\_\_

Surname: \_\_\_\_\_

Address and postcode: \_\_\_\_\_

Daytime phone number: \_\_\_\_\_ Evening phone number: \_\_\_\_\_

E-mail: \_\_\_\_\_

**Please consider the complaint I have described below and in the evidence attached.**

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Your complaint**

**Who are you complaining about?**

Please give the name of the councillor/s, member/s or co-opted member/s you consider has broken their local code of conduct and the name of their authority/ies.

Name of the individual/s	Name of their council/s
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Please tick here if you work for the council/s shown above:

# Complaint form

## What are you complaining about?

Include the **date** and **details** of the alleged misconduct, and any background information that supports the allegation. We can only investigate allegations that a member has broken a local code of conduct. Continue on a separate sheet if there is not enough space on this form.

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### Evidence (if this applies)

Please attach to this form copies of *correspondence*, *documents*, names and details of *witnesses*, and any other evidence that you feel is relevant to your complaint.

Please tick this box if you would like us to return the evidence to you:

Please send this form to:

The Standards Board for England  
New Complaints Unit  
PO Box 36656  
London  
SE1 0WN

If you have any questions or difficulties filling this form in, for example if English is not your first language or you have a disability, please contact the New Complaints Unit on 0800 107 2001. You can also e-mail them at [newcomplaints@standardsboard.co.uk](mailto:newcomplaints@standardsboard.co.uk)

Please ask for: Tom Stephenson  
Direct Line: 0116 252 6300  
Direct Fax: 0116 255 1843  
Our Ref: TS/AFW/1123

Date: 23 July 2002

Mr Toft  
The Standards Board for England  
PO Box 36656  
London  
SE1 0WN

Dear Mr Toft

## **STANDARDS COMMITTEE PROCEDURES**

### Political Conventions

Here is a copy of our Political Conventions, as you requested. They include the Model Code and form part of our Constitution which can be viewed on our website at [www.leicester.gov.uk](http://www.leicester.gov.uk).

The document has stood Leicester in good stead since 1998 by defining a consistent set of ground rules for day to day working relationships; consistency is vital here. However, I believe that the process of developing and discussing conventions is more important than the finished product. It has built up understanding and commitment which we reinforce during inductions and workshops based on (almost) real life "*scenarios*". I have found this a simple but effective training technique, and have used it at external sessions.

### Complaints Against Members

Also enclosed is a copy of the Complaints Procedure we use for complaints against Councillors. It is a formalised version of the approach I have used here for six years, with the Standards Committee hearing added. I put the emphasis on trying to solve the problem with the parties, resorting to the more formal stages only when all else fails and for the more recalcitrant and serious cases.

I think that the all-party and officer support this approach enjoys is, in large part, due to the effort taken in filtering out inappropriate complaints and determining the level of response (see paragraphs 3 to 7). Allegation alone does not automatically trigger the process, to avoid unfair damage to reputations. There must be a case to answer and it must relate to the Conventions or a Council interest, rather than purely political matters. I judge the level of response in consultation with the Group Whips and Standards Committee Chairs; views so far have always been unanimous.

TS/AFW/1123  
23 July 2002  
Mr Toft  
National Standards Board

## **STANDARDS COMMITTEE PROCEDURES**

### Relationship Between National and Local Procedures

I should appreciate your views and guidance on this. It seems to me that Standards Board processes would quickly seize up if every complaint, serious or trivial, had to be routed through them. Even with a modest level of referrals, it is likely to take weeks for the course of each complaint to be determined. Meanwhile, the complainant perceives justice to be delayed, and the Councillor has a doubt hanging over his or her reputation.

In my view, the local stage should not always have to wait whilst the Board considers the right approach. Also, local input is almost always essential to judge the best way forward. The Ombudsman, for example, will usually urge complainants to exhaust the authority's internal procedures first. If they insist on going straight to the Ombudsman, he always seeks the authority's views before investigating.

I believe that, irrespective of the Section 66 Regulations, the procedure should involve:

1. The complainant may opt for the complaint to be dealt with under the authority's local procedure, or under the national procedure.
2. After the local procedure has been used, the complainant may still refer the matter to the Standards Board, or the Standards Committee may decide to do so. The Board may investigate the matter afresh, or may instead choose to proceed by way of a review of the local Standards Committee's decision.
3. Before deciding how to respond to a complaint the Standards Board will seek the views of the local Standards Committee or the Monitoring Officer on its behalf. Such views may be offered by the Committee or the Monitoring Officer when a complaint has been referred to the Board.

I believe that this kind of approach is essential to make the system workable, to flush out vexatious complaints and to ensure that issues are addressed at the right level. Do you feel this offers a sensible way forward? I would be more than happy to discuss these, and any other Standards matters, with you further.

Yours sincerely

**TOM STEPHENSON**  
**TOWN CLERK**

Encs



Mr T Stephenson  
Town Clerk  
Leicester City Council  
Town Clerk's & Corporate Resources  
New Walk Centre  
Welford Place  
Leicester  
East Midlands LE1 6ZG

PO Box 36656  
London SE1 0TE

Enquiries: 084 5078 8181  
Fax: 020 7922 0001

[enquiries@standardsboard.co.uk](mailto:enquiries@standardsboard.co.uk)  
[www.standardsboard.co.uk](http://www.standardsboard.co.uk)

7 August 2002

Dear Mr Stephenson

Thank you for your letter dated 23 July 2002 (Your ref: TS/AFW/1123).

Thank you for sending the various papers – they will prove to be very useful as we consider our future guidance.

We are also grateful for your comments on the relationship between national and local procedures. It would appear that such ideas were discussed both before and during the consultation phase on the Section 66 regulations, the result of which will soon be published.

It is the intention of the Standards Board at present, however, that an initial uniform response be made to all allegations of misconduct and a procedure followed that is consistent for all such cases. This necessitates the Standards Board receiving all complaints and filtering through them for referral to an Ethical Standards Officer. Of course, this approach may well change in the future.

Thank you once more for your assistance.

Yours sincerely

MICHAEL TOFT  
Policy and Guidance