

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.

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) 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 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 terminate.

D. THE NEW PROCESS

These “arrangements” set out how a person 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 that Code. These arrangements are made under Sections 28(6) & (7) Localism Act 2011. These arrangements also provide for the Authority to appoint at least one Independent Person (IP) whose views must be sought before any decision on an allegation is made after investigation. The views of this Independent Person can be sought by the authority at any other stage or by a Member against whom an allegation is made (the subject Member).

1. Who can 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.

2. To whom must a complaint be made?

Complaints must be made to the Monitoring Officer by writing to:

The Monitoring Officer
Legal Services Division
Leicester City Council
A Block, New Walk Centre
Leicester
LE1 6ZG

Or email: monitoringofficer@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.

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, next to the Code of Conduct, and is available on request from Reception at the Civic Offices.

The complainant should provide their name and a contact address or email 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.

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. The whistle blowing policy itself is not applicable to standards complaints as it is an employee/employer legal protection. 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 to the subject Member within 5 working days, save where there are exceptional 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. Reject the complaint on the grounds that it is not related to the Code of Conduct, or may be covered by another process
- c. Reject the complaint on the basis that it is (i) trivial or (ii) not in the public interest to pursue or (iii) vexatious.
- d. Recommend informal resolution (i.e. complaint potentially valid and substantiated but of sufficiently low level not to warrant investigation).
- e. Refer the matter for further fact finding by Monitoring Officer (where informal resolution not appropriate or not agreed).
- 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 15 days indicating which of the above outcomes is to be pursued.

Rejection of a complaint - can be on 'process' related grounds (b. above) or merits grounds (c. above). The complainant may seek a "review" of a decision only under outcomes b. or c. Such requests must be lodged with the Monitoring Officer within 15 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.

Matters referred for fact finding – this will apply in cases where the complaint ostensibly has merit (and in addition, informal resolution is not appropriate or agreed) and an account now needs to be taken from the subject member. The Monitoring Officer will undertake this fact finding exercise by inviting the member to attend for a discussion within 10 working days. 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 a decision for no further action or for informal resolution or be referred for formal investigation.

The importance of the fact finding stage is not only to obtain the member's account in the interests of fairness before the matter is potentially escalated, but also to give another opportunity for amicable resolution (with the added input of the IP)

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).

Note that the above procedure eliminates the role currently fulfilled by the Assessment Sub-Committee. It is proposed that the Monitoring Officer, in conjunction with the Independent Person, if required, makes all decisions up to and including referral for investigation

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 quarterly report

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 or subcommittee thereof (this time with the mandatory requirement to consult the Independent Person) who may determine:

- no further action
- informal resolution
- referral for hearing

The option of 'no further action' may only flow from an investigator's own conclusion that no breach has occurred.

The option of 'informal resolution' may only flow from agreement of the Standards Committee that a breach warrants such resolution. If such resolution is not achievable then the matter should proceed to hearing

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

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

5. Outcomes

The Hearing Committee 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