

North Tyneside Council

Standards Committee

Code of Conduct for Member and Co-opted Members

Arrangements for Dealing with Allegations of Breaches of the Code of Conduct for Members and Co-opted Members

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1. Context

These arrangements set out how the Authority will deal with a complaint that an elected or co-opted member of the Council, has failed to comply with the Authority's Code of Conduct.

1.5.2 Under Section 28(6) and (7) of the Localism Act 2011, the Authority must have in place "arrangements" under which allegations that a Member or Co-opted Member of the Council or a Committee or Sub-Committee of the Council, has failed to comply with 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 a Member or Co-opted Member against whom an allegation has been made. The Authority has appointed ~~two~~three Independent Persons. The appointment of three independent persons allows for greater flexibility and minimises the potential for any conflict of interest, for example where:

- a) an Independent Person has been involved in an initial assessment decision and the complainant seeks a review of that decision; or
- b) a member who is the subject of a complaint has contacted an Independent Person for support and that matter proceeds to a final hearing at which the Independent Persons are requested to give advice and support to the Standards Sub-Committee.

2. The Code of Conduct

The Authority has adopted a Code of Conduct for Members and Co-opted Members, which that is attached as Appendix 1 to these arrangements and which is available for inspection on the Authority's website. It is incorporated into the Authority's Constitution.

3. Receipt of a complaint

A complaint against a Member or Co-opted Member will be sent by the Complainant in writing or by email to –
The Monitoring Officer
Legal, Governance and Commercial Services
Quadrant,
Silverlink North,
Cobalt Business Park,
North Tyneside,
NE27 0BY

Or – standards.committee@northtyneside.gov.uk

The Monitoring Officer is the senior officer of the Council 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 the Authority has all the information which it needs to be able to process a complaint, the complaint form at Appendix 2 must be completed and submitted. The complaint form is available from the Authority's website.

The Monitoring Officer will acknowledge receipt of the complaint to the Complainant and provide the subject member of the complaint, with a copy of the complaint within 5 working days of receiving it, and will keep all parties informed of the progress of the complaint. The Monitoring Officer will also seek comments from the subject member of the complaint to assist in the initial assessment of the complaint.

4. Request for confidentiality

If a Complainant wants to keep their name and address confidential, they are required to indicate this in the space provided on the complaint form. The Authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

To ensure openness and transparency confidentiality will only be granted in exceptional circumstances and in many instances it would not be practical or possible to investigate a complaint without the identity of the complainant being revealed. If however confidentiality is granted and the complaint proceeds the Monitoring Officer will determine whether or when the subject member will be advised of the complaint and the identity of the complainant. The procedure set out below will be adjusted as appropriate to accommodate the decision of the Monitoring Officer.

Where a request for confidentiality is refused by the Monitoring Officer, the Complainant will be advised of that refusal and will be given the option to withdraw the complaint within 7 working days. If the complaint is withdrawn the matter will be then closed and the subject member will not be informed of the complaint. If the Complainant refuses to withdraw the complaint or does not respond within the specified timescale, then the subject member will be sent a copy of the complaint and the complaint will proceed as set out in paragraph 5 below.

5. Will the complaint be investigated?

The Monitoring Officer will review every complaint received and, after consultation with the Independent Persons and consideration of the initial comments of the subject member decide whether the complaint will be investigated. The decision will be based on whether the allegation, if proved, would constitute a failure to observe the Code of Conduct and the application of the Authority's adopted assessment criteria (attached at Appendix 3). This decision will normally be taken within 28 days of receipt of the complaint. The parties will be advised of the Monitoring Officer's decision together with the reasons for that decision– subject to any decision on confidentiality arising as referred to above.

Where the Monitoring Officer requires additional information in order to come to a decision, he/she may go back to the Complainant for such information, and may request information from the subject member of the complaint.

If the complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer may refer the complaint to the Police or other regulatory agencies irrespective of a request for confidentiality by the Complainant.

A copy of the Subject Member's initial comments will normally be provided to the Complainant with the assessment decision unless there are particular reasons, in the view of the Monitoring Officer, not to.

6. Informal Resolution

The Monitoring Officer may consider that a complaint can be reasonably resolved informally. In such a case, the Monitoring Officer will consult ~~an~~ ~~the~~ Independent Persons, the subject member and the Complainant to seek to agree a fair resolution of the complaint which also helps to ensure high standards of conduct for the future. If the subject member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee for information, but will take no further action.

7. How is the investigation conducted?

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer. The Investigating Officer may be another officer of the Council, an officer of another Council or an external investigator.

The Investigating Officer will write to the subject member and will ask them to provide their explanation of events, and to identify what documents or other materials they believe the Investigating Officer needs to see and interview.

The Investigating Officer will decide whether he/she needs to meet or speak to Complainant to understand the nature of the complaint and so that the Complainant can explain their understanding of events and suggest what documents or other materials the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to the subject member and to the Complainant, to give both an opportunity to identify any matter in that draft report which they disagree with or which they consider requires more consideration. A copy of the draft report will also be sent to the Monitoring Officer.

Having received and taken account of any comments which the Complainant or subject member may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

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

The Standards Committee will review the Investigating Officer's report and, if they are satisfied that the Investigating Officer's report is sufficient and they agree that there is no evidence of a failure to comply with the Code of Conduct, they will instruct the Monitoring Officer to write to the subject member and to the Complainant, notifying both that they are satisfied that no further action is required, and give both a copy of the Investigating Officer's final report.

If the Standards Committee do not agree with the conclusion that there is no evidence of a failure to comply with the Code of Conduct they will refer the matter for a hearing before the Committee or its Sub-Committee.

In considering the report, the Standards Committee/Sub-Committee will consult with the Authority's Independent Persons.

If the Standards Committee is not satisfied that the investigation has been conducted properly, they may ask the Investigating Officer to reconsider his/her report. Upon the receipt of the report back from the Investigating Officer the Committee will consider whether to accept the report or refer it to a hearing.

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

a. Local Resolution

Where the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct, there may still be an opportunity for local resolution, avoiding the necessity of a hearing. An investigation report may cause a member to recognise that his/her conduct was at least capable of giving offence, and /or identify other appropriate remedial action, and the Complainant may be satisfied for instance, by recognition of fault or an apology. It would only be appropriate for the Monitoring Officer to agree a local resolution at this stage after consultation with ~~an the Authority's~~ Independent Persons and the Chair of the Standards Committee. In addition this would be conditional on the Complainant being satisfied with the outcome. A summary report on any local resolution of a complaint would be reported to the Standards Committee for information.

b. Referral for Hearing

If local resolution was not possible, the Monitoring Officer will then refer the matter for a hearing before the Committee/Sub-Committee.

9. The Hearing

Where the Standards Committee/Sub-Committee has referred a matter for a hearing the procedure at Appendix 4 will apply.

10. What action can the Standards Committee/Sub-Committee take where a Member has failed to comply with the Code of Conduct?

The Council has delegated to the Standards Committee/Sub-Committee such of its powers to take action in respect of individual Members as may be necessary to promote and maintain high standards of conduct.

Accordingly the Standards Committee may –

- (i) Issue a formal censure;
- (ii) Refer the determination findings to full Council for information;
- (iii) Make publication of the determination findings by such means as thought fit;
- (iv) Request Council to remove the member from being the Chair or Deputy Chair of any Committee or Sub-Committee
- (v) Request the subject member's political group to remove them from any or all Committees or Sub-Committees for a specified period;
- (vi) Request the Elected Mayor to remove the member from the Cabinet, if a Cabinet Member, or from particular Portfolio responsibilities;
- (vii) Request the Council to remove the member for a specified time from all or specified outside appointments to which s/he has been appointed or nominated by the Council;
- (viii) Request the Elected Mayor to remove the member for a specified time from all or specified outside appointments to which s/he has been appointed or nominated by the executive.
- (ix) Offer training to the member; or
- (x) Exclude the member from the Council's offices or other premises or facilities, for a specified period and to the extent desirable and so as not to interfere with the democratic process, in particular the member's ability to carry out his or her role as an elected member.

The Standards Committee has no power to suspend or disqualify the subject member or to withdraw or suspend allowances or restrict access to or use of Council facilities so that the subject member is unable to perform your essential role as a councillor.

11. What happens at the end of the Hearing?

At the end of the hearing, the Chair will state the decision of the Standards Committee as to whether you have failed to comply with the Code of Conduct and as to any actions which the Standards Committee resolves to take.

As soon as reasonably practicable after that, the Monitoring Officer in consultation with the Chair of the Committee, will prepare a formal decision notice, and send a copy to you and the Complainant, make that decision notice available for public inspection on the Council's website and, if so directed by the Standards Committee, report the decision to the next convenient meeting of the Council.

12. Review of decisions

Procedures for the review of decisions are set out in Appendix 5.

13. What is the Standards Committee?

The Standards Committee is a politically balanced Committee of Council. It consists of nine Members of the Council who are drawn from each political party. Subject to those requirements, it is appointed on the nomination of party group leaders in proportion to the strengths of each party group on the Council.

The Independent Persons are invited to attend meetings of the Committee and their views are sought and taken into consideration before the Committee takes any decision on whether a 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 Independent Persons do not, however, have voting rights on the Committee. Their role is an advisory one.

14. Who are the Independent Persons?

The Independent Persons are persons who have applied for the post following advertisement of a vacancy for the role, and are appointed by the Council.

A person does not qualify as "independent", if they are (or at any time in the last 5 years have been) a Member, Co-opted Member or officer of the Council, or if they are a relative or close friend of such a Member, Co-opted Member or officer. "Co-opted" member is defined so as to include current independent members of Standards Committee.

For this purpose, "relative" comprises –

- (a) a spouse or civil partner;
- (b) any person with whom the candidate is living as if they are a spouse or civil partner;
- (c) a grandparent;
- (d) any person who is a lineal descendent of a grandparent;
- (e) a parent, brother, sister or child of anyone in paragraphs (a) or (b);

- (f) any spouse or civil partner of anyone within paragraphs (c), (d) or (e); or
- (g) any person living with a person within paragraphs (c), (d) or (e) as if they were spouse or civil partner to that person.

| The Council has ~~two~~^{three} Independent Persons to ensure the availability of an Independent Person for consultation at all appropriate times and to avoid any conflicts of interest arising, as an Independent Person must also be available to be consulted by a Member who is the subject of a misconduct complaint.

15. Revision of these arrangements

The Standards Committee, on the advice of the Monitoring Officer, may depart from these arrangements where it is necessary to do so in order to secure the effective and fair consideration of any matter. The arrangements will also be subject to periodic review by the Council.