

Cambridgeshire County Council

Arrangements for dealing with allegations of breaches of the Members' Code of Conduct

1. 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.

These arrangements include the appointment of 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 warrants investigation, and whose views can be sought by the authority at any other stage, or by a member against whom an allegation as been made.

2. The Code of Conduct

The Council has adopted a [Code of Conduct](#) for members, which forms part of the Council's Constitution, and which can be accessed on the authority's website or made available on request from Reception at Shire Hall.

3. Making a complaint

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

The Monitoring Officer
Shire Hall, Castle Hill
Cambridge CB3 0AP

or –

fiona.mcmillan@cambridgeshire.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 we have all the information which we need to be able to process your complaint, please use the complaint form, which can be downloaded from the authority's website and is available on request from Reception at Shire Hall.

You are required to provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the member against whom you make the complaint, without your prior consent. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint. The Member against whom the complaint is made will also be informed of the complaint at this stage.

4. Initial Assessment of Complaints Received

The Monitoring Officer will review all complaints received by the authority and shall, in consultation with the Independent Person, undertake an initial assessment of the complaint to determine firstly, whether the complaint is admissible and if so to decide whether:-

- a) it warrants investigation or,
- b) it may be suitable for alternative resolution without investigation or,
- c) it does not warrant any further action.

For the complaint to be admissible it must be in a legible format and relate to an existing member of the authority.

In determining whether or not the complaint should be referred for investigation or to seek alternative resolution the Monitoring Officer and Independent Person will have regard to a range of factors including the following:-

- i) Whether there is sufficient information upon which to base a decision.
- ii) How serious is the alleged action.
- iii) Is the complaint politically motivated, vexatious or tit for tat;
- iv) When did the action complained of occur ;
- v) Do the allegations relate to actions occurring whilst the subject member was acting in their official capacity;
- vi) Whether the matter is considered suitable for alternative resolution and either the subject member or the complainant is not prepared to undertake alternative action.

The initial assessment of the complaint will normally be completed within 28 days of receipt of your complaint and you will be informed, in writing, of the outcome.

Unless exceptional circumstances exist that indicate otherwise, the Monitoring Officer will inform the subject member of the receipt and nature of the complaint and invite their comments.

Where the Monitoring Officer requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the member against whom your complaint is directed.

Alternative Resolution

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology. Where the member or the authority make a reasonable offer of local resolution, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint warrants formal investigation.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer is authorised to call in the Police and other regulatory agencies.

5. If the Complaint is Referred for Investigation how is the investigation conducted?

If the Monitoring Officer and Independent Person decide that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The decision on investigating officer will depend upon a variety of factors including staff capacity and nature of complaint. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

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 you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer. We aim to conclude the investigation stage within 3 months of a complaint being received.

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

The Monitoring Officer will, in consultation with the Independent Person, review the Investigating Officer's report and, if they are satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned, notifying you that no further action is required.

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

The Monitoring Officer will, in consultation with the Independent Person, review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel, or seek an alternative resolution.

7.1 Local Resolution

The Monitoring Officer and Independent Person may consider that the matter can be resolved without the need for a hearing. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or mediation. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the authority's Constitution and Ethics Committee for information, but will take no further action.

7.2 Local Hearing

If the Monitoring Officer and Independent Person consider that local resolution is not appropriate or is impossible to achieve, the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel of the authority's Constitution and Ethics Committee, which will conduct a local hearing to decide whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

In summary, the Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chairman of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary, and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearings Panel.

The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Hearings Panel, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. Alternatively, if the Hearings Panel finds that the member did fail to comply with the Code of Conduct, the Chairman will inform the member of this finding and the Hearings Panel will then consider what action, if any, the Hearings Panel should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the member an opportunity to make representations to the Panel and will consult the Independent Person.

8. What action can the Hearings Panel take where a member has failed to comply with the Code of Conduct?

The Council has delegated to the Hearings Panel 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 Hearings Panel may:-

- 8.1 Publish its findings in respect of the member's conduct;
- 8.2 Report its findings to Council for information;
- 8.3 Recommend to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 8.4 Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 8.5 Remove the member from all outside appointments to which he/she has been appointed or nominated by the authority;
- 8.6 Withdraw facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- 8.7 Exclude the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- 8.8 Seek informal resolution through mediation.

The Hearings Panel has no power to suspend or disqualify the member or to withdraw members' allowances.

9. What happens at the end of the hearing?

At the end of the hearing, the Chairman will state the decision of the Hearings Panel as to whether the member failed to comply with the Code of Conduct and as to any actions which the Hearings Panel resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chairman of the Hearings Panel, and send a copy to you, to the member, make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

10. Who are the Hearings Panel?

The Hearings Panel is a Sub-Committee of the Council's Constitution and Ethics Committee. The Constitution and Ethics Committee will comprise a maximum of nine members of the Council to be appointed on the nomination of party group leaders in proportion to the strengths of each party group on the Council or such other configuration as is deemed appropriate by Council. The Independent Person is invited to attend all meetings of the Hearings Panel and his/her 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.

11. Who is the Independent Person?

The Independent Person is a person appointed by a positive vote from a majority of all the members of Council.

A person cannot be "independent" if he/she –

- 11.1 Is, or has been within the past 5 years, a member, co-opted member or officer of the authority;
- 11.2 *[Is or has been within the past 5 years, a member, co-opted member or officer of a parish council within the authority's area], or*
- 11.3 Is a relative or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, "relative" means –
 - 11.3.1 Spouse or civil partner;
 - 11.3.2 Living with the other person as husband and wife or as if they were civil partners;
 - 11.3.3 Grandparent of the other person;
 - 11.3.4 A lineal descendent of a grandparent of the other person;
 - 11.3.5 A parent, sibling or child of a person within paragraphs 11.3.1 or 11.3.2;
 - 11.3.6 A spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5; or
 - 11.3.7 Living with a person within paragraphs 11.3.3, 11.3.4 or 11.3.5 as husband and wife or as if they were civil partners.

12. Revision of these arrangements

The Council may by resolution agree to amend these arrangements, and has delegated to the Chairman of the Hearings Panel the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

13. Appeals

There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Hearings Panel.

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.