

Arrangements for Dealing with Complaints Against Members Under The Localism Act 2011

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.

2. The Code of Conduct

The Council has adopted a Code of Conduct for Members [which will be attached when Council have adopted the Code], which is attached as Appendix 1 to these arrangements and available for inspection on the Authority’s website and on request.

3. Making a Complaint

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

The Monitoring Officer
Law & Governance
Oxfordshire County Council
County Hall
New Road
Oxford
OX1 1ND

or

standards.monitoringofficer@oxfordshire.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.

To ensure that we have all the information which we need to be able to process your complaint, please complete and send us the complaint form, which can be downloaded from the Authority’s website and is also available on request.

Please 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 explain your reasons in this space provided on the complaint form. The Authority does not normally investigate anonymous complaints, unless there is a clear public interest in so doing.

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.

4. Will Your Complaint Be Investigated?

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. This decision will normally be taken within 14 days of receipt of your complaint. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision.

Where he/she requires additional information 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.

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, or other remedial action by the Authority. 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 merits formal investigation.

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

Before taking any decision, the Monitoring Officer will consult the Independent Person.

5. How Is The Investigation Conducted?

The Monitoring Officer will determine the procedure to be adopted if a decision is taken to undertake a formal investigation. This may involve the appointment of an Investigating Officer, who may be another Senior Officer of the Authority, an Officer of another Authority or an external investigator.

It would be usual to 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.

At the end of the investigation, a report will be prepared for the Monitoring Officer to consider and who send copies to the complainant and the Member concerned.

6. What does the Code reference to bullying mean?

Bullying may be regarded as offensive, intimidating, malicious, insulting or humiliating behaviour which attempts to undermine, hurt or humiliate an individual or group and which can have a damaging effect on a victim's confidence, capability and health. Bullying conduct can involve behaving in an abusive or threatening way, or making allegations about people in public, in the company of their colleagues, through the press or in blogs, (but within the scope of this Code of Conduct). It may happen once or be part of a pattern of behaviour, although minor isolated incidents are unlikely to be considered bullying. It is unlikely that a member will be found guilty of bullying when both parties have contributed to a breakdown in relations.

7. What Happens If There Appears To Be No Evidence Of A Failure To Comply With The Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report (if applicable) and consult the Independent Person. If he/she is satisfied that the report is sufficient and no further action is required, the Monitoring Officer will write to you and the Member giving you both a copy of the final report.

8. What Happens If There Appears To Be Evidence Of A Failure To Comply With The Code Of Conduct?

The Monitoring Officer will review any relevant report and consult the Independent Person. The Monitoring Officer will then either send the matter for local hearing before the Members' Advisory Panel or seek local resolution.

8.1. Local Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the Authority. If the Member agrees with the suggested resolution, the Monitoring Officer will report the matter to the Audit and Governance Committee for information, but will take no further action.

8.2. Local Hearing

If the Monitoring Officer considers that local resolution is not appropriate, particularly if the allegation relates to serious misconduct, then the

Monitoring Officer will report the matter to the Members' Advisory Panel which will conduct a local hearing to consider whether the Member has failed to comply with the Code of Conduct and, if so, whether to recommend action in respect of the Member.

The Monitoring Officer will request that the Member gives his/her response to the Investigating Officer's report, to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chairman of the Members' Advisory 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 at the Members' Advisory Panel. The Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Members' Advisory Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

9. **What Action Can The Members' Advisory Panel Take Where A Member Has Failed To Comply With The Code Of Conduct?**

The Members' Advisory Panel may recommend the Monitoring Officer to:

- 9.1. Censure or reprimand the member;
- 9.2. Publish its findings in respect of the Member's conduct;
- 9.3. Report its findings to Council for information;
- 9.4. Recommend to the Member's Group Leader (if applicable) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 9.5. Recommend to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 9.6. Recommend to Council that the member be replaced as Leader of the Council;
- 9.7. Instruct the Monitoring Officer to offer training for the Member;
- 9.8. Withdraw facilities provided to the Member by the Council, such as a computer, website and/or email and Internet access, or
- 9.9. 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.

The Monitoring Officer and the Members' Advisory Panel have no power to suspend or disqualify the Member, to withdraw Members' basic or special responsibility allowances, or to recommend other outcomes.

10. What Happens At The End Of The Hearing?

At the end of the hearing, the Chairman will state the conclusion of the Members' Advisory Panel as to whether the Member failed to comply with the Code of Conduct and as to any actions which the Members' Advisory Panel wishes to recommend to the Monitoring Officer.

Before any recommendation is made, it will provide a further opportunity to the Member to make further representations and hear further from the Independent Person before making a recommendation as to action to the Monitoring Officer. The Monitoring Officer will take the Panel's recommendation(s) into account in determining any action to be taken. As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice 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 Audit and Governance Committee.

11. Who Are Members' Advisory Panel?

The Members' Advisory Panel is a Working Group of the Council's Audit and Governance Committee. The Panel will comprise a maximum of three Members of the Council drawn from at least two different political parties together with the Monitoring Officer and such other Officers as he/she may designate. The Panel may include not more than one Member of the Authority's Cabinet.

The Independent Person is invited to attend all meetings of the Members' Advisory Panel and his/her views are sought and taken into consideration before the Members' Advisory Panel reaches any conclusion on whether the Member's conduct constitutes a failure to comply with the Code of Conduct and as to any recommendations to the Monitoring Officer for action following a finding of failure to comply with the Code of Conduct.

12. Who Is The Independent Person?

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the Members' of Council.

The Council will, so far as is reasonably practicable, appoint two Independent Persons to undertake this role.

13. Revision Of These Arrangements

The Council may by resolution agree to amend these arrangements, and has delegated to the Monitoring Officer the right to depart from these

arrangements where he/she considers that it is expedient to do so to secure the effective and fair consideration of any matter.

14. **Appeals**

There is no right of appeal for you as complainant or for the Member against a decision of the Monitoring Officer or the recommendation of the Members' Advisory 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.

Peter G Clark
County Solicitor and Monitoring Officer

Date: July 2012

Code of conduct

1. This code of conduct is adopted pursuant to the council's duty to promote and maintain high standards of conduct by members and co-opted members¹ of the council.
2. This code applies to you as a member or co-opted member of this council when you act in that role and it is your responsibility to comply with the provisions of this code.

SELFLESSNESS

3. You must serve only the public interest and must never improperly confer an advantage or disadvantage on any person including yourself.

OBJECTIVITY

4. In carrying out public business you must make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

ACCOUNTABILITY

5. You are accountable for your decisions and actions to the public and must submit yourself to whatever scrutiny is appropriate to your office.

OPENNESS

6. You must be as open as possible about your actions and those of your council, and must be prepared to give reasons for those actions.

HONESTY AND INTEGRITY

7. You must not place yourself in situations where your honesty and integrity may be questioned, must not behave improperly and must on all occasions avoid the appearance of such behaviour.

¹ A "co-opted member" for the purpose of this code is, as defined in the Localism Act section 27 (4) "a person who is not a member of the council but who

- a) is a member of any committee or sub-committee of the council, or
- b) is a member of, and represents the council on, any joint committee or joint sub-committee of the council;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub committee".

LEADERSHIP

8. You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example in a way that secures or preserves public confidence.

GENERAL OBLIGATIONS

9. You must treat others with respect and ensure that you are aware of and comply with all legal obligations that apply to you as a member or co-opted member of the council and act within the law;
10. You must not bully any person.
11. You must not do anything that compromises or is likely to compromise the impartiality of those who work for, or on behalf of the council.
12. You must not disclose information given to you in confidence by anyone, or information acquired by you of which you are aware, or ought reasonably to be aware, is of a confidential nature except where:
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person, or
 - (iv) the disclosure is:
 - a) reasonable and in the public interest;
 - b) made in good faith and in compliance with the reasonable requirements of the council.
13. You must not improperly use knowledge gained solely as a result of your role as a member for your own personal advantage.
14. When making decisions on behalf of or as part of the council you must have regard to any professional advice provided to you by the council's officers.
15. When using or authorising the use by others of the resources of the council:
 - (i) you must act in accordance with the council's reasonable requirements;
 - (ii) you must make sure that you do not use resources improperly for political purposes and do not use them at all for party political purposes.

REGISTERING AND DECLARING INTERESTS

16. You must, within 28 days of taking office as a member or co-opted member, notify the council's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.
17. You must disclose the interest at any meeting of the council at which you are present, where you have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'².
18. Following any disclosure of an interest not on the council's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.
19. Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. You must withdraw from the room or chamber when the meeting discusses and votes on the matter.

² A "sensitive interest" is described in the Localism Act 2011 as a member or co-opted member of a council having an interest, and the nature of the interest being such that the member or co-opted member, and the council's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.