

MEMBER CODE OF CONDUCT – COMPLAINTS PROCEDURE

REPORT OF: DIRECTOR OF RESOURCES AND ORGANISATIONAL DEVELOPMENT
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Wards Affected: All
Key Decision No
Report To: Standards Committee
18 March 2024

Purpose of Report

To provide the committee with an opportunity to discuss current arrangements under the code of conduct and make recommendations to the Monitoring Officer concerning the operation of the procedure.

Summary

1. The complaints procedure supports the Members Code of Conduct, ensuring that elected members can be held to account if they fail to demonstrate high standards of conduct in public life in a fair and transparent manner. This report seeks to advise members of the current arrangements and how they operate and seeks views from the committee on those arrangements.

Recommendations

2. **The Standards Committed are asked to discuss the Council’s current procedure for addressing Code of Conduct complaints and make recommendations to the Monitoring Officer if the Committee considers that improvements could be made.**
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Background

3. All Councils are required to adopt a Code of Conduct for Members, which (when read as a whole) reflects the Nolan Principles for Standards in Public Life. This Council last adopted a Code of Conduct in 2020 and operates under the most up-to-date version of the Local Government Association’s Model Code.
4. Allegations of a breach of the Code by a District, Town or Parish Councillor are addressed to the Monitoring Officer, who deals with the complaints under an adopted procedure.
5. The Council’s current process for dealing with complaints is set out in the Council’s [Constitution](#) at Part 5(xiii) on page 204. For ease of reference, this is set out at Appendix 1. In addition, the Council publishes a note on the “Process for Dealing with Member Code of Conduct Complaints” which aims to set out the broad process for the benefit of residents who may wish to use the process. This is set out at Appendix 2.

The Process

6. When a complaint is referred to the Council, there is an initial “sifting” process carried out by the Monitoring Officer- if a complaint is not about an elected member or does not

engage the code of conduct (for example if it is about the behaviour of an elected member acting in a capacity other than as a member of the relevant Council), then it will not pass the initial assessment because by law the Council is not able to consider the matter under the Code.

7. The Monitoring Officer also has a broad discretion to reject complaints if they do not merit further consideration. For example, if the complaint appears to be politically motivated or “tit-for-tat”, or if there is no realistic prospect upon investigation, that a breach of the Code will be found. This seeks to ensure that only matters which are reasonably well founded and are not spurious or vexatious, progress to further consideration.
8. The Monitoring Officer is a senior officer who has statutory responsibility for ensuring the Council’s decisions are lawful. By convention (and as a matter of best practice) the Monitoring Officer is corporately responsible for promoting the highest standards of conduct, alongside the Standards Committee. Commonly (as is the case at Mid Sussex) the Monitoring Officer will also be an experienced lawyer. As such, the Monitoring Officer can be expected to apply the process robustly and with a critical eye, but fairly: ensuring that complaints which genuinely have merit are looked into, whilst unmeritorious claims or those claims for which further action would be disproportionate are dismissed.
9. The initial view of the Monitoring Officer is subject to referral to one of the Council’s Independent Persons. This helps to ensure the robustness of this process.
10. If the Monitoring Officer concludes that the complaint merits further consideration, it passes to the Standards Assessment Sub-Committee (consisting of 3 members), who apply the assessment criteria set out in the constitution. The Sub-Committee will decide whether it is in the public interest to investigate the matter.
11. If the sub-committee determines that an investigation is appropriate, the Monitoring Officer will normally appoint an independent investigator who will submit a report after interviewing the parties. The Monitoring Officer will convene a hearing panel where evidence can be heard from all parties before it reaches a view on whether there has been a breach of the code and, if so, what sanctions should be imposed. The process is subject to a timetable for response at each stage, as set out in the constitution. Complainants therefore have certainty that their complaint will be addressed in a timely fashion.
12. At each stage of the process, the complainant is able to provide evidence and make submissions and is informed at each stage of the reasons why a decision has been made about their complaint in a particular way. Where matters proceed to a formal assessment panel, the subject member also has an opportunity to put their case.
13. In the view of the Monitoring Officer, the process operates successfully and contains within it appropriate checks and balances such that matters which should come to members for a decision are indeed reported, whilst ensuring that the Council’s resources are not disproportionately directed towards dealing with matters which can properly be addressed without the need for an assessment panel to be convened.
14. It is, however, only right that the Standards Committee should have opportunities to consider shaping how the process is administered and operates in practice, given the Committee’s constitutional role in ensuring the Council upholds the highest standards of member conduct.

15. The Monitoring Officer would therefore welcome any recommendations the Committee may have with regard to the adopted procedures.

Policy Context

16. The Council's Code of Conduct for Members is the guiding document for members ensure they can demonstrate and uphold the highest standards of conduct in public life. The process for dealing with complaints supports that policy by ensuring complaints are addressed in a fair, robust and transparent manner.

Other Options Considered

17. Not applicable, as this is a discussion paper.

Financial Implications

18. Significant changes to the process, particularly changes which could result in an increase in the frequency of sub-committees being called, could have some minor financial implications. Whilst these have not been costed they would include the costs of calling and running a committee meeting, the opportunity costs involved (because officers required to facilitate the meeting would be called away from other duties), plus any relevant expenses.

Risk Management Implications

19. none

Equality and Customer Service Implications

20. There are no direct implications, however, it is important that the Council has a robust and transparent process for addressing Code of Conduct complaints as this forms part of the overall accountability of the Council to its residents.

Sustainability Implications

21. None

Appendices

- Appendix 1 – Extract: Constitution Part 5(xiii) Member Code of Conduct Complaints Procedure
- Appendix 2 – [Note on Process for Dealing with Member Code of Conduct Complaints](#)

Background Papers

None.