

Appendix 1

Procedure for considering complaints alleging a failure to comply with the Members' Code of Conduct within the area of City of Bradford Metropolitan District Council

Introduction

1. This procedure should be used to deal with complaints submitted under the Members' Code of Conduct adopted by City of Bradford Metropolitan District Council ("the Council") and with complaints submitted under the Codes of Conduct adopted by the Parish and Town Councils in the District area.
2. The Members' Code of Conduct applies to elected Members and voting co-opted members when they are acting in that capacity. Complaints which relate to a failure to comply with the rules about 'Disclosable Pecuniary Interests' will at first instance be directed to the West Yorkshire Police for their consideration. Complaints about a potential breach of the general obligations should be submitted to the Monitoring Officer for consideration.
3. The Monitoring Officer may nominate another officer of suitable experience and seniority to carry out any of the functions listed in this procedure and may appoint an external investigator.
4. Complaints will not normally be processed under ~~either stages 1 or stage 2 or 3~~ of this procedure during the statutory election period for local elections with the exception of any matter which requires referral to the Police under paragraph ~~89~~.

Stage 1 - Initial assessment by the Monitoring Officer

5. Complaints must be submitted in writing, must provide substantiated information, and should outline what form of resolution the complainant is seeking. Otherwise the Monitoring Officer should ask the complainant to resubmit their complaint. Ideally the complainant will use the Council's Complaint form ~~correct-complaints form~~ to submit their complaint, but other written complaints will be accepted so long as they contain the relevant information.
6. Prior to the assessment of the complaint, the Monitoring Officer must be satisfied that the complaint meets the following requirements:
 - a. It is a complaint against one or more named Members of the Council or a Town or Parish Council within the District area;
 - b. The named Member or Members were in office at the time of the alleged conduct and were acting in their official capacity and the complaint does not relate to the named Member or Members' personal or private life;

c. The complaint if proven, would be a breach of the relevant council's Code of Conduct in force at the relevant time.

d. Confirmation of the name and address and contact details of the complainant.

If the complaint fails to satisfy **any** of the above criteria the complaint cannot be considered, and no action will be taken. The Monitoring Officer will advise the complainant why the complaint has not been accepted.

6-7. Subject to the complaint satisfying the criteria in paragraph 6 above ~~The~~ Monitoring Officer ~~will~~ will then assess ~~consider~~ the complaint and make a decision as to whether it will be treated as a valid complaint or not.

78. It is unlikely that the ~~The following types of~~ complaint will ~~not~~ be considered as 'valid complaints' under this procedure if it falls into any of the following categories:

a. Complaints which are submitted anonymously ~~Complaints which are submitted anonymously;~~

b. Complaints which do not identify a subject Member;

c. Complaints which relate to a Member's personal or private life;

d. Complaints concerning a failure to respond to a request from a constituent or other individual;

e. Complaints which relate to the alleged actions of employees of the ~~Council~~ relevant Council or non-voting co-optees;

f. Complaints which relate to a decision of an employee or a Committee;

g. Complaints which relate to a person who has died, resigned or is seriously ill and therefore is not in the public interest to pursue ~~is or is~~ no longer a Member of the relevant Council or which refer to alleged incidents before the person became a Member of the relevant Council;

h. Complaints which refer to alleged incidents which happened so long ago that there would be little benefit in taking action now;

i. Complaints regarding alleged behaviour which has already been the subject of an investigation or some form of action;

j. Complaints which relate to conduct or ~~which incidents which is~~ are alleged to have occurred ~~taken place~~ more than 28 days prior to the submission of the complaint, unless there are exceptional circumstances

to justify the later submission of the complaint.; ~~This is subject to paragraph (k) below.~~

k. ~~Complaints which relate to conduct which is alleged to have taken place prior to 1 July 2012.~~

h Complaints which the Monitoring Officer considers are malicious, vexatious, politically motivated, tit-for-tat or not sufficiently serious to warrant further investigation or action;

i Complaints where there is insufficient information currently available on reasonable enquiry to demonstrate a potential breach of the relevant Code of Conduct;

j. Complaints where alternative, more appropriate, remedies should be explored first.

~~8.9~~ Complaints which relate to an alleged failure to comply with the rules regarding Disclosable Pecuniary Interests will at first instance be referred to the West Yorkshire Police for investigation. If the Police determine not to take any action in response to the allegation, then the Monitoring Officer, ~~in consultation with the Chair of Standards Committee,~~ will consider whether it is appropriate for the complaint to be considered under this complaints procedure.

~~9.10~~ Complaints which contain a request for the complainant's identity to be withheld may be considered to be 'valid complaints', although the complainant's identity will only be withheld in exceptional circumstances. If the Monitoring Officer does not consider it appropriate to withhold the complainant's identity, the complainant will be given the opportunity to withdraw their complaint before it proceeds to the next stage. Anonymous complaints which reveal potential fraud or corruption will be referred to the Internal Council's Internal Audit section for consideration under the Council's adopted Whistle blowing Policy.

~~10.11~~ In all cases where the complaint names a Member of a relevant authority, the Member will be notified of the complaint unless the complaint does not satisfy the criteria in paragraph 6 or is not classed as a valid complaint. ~~If the Monitoring Officer decides that the complaint is 'invalid', this notification is made for information only.~~

~~11.12~~ If the complaint relates to an employee or is a service related issue, the Monitoring Officer will refer the complaint to the relevant service in order for them to respond to the complainant directly.

~~12.13~~ In any case where the Monitoring Officer decides that the complaint is 'invalid', they will write to the complainant explaining why their complaint cannot be dealt with under this procedure. There is no appeal process for decisions taken by the Monitoring Officer at this stage.

14. Where the Monitoring Officer assesses the complaint as a valid complaint and the complaint relates to the Chair of Standards Committee, the Monitoring Officer will ask the other members of Standards Committee to elect an Acting Chair for the purposes of considering the complaint under this Procedure.

Stage 2 - Informal resolution

135. If, following initial assessment, the Monitoring Officer decides that the complaint should be treated as a 'valid complaint' they will write to the complainant and explain that the matter is to be referred to the subject Member for them to provide a response to the complaint.

~~146. At the same time the Monitoring Officer will refer the matter to the subject Member and the relevant Group Whip for their consideration. In this correspondence~~ The Monitoring Officer will refer the matter to the subject Member, usually by providing a copy of the complaint and will provide the subject Member with a reasonable timescale within which to respond to the complaint (usually this will be 28 days), ~~and~~ The Monitoring Officer also will provide the subject Member with the contact details for the Independent Person.

~~15. If the subject Member is the Group Whip the complaint will be sent to the Group Leader. In the case of a Parish or Town Council without structured political groups a copy of the complaint will be sent to the Clerk of the Council.~~

167 The subject Member will be asked to consider whether he/she is prepared to propose an informal resolution of the complaint to be communicated to the complainant.

178 Types of informal resolution might include:

- a. An explanation by the subject Member of the circumstances surrounding the complaint;
- b. An apology from the subject Member;
- c. An agreement from the subject Member to attend relevant training or to take part in a mentoring process;
- d. Offering to engage in a process of mediation or conciliation between the subject Member and the complainant; or
- e. Any other action capable of resolving the complaint.

189. Before deciding upon a course of action the subject Member may seek guidance from a Group Whip, the Independent Person, and/or the Monitoring Officer.

~~190.~~ The Independent Person is available to the subject Member to give them advice on the severity of the complaint and what form of resolution they would consider appropriate. Providing such guidance will not prevent the Independent Person

from giving a view to the Standards Committee about the complaint at a later stage.

201. The Monitoring Officer will inform the complainant of the response, usually by providing to the complainant a copy of the ~~and response and~~ any proposals for resolution of the complaint received from the subject Member and ascertain whether the complainant is able to agree with any proposals.

22 Throughout the informal resolution stage of the Procedure the Monitoring Officer may also consider additional fact-finding is required.

213. Once the Monitoring Officer has received details of the complainant's position regarding the response from the subject Member and following any fact-finding he/she considers necessary, he/she will, following consultation in consultation with the Chair of the Standards Committee, determine whether the subject Member ~~(or Group Whip)~~ has appropriately addressed matters which have been raised by the complainant.

22- 24 The Monitoring Officer will also consider whether the complaint is malicious, vexatious, politically motivated, tit-for-tat or not sufficiently serious to warrant further investigation or action. If the Monitoring Officer considers that is the case, then no further action will be taken. The Chair of the Standards Committee and the Monitoring Officer will also consider whether the complaint is malicious, vexatious, politically motivated, tit-for-tat or not sufficiently serious to warrant further action. If they consider that is the case then no further action will be taken.

235. Where the subject Member has appropriately addressed the matters raised there will be no further action taken in respect of the complaint and the Monitoring Officer will notify both the complainant and the subject Member of this decision. The relevant town or parish council clerk will also be notified if the subject member is a town or parish councillor.

246. Where it has not been possible to appropriately address matters, ~~the the~~ Monitoring Officer will assess the complaint following consultation with the Chair of the Standards Committee and decide whether to refer the complaint for investigation under stage 3 below. The Monitoring Officer will consider the public interest and the need for proportionality when making this decision. complaint will be referred to the Standards Committee for consideration. The Monitoring Officer will notify both the complainant and the subject Member of this decision.

257. There will be no appeal process for decisions taken by the Monitoring Officer, ~~and the Chair of the Standards Committee at this stage.~~

28. Any decision taken by the Monitoring Officer under this stage including any informal resolution reached is confidential between the parties.

Stage 3 – ~~Standards Committee Investigation~~

29. If the Monitoring Officer decides that the complaint should be investigated, he or she will carry out the investigation personally or delegate the investigation to another officer of the Council, an officer of another authority or an external investigator. The scope of the investigation is to be agreed by the Monitoring Officer. An investigation report will be produced by or for the Monitoring Officer, who will then decide whether to take no further action, whether the complaint is suitable for informal resolution at this stage, or whether the investigation report is submitted to the Standards Committee as set out in Stage 4 below. The view of the Independent Person will be sought and taken account of by the Monitoring Officer when deciding whether to take no further action, whether the complaint is suitable for informal resolution following completion of the investigation report or whether the investigation report is submitted to the Standards Committee as set out in Stage 4 below.

Stage 4 – Standards Committee

~~26~~30. The Monitoring Officer will prepare a report for consideration by the Complaints Sub - Committee of the Standards Committee ("the Sub – Committee"). ~~This report will include readily obtainable information (such as minutes of meetings or Clerk's notes), a summary of the complaint and the efforts made to resolve the matter informally.~~

~~27~~31. The Monitoring Officer must arrange for a meeting of ~~the~~ the Sub - Committee to be convened to consider the Monitoring Officer's report ~~of the complaint.~~ The Sub – Committee may will consider the Monitoring Officer's report in private, subject to the Access to Information Procedure Rules of the Council. However ~~but~~ the outcome of their deliberations will be reported to the next meeting of the Standards Committee.

~~28-32~~ The Sub-Committee will be made up of three Members of the Standards Committee, one of whom must be from the same political group as the subject Member (wherever possible), but not all of the Members will be from the same political group. The Chair will be elected from among the membership at the beginning of the ~~meeting, but~~ meeting but cannot be from the same political group as the subject Member.

~~29~~33. The following people will also be invited to attend the Sub-Committee meeting:

- a. The complainant;
- b. The subject Member and/or their representative;
- c. The Group Whip (if relevant); and
- d. The Independent Person.

~~30~~34. The Monitoring Officer (and the investigator if not the Monitoring Officer) will also attend the meeting in order to present their ~~report.~~ report. Other witnesses may be called by the Monitoring Officer in addition to those persons listed in paragraph 33 above.

345. After initial consideration of the Monitoring Officer's report, the Sub-Committee will take ~~statements~~ evidence from the following parties (either in person or in written form if the person is unable to attend the meeting):
- a. The complainant; and
 - b. The subject Member.
326. The Sub-Committee may also ask questions of anyone present at the meeting in order to reach a conclusion on the complaint.
- ~~33.7~~ Before reaching a final decision on the complaint, the Sub - Committee must seek, and take account of, the view of the Independent Person in relation to the complaint.
348. If the Sub-Committee is unable to reach a conclusion on the complaint on the basis of the information before it, it may adjourn the meeting and request that the Monitoring Officer seeks the further information required. However, when doing so the Sub-Committee should consider whether the information will be readily available to the Monitoring Officer.
359. Once the Sub-Committee is satisfied with the information before it, it must decide the following issues:
- a. Whether the subject Member has failed to comply with the relevant Members' Code of Conduct;
 - b. Whether further action is warranted; and
 - c. What form of action might be appropriate.
- ~~36.40~~ If the complaint relates to a Parish or Town Councillor the Sub-Committee will only make a decision regarding whether the subject Member has failed to comply with the relevant Members' Code of Conduct. This decision, and the reasons for it, will be communicated to the relevant Parish or Town Council in order for it to make a decision as to whether further action is warranted and what form of action would be appropriate. The Sub-Committee may make recommendations to the relevant Parish or Town Council as to whether further action is warranted and if so what form of action would be appropriate.
- ~~37.41~~ In all other cases, if the Sub-Committee concludes that, on the balance of probabilities, the subject Member did not fail to comply with the Members' Code of Conduct, this will conclude the complaints process. In such cases no further action will be taken in respect of the complaint, although the Sub-Committee may still wish to consider making a recommendation to the authority with a view to promoting and maintaining high standards of conduct in general. Such recommendations may include proposed changes to internal procedures and practices or training for Members in general.

~~3842~~. If the Sub-Committee concludes that, on the balance of probabilities, the subject Member has failed to comply with the ~~Members~~Council's Members' Code of Conduct, the Sub-Committee must go on to consider whether action should be recommended in respect of the subject Member, and what form of action might be appropriate.

~~3943~~. ——— The recommendations available to the Sub-Committee ~~are limited to include~~ :

- a. A formal letter to the subject Member from the Chair of the Standards Committee;
- b. Formal censure by a motion of full Council; or
- c. Removal by the authority of the Member from a relevant Committee(s) subject to statutory and constitutional requirements.

If the Sub-Committee wish to consider alternative recommendations, for example to instruct the Monitoring Officer to arrange training for the subject Member or to recommend mediation, the Sub-Committee will seek advice from the Monitoring Officer.

~~404~~. The Sub-Committee may make a recommendation in relation to one or more of the above sanctions to full Council, the Group Whip or the Chair of the Standards Committee. The Chair ~~of the Sub-~~will~~Committee will~~ confirm any such recommendations in writing within ten working days of the Sub-Committee meeting.

~~415~~. The Sub-Committee may also make general recommendations to the authority with a view to promoting and maintaining high standards of conduct within the authority. As stated above, such recommendations may include proposed changes to internal procedures and practices or training for Members in general. The Monitoring Officer will be responsible for communicating such recommendations to the relevant Committee or officer for consideration.

~~426~~. Within ten working days of the meeting the Chair of the Sub-Committee will write to the complainant and the subject Member explaining the final decision of the Sub-Committee and detailing any recommendations made. A decision notice will be produced and will usually be published.

~~437~~. There will be no right of appeal against a decision of the Sub-Committee.

