

Complaints under the New Code – Procedure

Making a Complaint

1. Complaints must be submitted to the Councils Monitoring Officer using the Councils standard Complaint Form setting out in sufficient detail why the Complainant considers there has been a failure to comply with the relevant Code of Conduct.
2. The Monitoring Officer will acknowledge receipt within 5 working days
3. The Subject Member will not normally be told there has been a complaint until an initial assessment of the complaint has been undertaken.

Initial Assessment / Gateway Procedure

4. The Monitoring Officer will refer the complaint to the Audit and Governance Initial Standards Assessment Panel within 21 days of receipt for an initial assessment
5. After consulting the Independent Person the Panel will determine whether to;
 - **Take no action**
 - **Refer the matter to the relevant Group Leader for informal action** (NB for complaints against Cheshire East Councillors only and not generally an appropriate option if the complaint is from a member of the public)
 - **Refer the matter for Local Resolution**
 - **Refer the matter for formal investigation by an external investigator**
 - **Refer the matter to the Police or other relevant Regulatory Agency**
6. The Initial Assessment Decision on what action to take on a complaint is final. There is no right to have the decision reviewed.
7. The Complainant and Subject Member will be informed of the outcome of the decision.
8. Meetings of the Panel will not be open to the public.

Local Resolution

9. The Complainant and Subject Member will be advised that the Initial assessment panel have concluded that the complaint is suitable for Local Resolution without the need for a formal investigation and full hearing and will be invited to submit written representations outlining the nature of the dispute using a standard template to ensure consistency.
10. Both the Complainant and Subject Member will be able to bring one witness to accompany them before an ad hoc panel of three elected members together with the Independent Person.
11. The Panel will consider the written representations and hear any relevant evidence before reaching a determination and considering whether any sanction is appropriate.
12. The Panel may refer the matter for a formal investigation should it become apparent that the issues are more complex or serious than was originally anticipated.
13. Local Resolution Panels will normally meet in public and will be convened within 28 days of the decision of the Initial Assessment Panel subject to availability of the relevant parties.
14. Both the Complainant and Subject Member will receive copies of each others written statements and details of any witness to be called 5 working days before the Panel meets. Copies will be made available to three Panel members and Independent Person at the same time.
15. There is no right of Appeal from the decision of the Local Resolution Panel which is intended to resolve less serious complaints speedily and cost effectively.

External Investigation

16. The matter will be referred for an independent investigation by a suitably experienced investigative officer. In most cases the investigation is expected to be completed within 8 weeks of the referral.
17. The report of the independent investigator should incorporate the following:-
 - **Executive Summary** - An outline of the allegation, who made it, the relevant provisions of the Code and whether there has been a breach.
 - **Member's official details** - A brief outline of when the Member was elected, term of office, details of committees served on and any relevant training.

- **Complainants details and any relevant background**
- **Summary of facts and evidence gathered-** A summary of the facts and evidence gathered highlighting facts which are in dispute and setting out the investigating officer's conclusions based on the balance of probabilities
- **Reasoning as to whether there has been a failure to comply with the Code and investigator's findings –** Dealing with each allegation in turn an outline of whether the investigating officer considers there has been a breach and any aggravating or mitigating facts.
- **Schedule -** a list of witnesses interviewed and copies of relevant documents

18. A copy of the draft report will be circulated to the subject member and complainant to check for factual accuracy.

19. The Investigating Officer will take into account any comments received before sending the final report to the Monitoring Officer.

External Investigation – No Evidence of Failure to comply

20. Where the report concludes that there is no evidence of failure to comply with the Code of Conduct the Monitoring Officer will review the report in consultation with the Independent Person.

21. If satisfied with the conclusions the Complainant, Subject Member and the Town or Parish Clerk (if appropriate) will be notified within 15 working days that no further action will be taken and will be given a copy of the final report.

22. If after consultation with the Independent Person the Monitoring Officer is not satisfied that the investigation has been concluded properly she may ask the Independent Investigator to reconsider the report and / or refer the matter to the Standards Hearings sub committee for a formal hearing of the issues.

External Investigation – Evidence of Failure to comply

23. Where the report concludes that there has been a failure to comply with the provisions of the Code of Conduct the matter will be referred to the Standards Hearings sub committee who will conduct a hearing to determine if the subject member has failed to comply with the provisions of the Code and if so what sanction is appropriate.

24. The Hearings sub committee will consider the matter afresh having regard to the Investigators findings and all relevant evidence presented by the Complainant and subject member.
25. The Independent Person will be present at the hearing and will be consulted and his/ her views taken into account before any decision is reached.
26. The Hearings sub committee will announce their decision at the end of the hearing and a formal Decision Notice will be prepared and sent to all relevant parties within 5 working days. The Decision Notice will be published on the Councils website and reported to the next meeting of the Audit and Governance Committee.
27. Meetings of the Hearings sub committee will be subject to the normal rules for publication of agendas and access to information.
28. There is no right of appeal from the decision of the Standards Hearings sub committee.

Independent Person

29. The Subject Member has the opportunity to consult the Independent Person at any stage in the investigation process and prior to the final determination.

Membership of Panels / sub committees

30. If a Member has sat on a Local Resolution Panel which refers a matter for external investigation then he or she may not subsequently sit on any hearings sub committee.

June 2012