

Article 9 - The Standards Committee

LOCAL STANDARDS COMMITTEE - TERMS OF REFERENCE AND STANDING ORDERS

9.1 Standards Committee

9.1.1 The Localism Act requires local authorities to adopt arrangements to deal with allegations that Members have not complied with their local code of conduct. It also allows local authorities to make Standing Orders relating to aspects of the standards process (see Section 31(10)).

9.1.2 As an integral part of these arrangements, the Council has established a Standards Committee, under the provisions of Section 102(1) of the Local Government Act 1972.

9.1.2 The Standards Committee may establish sub-committees under the same provisions.

9.2 Composition

(a) Political Balance

9.2.1 The Councillor membership of the Standards Committee will comply with the political balance rules in Section 15 of the Local Government and Housing Act 1989.

(b) Membership

9.2.2 The Standards Committee will be composed of:

- Councillors, subject to each registered political group on the Council having an entitlement to at least one seat;
- At least one, and no more than three, co-opted Independent Member(s) (persons who are not a Councillor or an officer of the Council or who are not disqualified from being a Member of a Committee of the Council under Section 104 of the Local Government Act 1972
- each political group may nominate named substitute members and those Councillors may attend in the place of appointed Councillors provided that they have received training similar to that received by members of the Committee
- the Leader may not be a member of the Standards Committee

(c) Independent Member(s)

9.2.3 The Independent Member(s) will be co-opted as Members of the Committee appointed under Section 102(4) of the Local Government Act 1972.

(d) Chairing the Committee

9.2.4 The Council will appoint a Member of the Committee to be its Chair.

(e) Quorum

9.2.5 The quorum of the Standards Committee shall be three Members, subject to Councillors from more than one political group being present.

9.2.6 The quorum of any sub-committee of the Committee shall be three members.

(e) Voting

9.2.7 Decisions by the Standards Committee shall be reached by a simple majority vote.

9.2.8 Any two Members of the Committee present at the meeting where a decision is taken shall be able to require any matter considered by the Committee to be referred for investigation to the Council's Chief Auditor or the Council's External Auditors.

(f) Calling of Meetings

9.2.9 Meetings of the Standards Committee may be called by:

- the Head of Paid Service, or
- the Monitoring Officer, or
- the Leader of the Council, or
- the Leader of any registered political Group on the Council, or
- the Chair of the Standards Committee, or
- a petition signed by at least one fifth of the Councillors serving on the Council (ie ten Councillors)

9.2.10 The meeting will be held in public, under the access to information provisions of Section 100(A) of the Local Government Act 1972. The press and public may be excluded from meetings only where confidential or exempt information is being considered, as defined in the Council's Access to Information Procedure Rules (in part 4 of the Constitution), and subject to the passage of the necessary resolution.

9.3 Role and Function

9.3.1 The general terms of reference of the Standards Committee are to be:

1. To advise and support the authority in meeting its statutory duty of promoting and maintaining high standards of conduct by Councillors and co-opted Members of the authority, under Section 27 of the Localism Act 2011
2. To assist Councillors and co-opted members of the Council to observe the local Member Code of Conduct, and to promote standards of behaviour and conduct by Members which is consistent with the seven principles of public life identified in the First Report of the Committee on Standards in Public Life (the *Nolan* Committee) and repeated in Section 28 of the Localism Act 2011, as follows:
 - Selflessness
 - Integrity
 - Objectivity
 - Accountability
 - Openness
 - Honesty
 - Leadership
3. To receive and consider reports from the Monitoring Officer and Independent Person made under Stage 3 of the Council's Member complaints process, concerning allegations made about Members involving a breach of the local Member Code of Conduct, and/or other Council protocols, in particular the Planning code of conduct and the Protocol on Member/Officer Relations.
4. To monitor the probity and propriety of all aspects of Council business.
5. To scrutinise the conduct of individual Members, political groups and informal groupings, and to issue reprimands to individual Councillors or groups of Councillors in circumstances where breaches of the law, codes of practice or other conduct considered inappropriate have been established.
6. To advise the Council on the adoption or amendment of local codes of conduct and to monitor their effectiveness.

7. To make recommendations to the Council on any matters or issues relating to probity, propriety and general conduct where the Panel considers it appropriate to do so in the interests of maintaining the highest standards in the carrying out of the Council's functions.
8. To refer any matter considered by the Committee for investigation by the Council's Chief Auditor (or other appropriate officer) or the Council's external auditors as it sees appropriate; the Committee may also refer any such matter to the relevant Political Group(s) for their consideration.
9. To advise, train or arrange to train Councillors, co-opted members and church and parent governor representatives on matters relating to the local Member Code of Conduct and local protocols;
10. To promote, oversee and monitor the register of interests of Councillors and co-opted Members of the authority, and their disclosure and declaration of disclosable pecuniary interests;
11. To grant dispensations to Councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct.
12. To consider any other matters as the Council refers to the Committee from time to time.

9.4 Sanctions

- 9.4.1 The Localism Act 2011 has abolished the statutory standards regime set up by the Local Government Act 2000. Therefore the range of sanctions prescribed by the 2000 Act are no longer available. The local Standards Committee will no longer be able to suspend, or partially suspend, a Councillor for up to six months, or require the Councillor to provide a written apology, or to undertake training or conciliation.
- 9.4.2 The lawful sanctions that are available to the local Standards Committee are those that are generally available to a committee set up under the Local Government Act 1972, and they must be exercised by the Committee in a lawful and proportionate manner with due regard to the particular facts and circumstances of the case. They amount to:
 - A formal letter to the Councillor found to have breached the code
 - A formal censure motion
 - A formal request to the Councillor's Group Leader to replace him/her as a member of a committee or meeting
- 9.4.3 The Committee meeting will be held in public (unless confidential or exempt information is being considered), and therefore will carry the informal sanction of bad publicity. The Committee may also issue a press release setting out its conclusions. The Committee minutes will be a public document, and published on the Council's website.
- 9.4.4 The Committee could suggest to a Councillor and/or the relevant Group Leader that the Councillor should provide a written apology and/or undertake training or conciliation. However, it will no longer have the power to require compliance.

9.5 Independent Person

- 9.5.1 The Localism Act 2011 requires the local authority, as part of its arrangements, to appoint at least one Independent Person (IP), with the following responsibilities:
 - The authority must seek the IP's views, and take them into account, before making a decision on an allegation that it has decided to investigate
 - The authority may also seek the IP's views in other circumstances
 - A Member who is the subject of an allegation may seek the IP's views
- 9.5.2 Under the three-stage procedure for dealing with complaints about Members, set out below, the Monitoring Officer must seek the IP's views before taking a complaint to the Standards Committee

at stage 3; and may do so at an earlier stage in the process, such as when receiving the response of the Group Leader at stage 1, and/or instituting an investigation at stage 2.

- 9.5.3 Under Section 28(8) of the Localism Act 2011, the IP cannot be a person who has been a member or officer of the authority during the five year period before his/her appointment as the independent person. Therefore, the IP cannot be a non-Councillor member of the old (statutory) standards Committee.

9.6 Procedure for Dealing with Complaints

- 9.6.1 The process by which a complaint against a Member will be dealt with will vary slightly, depending on the sources and nature of the complaint. All complaints received against Members regardless of how they are dealt with, will be kept in a register held by the Monitoring Officer that will record details of the complaint and its resolution.
- 9.6.2 The Monitoring Officer will submit an annual report to a public meeting of the Standards Committee, including an anonymised schedule of complaints made about Councillors over the preceding Municipal Year.
- 9.6.3 The removal of the statutory powers of Standards Committees to invoke sanctions under the Local Government Act 2000 will place greater emphasis on political Group disciplinary processes - and in particular the Group Leader and Whip - to promote and maintain high standards of conduct, and to ensure that Group Members comply with the local Member Code of Conduct and other agreed Council protocols, and to register and declare disclosable pecuniary interests.
- 9.6.4 The Council will publish its local Procedure for dealing with Complaints about Councillors on its website. This will include the list of matters which will normally be rejected, as set out in (2) below.

Initial Filter

- (1) All complaints about Members not complying with the local Code of Conduct be referred straight away to the Monitoring Officer, who will record them
- (2) The Monitoring Officer be authorised to review the complaint, and take one of the following courses of action:
 - a. Reject the complaint on the following specified grounds:
 - Anonymous complaints
 - Complaints about actions that occurred more than 12 months before;
 - Complaints about comments made in the cut and thrust of political debate;
 - Minor complaints that s/he sees as trivial, vexatious, malicious, politically motivated or made on a tit-for-tat basis - unless these suggest a more deep-seated problem;
 - Complaints that are similar to a previously investigated complaint where there is nothing further to be gained from an investigation;
 - Complaints about a Councillors' private life which are unlikely to affect their fitness for office;
 - Complaints where there is insufficient information to justify an investigation, or where an investigation is unlikely to be able to come to a firm conclusion on the matter
 - b. Explore the complaint informally with the complainant and subject Member, to see whether grounds might exist for an informal local settlement
 - c. Refer the complaint to the subject Member's Group Leader, for investigation under the Group's disciplinary procedure

Stage 1

- (3) All registered political Groups on the Council will adopt or update their own Group disciplinary or complaints procedures which they will use to deal with complaints at the first stage. The Group Leaders must share and agree these with the Head of Paid Service and Monitoring Officer. However, it will be the responsibility of the Group Leader and Whip to ensure that the complaint is investigated properly through the adopted Group procedure.
- (4) The Group Leader will be responsible for ensuring the following actions are taken when the Monitoring Officer refers a complaint under (2)(c) above:
 - a. write to the complainant to acknowledge receipt of the complaint, and explain the process and timescale to be followed to consider the complaint;
 - b. respond in writing to the complainant at the conclusion of the process, with a copy sent to the Monitoring Officer for the record.
 - c. In the response, set out the courses of action open to the complainant if s/he remains dissatisfied with the first stage response.
- (5) Stage 1 of the process will be confidential to the complainant and the Group process, and the Monitoring Officer will not disclose details of any complaint or Group response without the prior approval of the complainant or the Group Leader, other than in the context of his/her annual and anonymised monitoring report to the Standards Committee.

Stage 2

- (6) If the complainant is dissatisfied with the response, a second stage might be invoked. This would involve the complaint being investigated through a formal Council process, to be agreed between the Monitoring Officer and the Independent Person.
- (7) The Monitoring Officer will share the complaint with the Independent Person, and seek the Independent Person's views on:
 - a. the merits of the complaint
 - b. whether it should be subject to a formal Council investigation process
 - c. if so, the process and timescale to be followed.
- (8) The Monitoring Officer will respond to the complainant, explaining the process and timescale to be followed, if any; and requesting any further information that s/he considers necessary to assist the process.
- (9) Whilst it is important that the Head of Paid Service has overall management of the complaints process, the Monitoring Officer will play the leading role in commissioning the investigatory process. Because of the necessary relationship between the Head of Paid Service and Leading Members of the Authority, it will not always be appropriate, or possible, for the Head of Paid Service personally to carry out investigations. In such circumstances, it might be appropriate for the Monitoring Officer to carry out the investigation personally, or to appoint another senior officer or an external individual to do so. It is important for Members to appreciate that the Head of Paid Service and the Monitoring Officer act as a "check and balance" on each other's actions in this as in other matters.
- (10) At the completion of the investigation, the Monitoring Officer will share the investigation report with the Independent Person and discuss its findings and possible courses of action.
- (11) The Monitoring Officer will then write to the complainant to set out the results of the formal investigation and, where appropriate, the views of the Independent Person.
- (12) If the Monitoring Officer and Independent Person concur with any finding in an investigation report that there has been a serious breach of the local Member Code of Conduct, which requires the application of a sanction available to the Standards Committee to address, the Monitoring Officer may choose at this stage to put the findings directly to the local Standards Committee for its consideration.

Stage 3

- (13) If the complainant is still dissatisfied, the Monitoring Officer may refer the complaint to the Standards Committee at the third stage. In such circumstances, the Committee will consider a report from the Monitoring Officer outlining the results of the previous stages and decide whether any further investigation or information was needed before it arrived at its own conclusions.
- (14) The decision to refer a complaint to the Standards Committee will be for the Monitoring Officer, having regard to the views of the Independent Person. The complainant will not have a right to require a complaint to be considered by the Standards Committee, or to appeal against a decision of the Monitoring officer not to proceed to this stage.
- (15) The Monitoring Officer will set out the views of the Independent Person in the report to the Standards Committee.
- (16) At this stage, the meeting of the Standards Committee will be held in public, with an agenda published five working days before the meeting. The Committee will be subject to the access to information provisions of Section 100(A) of the Local Government Act 1972, and may only resolve to exclude the press and public if it considers that there will be a disclosure of exempt information as defined in that Section, or confidential information on a third party as defined in Section 40 of the Freedom of Information Act 2000.
- (17) The limited sanctions available to the Committee are set out in para. 9.4 above.

General

- (18) Subject to a complaint getting through the preliminary filter stage, the stage at which a complaint enters the process will depend upon the nature of and implications flowing from it. It might be appropriate to start the process at a different stage or proceed by a different order. The general principle should be that a complaint will be dealt with at the most appropriate point at the first stage and will then be escalated to a higher authority if the complainant was not satisfied, and eventually to the Standards Committee.
- (19) It is important that the process is operated flexibly and with common sense. The previous statutory process was administratively complex and slow because of the requirements to follow a prescribed process and the possibility of legal challenge.

9.7 Examples of Application of Procedure

9.7.1 The following are examples of how a complaint might be dealt with depending on the source of the complaint.

(1) The Public

- a) The principles described above could be applied to complaints from members of the public.
- b) However, if a complaint could not be resolved through the various stages described, the complainant would be advised to consider taking the complaint to the Local Government Ombudsman. If the Local Government Ombudsman considered that a Member had been at fault to the extent of breaching the local Member Code of Conduct or the law, the Ombudsman will name the Member concerned in the Report.
- c) In the event of a member being named in a formal report by the Ombudsman, the Monitoring Officer would then refer the matter to the Standards Committee.

(2) Ombudsman

- a) The Ombudsman's principal focus is on actions of maladministration that cause injustice. This can include a failure to act. The Ombudsman can make findings of maladministration

against a Councillor, and grounds for such a finding could include a failure by a Councillor to follow any agreed local protocol.

- b) Irrespective of the origin of the complaint to the Ombudsman, if a Member were named in a formal report by the Local Government Ombudsman, it would be appropriate for the Monitoring Officer to refer that report to the Standards Committee. In all cases where the Ombudsman issues a formal report, a local authority is obliged to advertise the fact and, where there has been a finding of maladministration, to tell the Ombudsman what action it proposes to take.

(3) Councillors

- a) Occasionally, there are complaints by one Member about the conduct of another Member. More often than not such complaints arise as a result of something said during a heated debate in the Council Chamber.
- b) Members are protected by qualified privilege with regard to anything they say in the course of carrying out their functions as Councillors and this includes debate in the Council Chamber.
- c) It would be inappropriate for such complaints to be referred directly to the Standards Committee, unless the Head of Paid Service or the Monitoring Officer considered there to be a significant breach of Standing Orders or the Council was in danger of being sued for defamation. Such cases should be referred to the Group Leader or Leaders concerned, in the first instance, to see if the matter can be resolved within the political groups' own procedures.
- d) If the complaint cannot not be resolved at this stage, it could then be referred to the Standards Committee.
- e) The route for dealing with complaints about other matters, eg allegations of misuse of Council property, might depend upon the seriousness of the allegation and the potential consequences for the Council.

(4) Staff

- a) Complaints by staff against Councillors usually arise when a member of staff feels that they have been unfairly criticised or are being harassed by an elected Member. Conduct of this nature by another member of staff would lead to a complaint in accordance with either the grievance procedure or the harassment procedure. However, those procedures do not make any provision for circumstances where the complaint concerns an elected member.
- b) In such cases, complaints by members of staff about Councillors will normally be referred to the relevant Group Leader in the first instance. If not resolved to the satisfaction of the member of staff concerned, the complaint could then be investigated by the Monitoring Officer or another senior officer nominated by the Head of Paid Service. A course of action or solution would be recommended.
- c) If this did not produce a satisfactory resolution or the complaint persisted, the complaint would be referred to the Standards Committee.

