



Reading Borough Council

Standards Committee

Arrangements for dealing with allegations of misconduct Section 28 Localism Act 2011

Context

1. These arrangements describe how the public can make a complaint that a Member of Reading Borough Council “the Council” has failed to comply with the Councillor’s Code of Conduct and sets out how the Council will deal with allegations of a failure to comply with the Council’s Code of Conduct.
2. Under the Localism Act 2011, the Council must have in place “Arrangements” under which allegations that a Member of the authority (i.e. a councillor or a co-opted member) has failed to comply with that Council’s Code of Conduct, can be investigated and decisions made on such allegations.
3. The arrangements under the Localism Act must provide for the Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Council at any other stage, or by a Member against whom an allegation has been made.

Principles of these arrangements

4. At its meeting on [redacted], the Council agreed that these Arrangements or any revisions to them, should abide by the following principles:
 - a. They should reassure the public that complaints will be dealt with swiftly, properly and transparently
 - b. They should be simple, clear and follow the rules of natural justice
 - c. They should not be bureaucratic i.e. they should follow the law and not build in unnecessary additional measures
 - d. They should allow the Monitoring Officer to dismiss complaints which do not relate to the Code or are in some other way unsuited to this process

- e. They should allow for the Monitoring Officer to be accountable for decisions
- f. They should ensure there is an element of outside scrutiny and objectivity by recruiting Independent Members to the Standards Committee

The Code of Conduct

5. The Council has adopted a Member Code of Conduct, which is available for inspection on the Council's website. The Council has tasked the Standards Committee to keep the Code of Conduct and the operation of these Arrangements under review.

Making a complaint

6. Any person may make a complaint, in writing, to-

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Monitoring Officer
Reading Borough Council
Civic Offices
Bridge Street
Reading
RG1 2LU

Or via the Council's dedicated [webpage](#): (new updated link will be needed)

7. The Council will only process complaints which are in writing. The name and address of the complainant must be given and only in very exceptional circumstances will the Council investigate anonymous complaints.
8. The Monitoring Officer will acknowledge receipt of a complaint within 5 to 10 working days of receiving it.
9. Unless there are exceptional circumstances, complaints should be made within 28 days of the incident.
10. Where a complaint concerns an issue between two Reading Borough Councillors, the Monitoring Officer will initially refer the matter to the appropriate Group Leader(s) to resolve amongst themselves. Every effort should be made to resolve the matter within 28 days and if this is not possible, then matter may be referred back to the Monitoring Officer explaining why the matter is not possible to resolve informally.

Role of the Monitoring Officer

11. The Monitoring Officer's role is to oversee the complaints process, make procedural decisions, refer complaints to the Independent Person, an Investigator, and where appropriate, to the Hearings Panel of the Standards Committee.

12. The Monitoring Officer is accountable to the Standards Committee for the operation of these functions.
13. In extraordinary circumstances, where the Monitoring Officer makes a complaint to the Standards Committee, or in other circumstances where the Monitoring Officer may have a conflict of interests, then the Deputy Monitoring Officer will undertake functions of the Monitoring Officer as set out in these arrangements. If this is not possible, or does not resolve the conflict, then the Monitoring Officer will arrange for some or all of his functions to be discharged by a Monitoring Officer of another local authority.

Independent Person

14. The Council has appointed one Independent Person.
15. The role of the Independent Person is to advise the Monitoring Officer on action to take under these arrangements at the points stated in these Arrangements.
16. A Member who is the subject of a complaint is also entitled to refer to the Independent Person for advice during a complaint.
17. The Independent Person receives expenses for undertaking this role but no other remuneration.

Which complaints can be considered?

18. The Monitoring Officer must consider every complaint that a member of the Council has failed to comply with the Code of Conduct which the Council has adopted. Accordingly, he has no jurisdiction in respect of any complaint which relates to:
 - a) persons who are not members of the Council
 - b) conduct which occurred at a time when the person against whom a complaint was made was not a member of the Council
 - c) conduct which occurred in the member's private life, as the current Code of Conduct applies only to a member's conduct in his or her office as a member of the Council
 - d) conduct which occurred when the member was acting as member of another authority
 - e) complaints which do not clearly relate to the apparent misconduct of a relevant member but are, for example, about the policies and priorities of the authority, or request provision of a service by the Council, or are a complaint about an officer of the Council.
19. Such complaints will not be referred to the formal process but will instead be dealt with by the Monitoring Officer who will advise The Complainant as to the most appropriate avenue for proper

consideration of the complaint or request. This may involve the Monitoring Officer deciding the complaint personally under the Council's corporate complaints procedure.

Does the complaint appear to show a breach of the code of conduct?

20. Any complaint must demonstrate how a breach of the Code of Conduct may have occurred.
21. For this purpose, the Monitoring Officer will take into account the complaint letter and any other information which is readily available to him. Accordingly, it is the responsibility of a complainant to set out clearly:
 - a) who the complaint is against (the "Subject Member")
 - b) what the Complainant understands that the Subject Member did
 - c) why the Complainant considers that the Subject Member's conduct amounted to a breach of the Code of Conduct.
22. It is also helpful for the Complainant to provide copies of any relevant documents which the Monitoring Officer should consider.
23. Following receipt of a complaint, the Monitoring Officer will collect any other information which is readily available, and which may assist him, the Independent Person or the Group in their consideration of the complaint. This will not include conducting interviews with witnesses but may include reviews of emails which are to hand, committee papers of a meeting of the Council at which the alleged misconduct occurred, or review of copies of the subject members entry in the Notification of Members' interests.
24. Where the Monitoring Officer requires additional information in order to come to an initial view about the matter or or a recommendation (about any complaint) he may seek such information from the Complainant and the Subject Member. This does not amount to an investigation.
25. The Monitoring Officer will then consider whether, on the basis of the complaint and that additional information, there appears to have been a breach of the Code of Conduct.
26. If the Monitoring Officer concludes that the evidence does not disclose an apparent breach of the Code of Conduct, then the complaint should not proceed any further and the complainant will be advised accordingly. The Monitoring Officer will outline his reasons to the Complainant and the matter will be reported to the next available Standards Committee.

Assessment of complaints

27. The Monitoring Officer will review every complaint received about Members not complying with the Code of Conduct, record and consult with the Independent Person as necessary.
28. If the Monitoring Officer decides that the complaint concerns a service, policy or decision of the Council then he may refer it to the normal complaints procedure. This may entail the Monitoring Officer dealing with the matter personally under the Council's complaints procedure.
29. Following a review of a complaint the Monitoring Officer may take one of the following courses of action.

Confidentiality

30. As a matter of fairness and natural justice, a Subject Member will be told who has complained about them and what the complaint is about. There may be occasions where the complainant wishes his or her identity to be withheld or where there is cause not to disclose the existence of a complaint. Information will be withheld from the Subject Member only in circumstances that the Monitoring Officer considers to provide exceptional justification. The Monitoring Officer will consult with the Independent Person if this looks likely.
31. The Monitoring Officer will outline a Privacy Notice for Member complaints under the Code of Conduct and this will be available on the Council's website.

Initial Filter Stage

32. The Monitoring Officer will be entitled to:
 - a. Explore the complaint informally with the Complainant and Subject Member, to see whether grounds might exist for an Informal Local Resolution.
 - b. Refer the complaint to the subject Member's political Group, for investigation under the Group's disciplinary procedure - see Stage 1 below.
 - c. Reject the complaint on the following specified grounds:
 - (i) There is no jurisdiction (paragraph 18 above)
 - (ii) There is no apparent breach of the Code (paragraphs 20-25 above)
 - (iii) The complaint is anonymous (unless there are exceptional circumstances to proceed)

- (iv) The complaint is made by a third party about injury to a person who has not complained (unless this suggests a more deep-seated problem)
 - (v) Complaints about actions that occurred more than 12 months before
 - (vi) Complaints about comments made in the cut and thrust of political debate
 - (vii) Minor complaints that the Monitoring Officer sees as trivial, vexatious, malicious, politically motivated or made on a tit-for-tat basis - unless these suggest a more deep-seated problem
 - (viii) Complaints that are similar to a previously investigated complaint where there is nothing further to be gained from an investigation
 - (ix) Complaints about a Councillors' private life which are unlikely to affect their fitness for office
 - (x) 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
 - (xi) The Unreasonable or Unreasonably Persistent Complainant Criteria applies (See Appendix A)
33. Where the Monitoring Officer has exercised his power to reject complaints under paragraph 30(c) above, he will inform the complainant of his decision and the reasons for that decision. There is no appeal from this decision, but the Monitoring Officer will report all such decisions to the next available meeting of the Standards Committee.

Informal local resolution

34. The Standards Committee is aware that the formal investigation of complaints is both costly and time consuming. Whilst formal investigation may be necessary in some cases, many complaints can be dealt with more rapidly and effectively if an early, informal resolution of the matter can be achieved.
35. The Standards Committee has instructed the Monitoring Officer, where a complaint has been received, to consider and, if appropriate, to explore the potential for local resolution. to the satisfaction of the complainant, to avoid the need for a formal investigation. Any informal attempt at local resolution at this stage does not take away the complainant's right to ask for the complaint to be considered through the formal Arrangements, but failure of a

complainant to accept a reasonable local resolution may be a relevant consideration for the Monitoring Officer in deciding whether to invoke further stages of the complaints process.

36. The Monitoring Officer will consider whether a local resolution is possible and will consult with the Independent Person if there is any doubt as to whether this is a suitable outcome or if there is a wider public interest at stake.
37. What is a local resolution? It is not possible to give a definitive list of outcomes, because each case is different and circumstances may require a variety of outcomes. From experience, the following resolutions have previously been accepted:
 - An apology, either face to face or written
 - A written explanation which clears up misunderstandings
 - A retraction of words or documents which have inadvertently given offence

Stage 1

38. 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 Chief Executive 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.
39. The Group Leader will be responsible for ensuring the following actions are taken when the Monitoring Officer refers a complaint under (28)(b) 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.
40. The Group process will be confidential to the complainant and the Group, 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 annual and anonymised monitoring report to the Standards Committee.

Stage 2

41. If the complainant is dissatisfied with the response of the Group at Stage 1, or if Stage 1 is inappropriate in all the circumstances, then Stage 2 **may** be invoked. It is the decision of the Monitoring Officer to move to Stage 2. The Monitoring Officer will give reasons for his decisions.
42. The Monitoring Officer will inform the Subject Member about the complaint and inform the Subject Member that advice can be taken from the Independent Person. The Monitoring Officer will inform the Subject Member of any advice offered by the Independent Person.
43. In appropriate cases, the Monitoring Officer may again seek to resolve the complaint informally, without the need for a formal investigation. The Monitoring Officer will consult with the Independent Person and the Subject Member where this outcome seems appropriate. Such informal local resolution may involve the Member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action. Where the Member makes a reasonable offer of local resolution, but the complainant is not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether to recommend that the complaint merits formal investigation.

The investigation

44. The Investigating Officer will complete the investigation in accordance with any policy or guidelines that the Standards Committee shall specify.
45. The investigation shall be carried out promptly, with the expectation that all investigations, resolutions and hearings will be completed within a maximum period of three months and that the decision of the Hearings Panel will be given and announcements of such decision made within a further 21 days. All those involved in the complaint should do their utmost to ensure that this can happen.
46. At the end of the investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to the complainant and to the subject Member, to give both an opportunity to identify any factual matter in that draft report which is disputed or requires further investigation.
47. Having received and taken account of any comments on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.
48. The Monitoring Officer will consult with the Independent Person on the outcomes or recommendations of the investigation.

49. If following consultation, the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider his/her report.
50. The Monitoring Officer will review the Investigating Officer's report in light of the Independent Person's advice and, if he is satisfied that the Investigating Officer's report is sufficient and that no further investigations are required, the Monitoring Officer will write to the complainant and to the subject Member concerned with a copy of the final report.

Findings of "No Breach"

51. If the Investigating Officer finds that there has been no breach of the Code of Conduct then the Monitoring Officer will write to the complainant and the subject Member and dismiss the complaint. The Monitoring Officer will report the outcome of the case to the next Standards Committee. The decision is final and there is no appeal.

Findings of "Breach"

52. If the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct then the Monitoring Officer will consult with the Independent Person, the Subject Member and the complainant to see if any form of local resolution is possible.

Local Resolution

53. The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he will consult with all the parties and seek to agree a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Subject Member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action.
54. If the Subject Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee for information, but will take no further action. Such report should be open to public scrutiny.
55. If following consultation with the parties it seems likely that any suggested resolution would not be possible or would not be suitable in all the circumstances, the Monitoring Officer will refer the matter to the Hearings Panel.

Hearings Panel

56. If the Monitoring Officer considers that local resolution is not appropriate, or the Member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to the

Hearings Panel. The Hearings Panel is a sub-committee of the Standards Committee.

57. The Hearings Panel will conduct a local hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Member.
58. The Hearings Panel will comprise of three voting members of the Standards Committee (councillors) selected by the Monitoring Officer in consultation with the Chair of the Standards Committee. An Independent Member is invited to Chair the Hearings Panel but legally cannot vote on the decision.
59. The Standards Committee will agree a procedure for Hearings Panels.
60. The Monitoring Officer may call for a “pre-hearing meeting”, requiring the subject Member to give his/her response to the Investigating Officer’s report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted.
61. In order to give confidence to the public it is expected that the Hearings Panel will take place in public unless there are exceptional circumstances which dictate otherwise. The Monitoring Officer will advise the Chair whether the hearing should be in public or private. The Access to Information Rules will apply to this hearing as it would apply to any other meeting of the Council.
62. 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 subject Member has or has not failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask the complainant to attend and give evidence to the Hearings Panel. The Subject Member will then have an opportunity to give his/her evidence, to call witnesses, to cross-examine and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.
63. The Independent Person may attend the hearing but is not required to attend.
64. If the Hearings Panel concludes that the Subject Member did not fail to comply with the Code of Conduct, then they will dismiss the complaint.
65. If the Hearings Panel concludes that the subject Member did fail to comply with the Code of Conduct, the Chair will inform the Member of this finding and the Hearings Panel will then consider what action,

if any, the Hearings Panel should take as a result of the Member's failure to comply with the Code of Conduct.

Powers of the Hearings Panel

66. In considering its response the Hearings Panel will give the Subject Member an opportunity to make representations to the Panel, but will then decide what action, if any, to take in respect of the matter. The powers of the Hearings Panel are:
- a. To require the Subject Member to apologise either privately or in public. This may be a face to face or written apology.
 - b. To require the Subject Member to attend training.
 - c. To require the Subject Member to attend a process of mediation.
 - d. To censure the Subject Member.
 - e. To send a report to Council (by way of recommendation from the Standards Committee) to censure the Subject Member.
 - f. To require the Monitoring Officer to publish a press release about the complaint and its outcome.
 - g. To require the Monitoring Officer to publish a full report in a local newspaper and/or on the Council's website about the Subject Member's conduct.
 - h. To withdraw privileges provided by the Council such as, secretarial support, computer equipment, internet or email access.
 - i. To recommend to the Subject Member's Group Leader that the Member be removed from a Committee, or an Outside Body (as appropriate).
 - j. Or a combination of any of the above.
- and the Panel may set the time frame for the actions that are required to be taken, and require the Subject Member and the Group Leader to report back on actions which are recommended.
67. As a matter of law, the Hearings Panel does not have the power to suspend or disqualify the Member or to withdraw allowances to which members are entitled.

Post hearing

68. At the end of the hearing, the Chair will state the decision of the Hearings Panel as to whether the Member failed to comply with the Code of Conduct and as to any actions which the Hearings Panel resolves to take.

69. As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel, and send a copy to all the parties, and if required by the Hearings Panel, make that decision notice available for public inspection. The decision will be reported to the next meeting of the Standards Committee.

Revision of these arrangements

70. The Standards Committee is delegated to keep under review and amend these arrangements where necessary.
71. In order to ensure efficient administration, the Monitoring Officer is delegated to depart from these arrangements where he considers that it is expedient to do so in order to secure the effective and fair consideration of any matter. In such exceptional circumstances he will consult with the Subject Member, the relevant Group Leader, the Chair of the Standards Committee and the Independent Person and give his reasons in writing.