

# **PROCEDURES FOR HANDLING COMPLAINTS OF MISCONDUCT AGAINST COUNCILLORS**

## **1. INTRODUCTION**

1.1 The object of the Standards Committee is to consider complaints of misconduct against Councillors, where the Councillor's conduct breaches the standards set down in:-

- The Members' Code of Conduct.
- The Council's Rules of Procedure.
- Protocol relating to Member/Officer Relations.
- The Council's Local Code of Practice in dealing with Probity in Planning.
- The Council's Computer Guidelines.
- Protocol regarding Conduct between Members.

## **2. RECEIPT OF COMPLAINTS**

2.1 A complaint against a Councillor shall be submitted in writing to The Monitoring Officer, Eastbourne Borough Council, Town Hall, Grove Road, Eastbourne, East Sussex, BN21 4UG.

2.2 Complaints may be made by Councillors or Officers of the Council, or by members of the public.

2.3 Complaints must be in writing and include the name and address of the complainant unless the Monitoring Officer, after consultation with the Chairman of the Standards Committee, decides that an anonymous complaint should be investigated.

2.4 The Monitoring Officer will acknowledge receipt of any complaint within five working days and a copy of the complaint will be sent to the Councillor the subject of the complaint. The relevant Group Leader will also be advised of the complaint.

## **3. PRELIMINARY INVESTIGATION**

3.1 The Monitoring Officer shall undertake a preliminary investigation of any complaint received to determine whether the complaint warrants a full investigation by the Standards Committee.

3.2 The preliminary investigation will address such questions as:

- is the conduct complained of capable of amounting to misconduct (as defined above) on the part of the Councillor concerned?
- is the conduct in question such that it merits investigation by some other agency (e.g. the police, Ombudsman, External Auditor).
- has the conduct in question already been the subject of some other investigation?
- is the complainant supported by sufficient information (either provided by the complainant or obtained by the Monitoring Officer from initial enquiries) to justify a full investigation?

3.3 The purpose of this preliminary investigation is to exclude complaints:-

- which are frivolous or unsupported by any reliable information.
- which fall outside the scope of the Standards Committee remit.

- which have already been the subject of a proper investigation.
  - which do not warrant further investigation, for example a minor breach of a code/rule/protocol where the conduct is unlikely to be repeated.
- 3.4 It is intended that the preliminary investigation of any complaint will be completed within 25 working days of receipt. The Monitoring Officer will then decide if the complaint warrants a full investigation. If the Monitoring Officer concludes that a complaint does not warrant a full investigation, the Chairman of the Standards Committee will be consulted before a final decision is made. The Chairman's decision will be final.
- 3.5 The Monitoring Officer will write to the complainant regarding his/her decision, and where a full investigation will not take place, a brief statement will be given for the decision.
- 3.6 The Monitoring Officer will notify the Councillor against whom the complaint has been made and the relevant Group Leader whether or not the complaint is to be the subject of a full investigation.

#### **4. FULL INVESTIGATION**

4.1 If a complaint requires a full investigation, the report of the Monitoring Officer to the Standards Committee will include details of:-

- the interview with the complainant.
- the interview with the Councillor who is the subject of the complaint.
- the interview with any other relevant person.
- any relevant documentation.

4.2 The complainant will be entitled to:-

- Submit any material that the complainant considers relevant to the investigation.
- Receive a copy of the report of the Monitoring Officer.
- Attend the meeting of the Standards Committee to present their case.

4.3 The Councillor against whom the complaint has been made will be entitled to:

- Submit any material that the Councillor considers relevant to the investigation and to identify any persons whom the Councillor considers should be interviewed as part of the investigation.
- Receive a copy of the report of the Monitoring Officer at least 14 days before the meeting of the Standards Committee.
- Be represented at the Standards Committee.
- Be present at the meeting throughout the Committee's consideration of the complaint until the Committee is in a position to deliberate on its findings.

The Councillor against whom the complaint has been made may ask the Monitoring Officer to include his/her comments in the report. If there is insufficient time to do this the Councillor may ask for his/her written comments to be issued with the report.

4.4 The Councillor against whom the complaint has been made will be required to give formal notification to the Committee Administrator two days prior to the meeting of:

- The identity of any person representing the councillor at the Standards Committee.

- The identity of any person(s) who wish to submit information/be called as witnesses on his/her behalf (subject to the consent of the Committee).

## **5. PROCEDURE AT THE MEETING**

5.1 The Committee should conduct its consideration of the complaint on an inquisitorial rather than an adversarial basis.

5.2 The report of the Monitoring Officer should normally provide the Committee with all the available information, which is relevant to the consideration of the complaint. However the Committee may agree that persons be invited to provide information or give evidence at the meeting in order to provide the Committee with a full understanding of the matter and/or in the interests of fairness to the Councillor against whom the complaint has been made.

5.3 The main stages of the Committee's consideration will be as follows:

- Monitoring Officer to present the report.
- Complainant (if present) to present their case.
- Councillor subject of the complaint to present their case, either by way of written submissions or by verbal statement.
- Councillor subject of the complaint to call witness(es) to speak on his/her behalf (subject to the prior consent of the Committee).
- Committee to satisfy itself, by consideration of the report and where relevant by questioning any persons invited to attend the meeting that they have sufficient information to provide a properly informed judgment.
- Councillor subject of the complaint to have the final comment.
- Committee to deliberate the complaint in private, subject only to the presence of the Monitoring Officer or his/her representative and the Committee Administrator.
- Committee to make its decision and where relevant, to decide upon an appropriate sanction.
- Councillor subject of the complaint to be recalled and advised of the Committee's decision.

## **6.0 ACCESS TO REPORTS INTO COMPLAINTS AGAINST COUNCILLORS AND ATTENDANCE AT MEETINGS.**

6.1 The Committee is entitled to restrict the provision of papers relating to an investigation into a complaint (Part 4, paragraph 1.2 of the Constitution refers).

6.2 Monitoring reports that detail complaints where investigations have yet to be concluded and which name the parties concerned may also be restricted.

6.3 Any confidential reports and minutes in respect of complaints will not be made available on the Council's Intranet site.

6.4 When considering a complaint, unless the Committee determines otherwise, attendance at the meeting of the Standards Committee will be restricted to invited persons who may be present for the following stages of the meeting:

- Complainant – will withdraw after presentation of their case.
- Councillor against whom the complaint has been made and any representative of the councillor – to be present at the meeting throughout the Committee's consideration of the complaint until the Committee is in a position to deliberate on its findings.
- Witnesses - to be called and will withdraw after presentation of their

information/evidence.

**7. SANCTIONS/ACTION**

7.1 On a finding of misconduct, the Standards Committee can resolve to take one or more of the following courses of action:-

1. Take no further action.
2. Reprimand the Councillor concerned.
3. Remove the Councillor from any office or position (e.g. membership of a particular Committee or Committees, the position of Chairman or Deputy Chairman of any Council Body or the position of a Council representative on an Outside Body) to which the Councillor has been appointed by the Council or the Leader of the Council.
4. Report the matter to the Standards Board for England.

**8. COMMITTEE'S DECISION**

Deleted:

8.1 The Committee will determine as part of its deliberations how much of the information it has considered should (having regard to the Access to Information provisions of the Local Government Act 2000 and the need to ensure fairness to the persons involved) be made public after the announcement of its decision.

8.2 When the Committee has reached a decision, this will be reported, together with reasons, in public session.

8.3 The Monitoring Officer will be responsible for sending written confirmation of the decision to the Councillor concerned within three working days.

8.4 A copy of the decision will be sent to the complainant, Leader of the Council and Opposition Group Leader.