

ANNEX A

Assessment of complaints submitted to the Standards Committee concerning the Conduct of Members of Milton Keynes Council and the Conduct of Parish/Town/Community Councillors in the Milton Keynes area

ARRANGEMENTS FOR DEALING WITH STANDARDS ALLEGATIONS UNDER THE LOCALISM ACT 2011

1 Context

These “Arrangements” are made in accordance with section 28 (6) and (7) of the Localism Act 2011. They set out how to make a complaint that an elected or co-opted member of this Council or of a parish council within its area has failed to comply with the relevant authority’s Code of Conduct. They also set out how the Council will deal with any complaints about such failures.

2 The Code of Conduct

Milton Keynes Council has adopted a Code of Conduct for members, and this Code is available for inspection on the Council’s website or on request from the Monitoring Officer at Civic Offices, 1 Saxon Gate East, Milton Keynes, MK9 3EJ.

Each town and parish council in the area is also required to adopt a Code of Conduct. Copies of these Codes are available on the relevant council’s website or on request from the town or parish clerk.

3 The Independent Person

The Council is required to appoint at least one independent person. The Council must consult an independent person and take his/her views into account before making a decision on a complaint that it has decided to investigate.

The independent person may be consulted by the Council at various stages in the complaints process and can also be consulted by a member who is the subject of a complaint.

There is a memorandum of understanding which fully sets out the roles and responsibilities of the Independent Persons and their role in respect to Standards of Conduct in Milton Keynes.

4. Making a complaint

A complaint that a Member of Milton Keynes Council or of a town, community or parish council in the administrative area has failed to observe the Council’s Code of conduct should be submitted to:

The Monitoring Officer
Law and Governance Division
Civic Offices
1 Saxon Gate East
Milton Keynes
MK9 3EJ

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the arrangements for complaints about member misconduct.

In order to ensure that the Monitoring Officer has all the information needed to process complaints, they should be submitted using the model complaint form. The complaint form can be downloaded from the Council's website. A copy of the form is also available on request from the Monitoring Officer.

Complainants must provide their name, postal address and, where possible, their email address. The Council will not normally investigate an anonymous complaint, unless there is a clear public interest in doing so.

The Monitoring Officer will acknowledge receipt of the complaint and will notify and supply a full copy of the complaint to the Member against whom the complaint is directed (the Subject Member) within 5 working days of receiving it, and will keep both the complainant and the Member informed about the progress of the complaint.

5 Informal Resolution

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other appropriate remedial action.

The Monitoring Officer will explore the possibility of informal resolution where the Complainant has either indicated that this would be acceptable to them, or has remained silent on the matter.

The Monitoring Officer will approach the Subject Member within 5 days of the complaint being received and ask whether they would be willing to consider informal resolution of the matter. The Monitoring Officer will then facilitate any informal resolution.

No view will be taken at this time as to whether there has been a breach of the Code.

If the matter is resolved by way of informal resolution, the Monitoring Officer will report this to the next meeting of the Standards Committee.

If the matter cannot be resolved by way of informal resolution the Monitoring Officer will inform both parties of this and inform the complainant of their right to have the complaint determined formally if they so wish.

Where either the Subject Member or the complainant makes a reasonable offer of informal resolution, but the other party is unwilling to accept that offer, the Monitoring Officer will provide evidence of this to the Assessment Sub Committee when they are determining the complaint.

6 Formal Resolution – Assessment Sub Committee meeting

If the Complainant or Subject Member indicates that they do not wish to have the complaint resolved informally, the Monitoring Officer will write to both parties, informing them of the process and informing the Subject Member of the contact details of an Independent Person.

The Monitoring Officer will then convene an Assessment Sub Committee to consider the complaint.

7 Assessment Sub Committee arrangements

The Assessment Sub Committee will be formed of between three and five Councillors from Milton Keynes Council, with one co-opted Parish Council member if the Assessment Sub committee is dealing with a complaint about a Parish Councillor

7.1 Chairing

If present the Chair of the Standards Committee will chair the meeting, if the Chair is not present and the Vice Chair of the Standards Committee is present, the Vice Chair will chair the meeting. If neither Standards Committee chair is present a chair will be elected from the persons attending the meeting.

The Independent Person must not be elected as the Chair as they are not a member of the Committee.

7.2 Co-option

1 co-opted Parish Member will be invited to sit on the Assessment Sub Committee if the Assessment Sub Committee is determining a Parish matter. Co-opted members do not have voting rights on the Standards Committee or at the Assessment Sub Committee.

7.3 Independent Persons

An independent person will be invited to attend in line with the Independent Persons Memorandum of Understanding

The Independent Person is not a member of the Committee, however they have the right to put forward their view and their view will be taken into account by members of the Assessment Sub Committee prior to making a decision.

7.4 Exclusion of the Press and Public

Assessment Sub Committee meetings must open in public and papers will be published 5 clear days prior to the meeting.

If the information before the meeting Members of the Sub Committee may need to consider excluding the press and public. The Monitoring Officer will provide advice on this at each meeting.

The Complainant and the Subject Member are entitled to attend Sub Committee meetings, as these are public meetings. The Complainant and the Subject Member will not have the right to speak unless invited to do so by the Chair. If the press and public are excluded, the Subject Member and the Complainant may be asked to leave.

7.5 Criteria considered by the Assessment Sub Committee

Before determining the complaint the Assessment Sub Committee will apply some preliminary tests to the complaint;

Initially they will consider

- Was the Member complained about acting in their capacity as a Member at the time of the alleged incident?
- Was the Member complained about in office at time of alleged misconduct?

If they answer yes to these questions, the Assessment Sub Committee will then confirm the Code to be applied. If it is a Parish matter, they will check with the Monitoring Officer that they have the correct version of the Code of Conduct for that Parish/Town/Community Council.

The Assessment Sub Committee will then consider;

- Is additional information (short of investigation) required before any decision can be made?
- Is the complaint;
 - Very minor or trivial matter?
 - Vexatious or malicious?
 - Historical?
 - A potential breach of the Code?
- The Assessment Sub Committee will then make an assessment of whether investigation is necessary in the public interest.

7.6 Decision of the Assessment Sub Committee

The Assessment Sub Committee can decide to;

- Reject the complaint, with reasons
- Refer the complaint to the Monitoring Officer for investigation or resolution
- If the matter is a potential breach of the law, refer the matter to the police

A decision notice, setting out the Assessment Sub Committee's decision will be sent to the Subject Member, the Complainant and any relevant parish council within 10 working days of the decision.

8. Investigation or resolution

8.1 Resolution

If the Assessment Sub Committee believes that the matter can be resolved, they may ask the Monitoring Officer to take other action than investigation.

The Monitoring Officer will contact both parties and attempt to resolve the complaint, in line with what has been agreed at the Assessment Sub Committee meeting.

The Monitoring Officer will report back to the Assessment Sub Committee. The Assessment Sub Committee can;

- **Agree that the resolution has been successful and take no further action**
- **Agree further resolution**
- **Agree that the complaint should be investigated**

A decision notice, setting out the Assessment Sub Committee's decision will be sent to the Subject Member, the Complainant and any relevant parish council within 10 working days of the decision.

8.2 Investigation

If the Assessment Sub Committee determines that the complaint should be investigated the Monitoring Officer will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator.

The Investigating Officer will decide whether he/she needs to meet or speak to the complainant to understand the nature of the complaint, to obtain an understanding of events, to identify what documents the Investigating Officer needs to see and who the Investigating Officer needs to interview.

The Investigating Officer will normally contact the member against whom the complaint has been made to provide him/her with a copy of the complaint and to obtain the member's explanation of events. The member will be invited to identify what documents the Investigating Officer needs to see and who he/she needs to interview. Further details about the Investigative process are contained at Annex B.

At any point during the investigation the Investigating Officer may refer the matter back to the Monitoring Officer if they believe that the matter may be resolved without a complete investigation, or that the complaint should be rejected. The Monitoring Officer will refer the matter back to the Assessment Sub Committee who may make the decision to;

- **Continue the investigation**
- **Reject the complaint with reasons**
- **Seek resolution**

If the matter continues, at the end of his/her 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 member concerned, to give them both an opportunity to identify any matter in the report with which they disagree or which requires more consideration.

Having received and taken account of any comments which made on the draft report, the Investigating Officer will submit his/her final report to the Monitoring Officer.

The Monitoring Officer will review the Investigating Officer's report and refer the matter to the Assessment Sub Committee. The Assessment Sub Committee can decide to;

- Instruct the Monitoring Officer to seek resolution
- Reject the complaint
- Refer the matter to a Hearing

A decision notice, setting out the Assessment Sub Committee's decision will be sent to the Subject Member, the Complainant and any relevant parish council within 10 working days of the decision.

No decision on whether the Code has been breached will be made at this stage.

9. Hearings

The Council has agreed a procedure for hearings, which is attached as Annex C to these arrangements.

Following the hearing, the Sub Committee Panel, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and so will dismiss the complaint.

If the Sub Committee Panel concludes that the member has failed to comply with the Code of Conduct, the Chair will inform the member of this finding and the Sub Committee Panel will then consider what action, if any, should be taken as a result of the member's failure to comply with the Code.

Before reaching a decision, the Sub Committee Panel will give the member an opportunity to make representations and will consult the Independent Person.

10 Sanctions

The Council has delegated to the Sub Committee Panel authority to take such action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Sub Committee Panel may –

- 10.1 Censure the member.
- 10.2 Publish its findings in respect of the member's conduct;
- 10.3 Report its findings to the Council (or to the Parish Council) for information;
- 10.4 Instruct the Monitoring Officer to (or recommend that the Parish Council) arrange training for the member;
- 10.5 Recommend the Group Leader to remove from Committees or Cabinet (MKC only)
- 10.6 Recommend the Parish Council to remove from Committees
- 10.7 Recommend Council to replace as Leader (MKC only)
- 10.8 Withdraw facilities (only where this is an appropriate response in the context of the acts complained of and must not prevent the Subject Member from carrying out their duties as a Councillor)
- 10.9 Bar from the offices and put on single point of contact (only where this is an appropriate response in the context of the acts complained of and must not prevent the Subject Member from carrying out their duties as a Councillor)

The Standards Committee has no power to suspend or disqualify the member or to withdraw any special responsibility allowances to which the member may be entitled under the Council's Members' Allowances Scheme.

The Independent Person is invited to attend all meetings of the Sub Committee Panel and his/her views will be sought and taken into

consideration before the Sub Committee Panel takes any decision on whether the member's conduct constitutes a failure to comply with the Code of conduct and also as to any action to be taken following a finding of failure to comply with the Code of Conduct.

Sanctions 10.8 and 10.9 above may commence immediately after the Standards Committee decision, however sanctions 10.1 to 10.7 will only commence after the appeal period has expired and any appeal has been considered.

A decision notice, setting out the Sub Committee Panel's decision will be sent to the Subject Member, the Complainant and any relevant parish council within 10 working days of the decision. This will include a right to appeal.

11 Appeal

If either the Complainant or the Subject Member against whom a complaint has been made is dissatisfied with the outcome, they may Appeal.

Any Appeal must be received in writing within 21 days of issue of the written decision notice and may only be made on the grounds of:

- the procedure being wrongly applied;
- new evidence has come to light since the hearing; or
- a misdirection in law

which has resulted in, in the Appellants view, an unfair decision.

A review will be undertaken by the Appeals Sub Committee made up of members who have not previously been involved in the consideration of the complaint.

A new Independent Person will also be asked to give their views

Depending on the subject matter of the appeal it may be appropriate to conduct the matter on papers only.

A decision notice, setting out the Assessment Sub Committee's decision will be sent to the Subject Member, the Complainant and any relevant parish council within 10 working days of the decision.

There is no further right to appeal.