

## 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 explain:

- (a) how to make a complaint that a Councillor or Co-Opted Member of Milton Keynes Council, or a Parish Councillor within the Borough of Milton Keynes, has failed to comply with their authorities Code of Conduct; and
- (b) how Milton Keynes Council will deal with the complaint.

All complaints will be dealt with in a transparent and timely manner and with a view that complaints are best resolved informally where possible.

#### **Informal Resolution**

Complainants and Subject Councillors (Councillors against whom a complaint has been made) will, depending on the matter, be asked for their views on informal resolution at an early stage. Informal resolution remains open to the parties throughout the process even if a complaint has proceeded to the formal resolution stage.

### 2. The Code of Conduct

The Code of Conduct that applies to each Councillor or Co-Opted Member is the one that has been adopted by their authority. All codes of conduct are consistent with the following principles:

- (a) Selflessness.
- (b) Integrity.
- (c) Objectivity.
- (d) Accountability.
- (e) Openness.
- (f) Honesty.
- (g) Leadership.

For Councillors and Co-opted Members of Milton Keynes Council the Code can be found on the Council's website or requested from the Monitoring Officer at Civic, 1 Saxon Gate East, Milton Keynes, MK9 3EJ.

The Code of Conduct for each Town or Parish Council should be available on the relevant Council's website or on request from the Town or Parish Clerk.

### **3. The Independent Person**

The Council is required by section 28 (7) of the Localism Act 2011 to appoint at least one Independent Person whose views must be sought and taken into account before making a decision on a complaint that it has decided to investigate. The Council has a panel of Independent Persons from which it chooses who to consult on each complaint.

In addition, either the Council or the Subject Councillor may consult the Independent Person at various stages in the complaints process.

Any view given by the Independent Person will be recorded by the Monitoring Officer and kept on file.

### **4. Making a Complaint**

A complaint that a Councillor or a Co-opted Member of Milton Keynes Council or Parish Councillor within the Borough of Milton Keynes has failed to observe their Authority's Code of Conduct should be submitted to:

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

The Monitoring Officer is a senior officer at Milton Keynes Council who has statutory responsibility for maintaining the Register of Councillor's Interests and who is responsible for administering the arrangements for complaints about Councillor misconduct.

In order to ensure that the Monitoring Officer has all the information needed to process the complaint, they should be submitted using the model

complaint form which can be found on the Council's website or requested from the Monitoring Officer at the above address.

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

The complaint form requires complainants to indicate their position on informal resolution.

#### **4.1 Receipt of Complaint**

Within five working days of receipt of a complaint, the Monitoring Officer will acknowledge receipt and notify and supply a full copy of the complaint to the Subject Councillor. The Monitoring Officer has discretion to reject a complaint at this stage for exceptional reasons.

The Subject Councillor will normally be given 14 working days to respond in writing to the allegations made and asking their views on informal resolution.

#### **5. Initial Assessment**

**When the Monitoring Officer is in receipt of the Subject Councillor's response:**

1. If appropriate, they will seek to resolve the matter informally without the need for a formal investigation. This may include the Subject Councillor accepting their conduct was unacceptable and offering an apology or other remedial action. Where the Subject Councillor makes a reasonable offer of informal resolution but the Complainant is unwilling to accept the offer the Monitoring Officer can take this into account in deciding whether the matter merits formal investigation.
2. The Monitoring Officer will normally write to the Independent Person within ten working days of receipt of the Subject Councillor's response, seeking views on whether an informal resolution is appropriate or achievable, before deciding whether to;
  - (a) reject the complaint, with reasons;
  - (b) explore further informal resolution of the matter;

- (c) investigate the matter (or appoint an investigator to investigate the matter); or
- (d) to refer the matter to a Sub-Committee.

In coming to a decision, the Monitoring Officer will consider and consult the Independent Person on the following:

- Was the Subject Councillor acting in their capacity as a Councillor at the time of the alleged misconduct?
- Were they in office at the time of the misconduct?

If the answer to these two questions is yes, the Monitoring Officer will go on to consider:

- Which Code Should Apply?
- Would the Conduct, if proven, be a breach of the Code of Conduct?

If the answer to this question is yes, the Monitoring Officer will further consider:

- Is the matter complained of very minor or trivial?
- Is the complaint vexatious or malicious?
- Is the complaint historical (i.e. over 6 months old)?
- Would the investigation of the complaint be in the public interest?
- Any other substantial reasons for the decision?

## **5.1 Monitoring Officer Decision Notice**

The Monitoring Officer will issue a Decision Notice to the Complainant and the Subject Councillor explaining the reasons for the decision and setting out any other action that may need to be taken. This will be sent to the Complainant and the Subject Councillor within five days of the Monitoring Officer's decision.

The Monitoring Officer will include the Independent Person's views in this Decision Notice, but only where appropriate and particularly where the views of the Independent Person differ to those of the Monitoring Officer.

The Monitoring Officer will then report this matter, including an anonymised Decision Notice to the next meeting of the Standards Committee and inform the Committee of any outstanding action on the matter.

## **5.2 Referral of the Matter to a Sub-Committee**

Where the Monitoring Officer considers that the matter is:

- (a) very serious;
- (b) a conflict of interest has arisen;
- (c) the matter is particularly complex;
- (d) the matter is potentially going to attract a high level of public interest;
- (e) the matter is politically sensitive; or
- (f) any other substantial reason.

They will refer the matter to a Sub-Committee for a decision to be made.

## **6 Sub-Committee Arrangements**

If the complaint is about a Ward Councillor, the Sub-Committee will be formed of between three and five Councillors from Milton Keynes Council and one of the Co-opted Parish Councillors if they wish to be included.

If the complaint is about a Parish Councillor, the Sub-Committee will be formed of between three and five Councillors from Milton Keynes Council and one Co-opted Parish Councillor, but not from the same Parish Council.

As far as practicable, a Sub-Committee should be politically balanced.

### **6.1 Chairing**

The Chair of the Standards Committee will normally chair the meeting, if the Chair is not present and a Vice-Chair of the Standards Committee is present, a Vice-Chair will chair the meeting. If neither of the Standards Committee Chair

or Vice-Chairs were present, a chair will be elected from amongst the Milton Keynes Councillors on the Sub-Committee.

## **6.2 Co-option**

Co-opted Parish Councillors do not have voting rights on the Standards Committee or at the Sub-Committee.

## **6.3 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 Councillors on the Sub-Committee prior to making a decision.

## **6.4 Access to Information**

All meetings will be conducted in accordance with the Council's Access to Information Rules.

## **6.5 Criteria considered by the Sub-Committee**

The Sub-Committee will initially consider:

- Was the Subject Councillor acting in their capacity as a Councillor at the time of the alleged misconduct?
- Were they in office at the time of the misconduct?

If the answer to these two questions is yes, the Sub-Committee will go on to consider which Code should apply?

If the Subject Councillor is a Councillor of more than one Council, then it is the Council in respect of which the alleged misconduct relates and in force at the time of the alleged misconduct.

When considering the application of the Code the Sub-Committee will, at all times, bear in mind the Nolan Principles.

Would the conduct, if proven, be a breach of the Code of Conduct?

If the answer to this question is yes, the Sub-Committee will further consider:

- Is the matter complained of very minor or trivial?
- Is the complaint vexatious or malicious?
- Is the complaint historical (i.e. over 6 months old)?
- Would the investigation of the complaint be in the public interest?
- Any other substantial reasons for the decision?

## **6.6 Decision of the Sub-Committee**

The Sub-Committee can decide to:

- (a) reject the complaint, with reasons;
- (b) refer the complaint to the Monitoring Officer for investigation; or
- (c) refer the complaint to the Monitoring Officer for resolution.

A Decision Notice, setting out the Sub-Committee's decision, will be sent to the Subject Councillor and the Complainant within five working days of the decision.

## **7. Investigation**

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

The Investigating Officer will decide whether they need 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 contact the Councillor against whom the complaint has been made to provide him/her with a copy of the complaint and to obtain the Councillor's explanation of events. The Councillor will be invited to identify what documents the Investigating Officer needs to see and who, in their opinion, needs to be interviewed.

The Investigating Officer should provide an update and / or regular progress reports on the investigation to the Complainant and Subject Councillor, Chair and Vice-Chairs and the Monitoring Officer.

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, if the complaint was initially referred by them, consider what action to take, or, if the matter was originally referred for investigation by a Sub-Committee, refer the matter back to the Sub-Committee who may make the decision to:

- continue the investigation;
- reject the complaint with reasons; or
- seek resolution.

If the matter continues, at the end of their 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 Councillor, 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 made on the draft report, the Investigating Officer will submit their final report to the Monitoring Officer. An investigation should not normally take more than three months from point of instruction of the Investigator.

Upon receiving the Investigation Report, the Monitoring Officer will decide whether to take no further action, to refer to a Sub-Committee or to decide on other action in relation to the case. The Monitoring Officer will need to consult with the Chair, Vice-Chairs and Independent Person when making this decision.

A Decision Notice, setting out the Sub-Committee's decision will normally be sent to the Subject Councillor and the Complainant within five working days of the decision.

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



## **8. Hearings**

If the matter is referred to a Sub-Committee for a hearing, where practicable, the same Councillors will comprise the Sub-Committee and the procedure for hearings will apply. This can be found on the Council's website.

The Independent Person is invited to attend all meetings of the Sub-Committee and their views will be sought and taken into consideration before the Sub-Committee takes any decision on whether the Subject Councillor'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 a failure to comply with the Code of Conduct.

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

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

Before reaching a decision on sanctions, the Sub-Committee will give the Subject Councillor an opportunity to make representations and will again consult with the Independent Person.

## **9. Sanctions**

The Council has delegated to the Sub-Committee authority to take such action in respect of Subject Councillors as may be necessary to promote and maintain high standards of conduct. Some examples of sanctions that may apply are:

- (a) censure the Councillor;
- (c) report its findings to the Council (or to the Parish Council) for information;
- (d) instruct the Monitoring Officer to (or recommend that the Parish Council) arrange training for the Councillor;

- (e) recommend the Group Leader remove the Councillor from Committees or Cabinet (Milton Keynes Council only);
- (f) recommend the Parish Council to remove the Councillor from Committees;
- (g) recommend Full Council replace the Councillor as Leader (Milton Keynes Council only);
- (h) withdraw facilities (only where this is an appropriate response in the context of the acts complained of and must not prevent the Subject Councillor from carrying out their duties as a Councillor); or
- (i) 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 Councillor from carrying out their duties as a Councillor).

The Standards Committee has no power to suspend or disqualify the Subject Councillor or to withdraw any Special Responsibility Allowances to which the Subject Councillor may be entitled under the Council's Members' Allowances Scheme.

Any sanctions applied will only commence after the appeal period has expired and any appeal has been concluded.

A Decision Notice, setting out the Sub-Committee's decision will be sent to the Subject Councillor, the Complainant and any relevant Parish Council within five working days of the decision.

## **10. Publication**

All final decisions will be published on the Council's website once the Complainant and Subject Councillor have been notified.

Once a matter is concluded any investigation report will also be published on the Council's website.

The Monitoring Officer will decide if any redaction is necessary in respect of the above documents.

## 11. Appeals

This Appeal process only applies to complaints which have been considered by a Hearings Sub-Committee. There is no right of appeal for complaints that have been decided at an earlier stage of the process.

If either the Complainant or the Subject Councillor against whom a complaint has been made is dissatisfied with the outcome, they may appeal to the Monitoring Officer.

Any appeal, setting out full reasons, must be received in writing within ten working days of issue of the written Decision Notice and may only be made on the grounds of:

- (a) the procedure being wrongly applied; or
- (b) significant new evidence has come to light since the Hearing (*Hearing Sub-Committee meeting*).

which has resulted in the appellant's view, an unfair decision.

The Monitoring Officer, in consultation with the Chair and Vice-Chairs, of the Standards Committee will decide if the Appellant has set out sufficient grounds for appeal under (a) and / or (b) above.

### Appeal Sub-Committee

An Appeal Sub-Committee will be convened to hear the appeal consisting of no less than three Members of the Standards Committee on a politically balanced basis, where possible.

The Councillors must not previously have been involved in the Hearing Sub-Committee (hearing) of the complaint.

### Standards Committee Hearing Procedure

The Standards Committee Hearing Procedure will apply to the Appeal Sub-Committee.

### Time Line for Initial Standards Complaint Decision

Complaint received	Monitoring Officer acknowledges receipt and sends copy to Subject Councillor	Response from Subject Councillor	Monitoring Officer discusses matter with the Independent Person and makes a decision OR refers to Sub-Committee	Monitoring Officer sends out decision	Date agreed for Committee and parties informed. Papers published	5 clear days	Meeting held and decision issued
1 Day & 4 days to respond = 5 days	Day 6 - day 20	Day 21 – day 35	Day 36 – day 40	Day 41	Day 42 + 5 days = day 47	Days 48 - 57	

## COMPLAINTS PROCEDURE FLOWCHART

